

Summary: Intervention & Options

Department /Agency: Home Office	Title: Impact Assessment of removing requirements of persistence from the offences of kerb-crawling and persistent soliciting.	
Stage:	Version: 0.6	Date: 12 November 2008
Related Publications:		

Available to view or download at:

<http://www>.

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What is the problem under consideration? Why is government intervention necessary?

Having conducted a six month review into tackling the demand for prostitution, we now believe that there is more we can do to tackle the demand for prostitution. We argue that overall demand for prostitution is heavily linked to both the trafficking and exploitation of individuals through prostitution and are therefore providing a package of measures to tackle demand both on and off the street. Currently, kerb-crawling and persistent soliciting are offences under the Sexual Offences Act 1985, we want to amend these offences so that offenders can be prosecuted for a first offence.

What are the policy objectives and the intended effects?

The key objective is to reduce demand for prostitution. This policy aims to achieve this by increasing the probability that kerb-crawlers will be prosecuted (rather than warned or cautioned) for a first offence. The resulting demand reduction should be reflected by a lower supply of prostitution to which exploitation and trafficking is heavily linked. Reducing the demand for prostitution by targeting street prostitution can help tackle the associated problems of drug use, nuisance and anti-social behaviour and which for many communities will be their primary experience of prostitution.

What policy options have been considered? Please justify any preferred option.

1. Do Nothing, continue to require an element of persistence.
2. Amend the Sexual Offences Act 1985 so that no element of persistence is required, thus allowing prosecution for a first offence.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' Costs fall to criminal justice organisations as the result of additional arrests - Police, Crown Prosecution Service, HMCS and legal aid.		
	One-off (Transition) Yrs			
	£			
	Average Annual Cost (excluding one-off)			
	£ 0.5m	Total Cost (PV)	£ 2.3m over 5 yrs	
Other key non-monetised costs by 'main affected groups'				

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups'		
	One-off Yrs			
	£			
	Average Annual Benefit (excluding one-off)			
	£	Total Benefit (PV)	£	
Other key non-monetised benefits by 'main affected groups' Communities currently affected by kerb crawlers will benefit from reduced crime, nuisance and anti social behaviour. Prostitutes will benefit through reduced exploitation and physical and emotional costs.				

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?	England and Wales			
On what date will the policy be implemented?				
Which organisation(s) will enforce the policy?	Police & courts			
What is the total annual cost of enforcement for these organisations?	£ 0.5m			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£			
What is the value of changes in greenhouse gas emissions?	£			
Will the proposal have a significant impact on competition?	Yes/No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of £	Decrease of £	Net Impact	£

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Rationale

Reducing the demand for prostitution as a whole targeting street prostitution can help tackle the associated problems, of drug use, nuisance and anti-social behaviour and which for many communities will be their primary experience of prostitution.

We want to amend sections 1(1) and 2(1) of the Sexual Offences Act 1985 to remove the requirement for the soliciting to be persistence or for it to cause annoyance or nuisance others. It is currently held in case law that persistence requires a degree of repetition (of either more than one invitation to one person or a series of invitations to different people). The requirement of proof of persistence has acted as a significant limitation on the prosecution of the kerb-crawling and persistent soliciting offences. We want to remove this requirement to allow offenders to be prosecuted for a first offence.

Objectives

To reduce the overall demand for prostitution

To allow offenders to be prosecuted for a first offence

To reduce kerb crawling by encouraging kerb-crawlers to think more carefully about their actions in light of the increased probability of a criminal record for a first offence

To reduce harm caused to prostitutes through exploitative practices including trafficking

Options

1. Do Nothing, continue to require an element of persistence.
2. Amend the Sexual Offences Act 1985 so that no element of persistence is required, thus allowing prosecution for a first offence.

Benefits of the proposed option

Kerb crawlers currently need to be acting persistently before they can be prosecuted. The effect of this is that individuals are able to offend on a number of occasions before sanction is possible. The law only acts as a deterrent to repeat offending rather than to individual offences. By ensuring that the police can act on a first offence this proposal should increase the risk and potential cost of offending, deter a greater number of offenders and reduce the demand for street prostitutes.

The reduction in street prostitution including the activity of kerb crawlers seeking to pay for sex will reduce the crime, nuisance and anti-social activity experienced by communities. Reduced demand will also have an impact on the financial returns from prostitution. This will encourage prostitutes to seek ways out of prostitution and avoid the risks of ill health becoming a victim of crime that are associated with it. A reduction in the financial returns to prostitution will also discourage those who seek to gain from exploiting prostitutes through pimping and trafficking and reducing the physical and emotional harm they cause.

- Reduction of crime and nuisance in communities where street-based prostitution exists by reducing demand.

- Fall in demand for prostitution should see declines in associated anti-social behaviour from kerb-crawlers.
- Fall in demand should in turn lead to supply reduction and reduce the level of exploitation experienced by prostitutes. This should in turn encourage prostitutes into routes out of prostitution (see IA for referral orders)

Costs of the proposed option

The removal of ‘persistence’ will result in the Police handing out cautions and charging offenders at initial contact rather than warning offenders that future offending will result in a charge. The proposal will therefore initially increase the number of offenders either cautioned or charged. Additional costs fall on organisations in the criminal justice system through increased arrests and proceedings through the courts. Costs may fall where the deterrent effect of the increased sanction for offenders reduces the overall number of offenders.

There are no data relating to the number of warnings currently that the police currently give to those suspected of kerb crawling. Therefore it is not possible to provide an accurate estimate of the number of additional cautions and charges that will result from the new proposal.

The current volumes for the offence of Kerb Crawling are as follows:

Year	Cautions	Proceedings	Guilty
2004	371	1316	1185
2005	456	1197	1079
2006	464	1108	927

In consultation with ACPO, the estimates here are based on the assumption that there will be an increase in proceedings through Magistrates court around 500 additional cases. Offenders will make formal contact with the CJS at an earlier stage: those that are currently warned are more likely to be charged. The figure of 500 represents a shift of existing cautions into magistrate’s court hearings, and a shift of warnings into cautions, thus maintaining the existing number of cautions. It does not include an estimate of the deterrent effect reducing the number of offenders.

Using these estimates results in the following costs for the CJS:

CJO	Additional Cost
Police	£50,000
CPS	£90,000
Courts/Legal Aid	£280,000 - £440,000
Total	£420,000 - £580,000

These costs represent the use of resources within the CJS. A range of costs is provided for HMCS. The lower end of this range represents the marginal cost of using additional court capacity. The higher estimate uses the average cost of court time to calculate the additional cost.

The actual impact will depend on how police forces decide to apply the law in practice, and the extent to which the proposal meets its objective through reducing the actual amount of kerb crawling as a result of the increased severity of the sanction. In addition, the financial impact on

Criminal Justice Organisations will also be dependent on the extent to which the different organisations choose to re-allocate resources or are required to deploy additional resources.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	Yes	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	Yes
Rural Proofing	No	No

Annexes

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