



## ACS Submission: Punishment and Reform Effective Community Sentences Consultation

1. ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the Ministry of Justice's consultation on effective community sentences. ACS responded to the Government's *Breaking the Cycle* submission setting out our position on penalties and sanctions for crimes against retailers.

### Overview:

2. Local shops are vulnerable to a range of crimes from shop theft and vandalism to armed robbery and violence. As the level of retail crime continues to rise retailers have little choice but to invest further in crime reduction measures, taking money away from other areas of their business. In extreme cases of successive robberies or damages, shops have had little choice but to close. This has a detrimental effect on the communities they serve and staff they employ.
3. Retail crime comes at significant cost to the economy. A recent survey revealed that retail crime cost the economy £1.1 billion<sup>1</sup>, which equates to 52,000 retail jobs. Therefore local shops have a significant interest in crime, crime prevention and sentencing.
4. Retail staff are often vulnerable to verbal and violent abuse as displayed by the following figures from USDAW, the shop workers union: six per cent of shop workers were subject to violent attacks, 37 per cent were threatened with harm and 70 per cent had suffered verbal abuse<sup>2</sup>.
5. Retailers continue to do their part to support crime prevention in and around their businesses. This is evident in the range of initiatives and security equipment that retailers invests in such as staff training, age verification schemes, business crime reduction partnerships, CCTV and other operational security equipment.
6. These investments are often driven by the lack of confidence that retailers have in the criminal justice system and in the police to detect, prevent and rehabilitate perpetrators of business crime. The Government's review of sentencing offers a great opportunity to reinforce confidence and understanding in the criminal justice system.

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<sup>1</sup> BRC Crime Survey 2011

<sup>2</sup> USDAW Freedom From Fear Campaign

7. Effective punishment and sentencing of offenders is an essential measure in preventing crime and dispelling the preconception that business crime is victimless. Experience of the current justice system does not give retailers confidence that it effectively punishes offenders or compensates victims appropriately. We therefore welcome the Government's decision to review sentencing procedures and adopt a new approach to reducing reoffending.

#### **More Effective Fines:**

8. Fines have a role to play in the Criminal Justice System, but retailers have little confidence in their deterrent effect, primarily because of the high percentage of fines that go unpaid. For example, of the 170,000 penalty notice for disorder fines issued in 2009 48,000 were for retail crime and only 51 per cent of these penalties were paid.
9. ACS believes that securing financial penalties from offenders is a problem deeply rooted in the UK Justice system, confirmed by the House of Commons Public Accounts Committee report: Ministry of Justice Financial Management. The reports states in its conclusions and recommendations: "There was little evidence of the sustained improvement in fine collection rates that we were promised in 2006. As at 31 March 2010, outstanding fines and confiscation orders in arrears and over six months totaled just under £1.5 billion, of which just 30% was considered recoverable"
10. The report's conclusions justify the lack of confidence that many retailers have in the payment of fines by offenders. Before the Government makes commitments to an increased use of financial penalties and compensation orders they must first address whether the Ministry of Justice can manage this system.
11. Retailers understand the value of fast effective sanctions such as fines for offenders that commit "minor" offences on one off occasions. However, it is often reflected that out of court penalties have been administered in the wrong circumstances i.e. for repeat offenders, when substantial damage or stock loss has occurred or where aggravating factors such as violence has occurred.
12. Inconsistent application of fines to offenders undermines retailers' confidence in the justice system disenfranchising them from engage in other important processes such as victim personal statements or even reporting crime. Fines if used incorrectly can also reinforce the view that crimes against retailers are victimless. ACS' 2011 annual crime survey identified that offences most likely to go unreported were those dealt with by fines such as verbal abuse/ threats, shop theft and anti social behaviour<sup>3</sup>.

#### **Restorative Justice and Compensating Victims:**

##### Restorative Justice

13. Restorative Justice Measures can play an important part in reducing reoffending and ensuring victims satisfaction. The data outlined in the consultation irrefutably shows that

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<sup>3</sup> ACS Crime Survey 2011

where restorative justice programmes are invested and has commitment from all stakeholders work.

14. Retailers have generally been positive about engaging in restorative justice programmes but clarity and consistency of approach remains an issue. During a focus group<sup>4</sup> of ACS members and Home Office officials concerns about restorative justice were raised. It was highlighted that a number of restorative justice proposals such as offenders working in a store or donations for stolen items had been decided without consultation with the retailer/ victim. Such actions completely undermine Restorative Justice Principles.
15. The primary driving force for delivering Restorative Justice is to ensure that it meets all the needs of parties involved – police, offender and victim. Ensuring consultation with victims on appropriate reparation should be the centre piece of this. The Government's focus on local delivery of restorative justice programmes must be backed up by clear and well communicated guidance that provides clarity for all parties. ACS will support the Ministry of Justice to develop and communicate guidance to retailers.

#### Compensating Victims

16. Fines should remain a fundamental element of intensive community punishment. However, they are most effective in the form of compensation orders where victims are compensated directly for the implications a crime has had. Retailers have often expressed their frustration at the lack of monetary compensation for crimes committed against them and their business.
17. We also welcome the proposals for courts to have a "positive duty" to consider imposing a compensation order in all cases where there is an identified victim. Local shops that suffer from theft or damage should be considered 'direct victims' of crime and be compensated. Clarifying this in regulation will nurture confidence in the business community that the criminal justice system and police recognise businesses as an important part of the community that require and deserve protection and compensation.
18. Compensation orders have the potential to be far more effective than fines. They establish a link between the crime and the victim. This should impact on the attitudes of the criminal and the victim. This is a clear distinction to a fine which has no link to the victim and is essentially a bureaucratic faceless process.
19. The key to the success of the policy however is not that courts have new powers and make compensation orders but that it leads to a reliable outcome for the victim securing the promised compensation.
20. Guidance must set out clearly the criteria when Compensation orders or financial penalties are appropriate. Appropriate cases should be where vandalism, property damage or theft has been the core offence.

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<sup>4</sup> ACS Crime Focus Group: Overview (Annex 2)

## Victim Personal Statements

21. Victim Personal Statements are an important but under used tool for victims, including businesses, to communicate how crimes have affected them. We have responded to the Government's consultation "*Getting it Right for Victims and Witness*" and set our support for reviewing the Victims' Code and making provisions for business under the code clearer.
22. We have actively promoted the use of Victim Personal Statements to our members developing guidance for small retailers. These actions have been performed as part of the National Retail Crime Steering Group work plan<sup>5</sup> in consultation with the Magistrates Association which highlighted the limited take up of Victim Personal Statements.
23. In our response to this consultation we have specifically called for creation of a Business Impact Statement that would allow the business owner or store manager to set out the impact on the business financially in the long term and short term, and on their employees.
24. A Business Impact Statement should work on the same basis as current Victim Personal Statements meaning an initial statement can be given at the scene by a designated individual and added to later if wider implications arise. In the context of the riots this would have provided businesses with the opportunity to reflect the long term implication on their businesses financially, operationally and emotionally for their staff.
25. Such information will be invaluable for Magistrates and Judges to make more informed sentencing decisions, including appropriate compensation orders. ACS supports the view that prosecuting authorities should be able to draw on content of Victim Personal Statements or Business Impact Statements when determining levels of compensation.
- 26. For further information on this consultation response please contact Edward Woodall, Public Affairs Manager – [Edward.woodall@acs.org.uk](mailto:Edward.woodall@acs.org.uk) or 01252 533014.**

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<sup>5</sup> The National Retail Crime Steering Group is a joint Home Office and Industry led group set up to tackle retail crime through sharing best practice and partnership working across Government.