

Title: Policing and Crime Bill – Reform of the Complaints System IA No: HO0229 Lead department or agency: Home Office Other departments or agencies: None	Impact Assessment (IA)				
	Date: 26/05/2016				
	Stage: Final				
	Source of intervention: Domestic				
	Type of measure: Primary Legislation				
	Contact for enquiries: Iain Barton: iain.barton@homeoffice.gsi.gov.uk				

Summary: Intervention and Options	RPC Opinion: N/A
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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 Business Impact Target?	Measure qualifies as
£67.5m	None	None	No	N/A

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

In 2013/14, 72% of people were dissatisfied with how their complaint was handled. It took an average of 110 working days to finalise complaint cases in 2014/15, nearly two weeks longer than the average time in 2013/14 (101 working days). Police officers who are the subject of complaints also lack faith in the system, and are reluctant to engage in what they view as an adversarial process. Anecdotal evidence and the numbers of officers and ~~staff using external reporting routes suggests that~~ police whistleblowers lack confidence in the ability of their police force's system to protect their identity and this therefore prevents them from reporting. As the majority of the complaints system is prescribed by law, government intervention is required to reform it.

What are the policy objectives and the intended effects?

Complaints reforms: Complaints made against the police must be responded to in a way that restores trust, builds public confidence, and allows lessons to be learned, without always seeking to blame the officer. Whistleblowing: To increase the confidence of genuine whistleblowers to report their concerns by ensuring that protections are in place for those individuals.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option.

Option 0: Do nothing

Option 1 – Implement the Proposed Reforms:

Reform A: Structural reform of the police complaints system. This reform will strengthen the role of directly elected Police and Crime Commissioners (PCCs) in the complaints system. PCCs will be able to choose between three models: Model A - Strengthened Oversight Role and Appeals (Mandatory); Model B - Receiving and Recording (Opt-In); and Model C - Single Point of Contact (Opt-In).

Reform B: Reforming the central tenets of the complaints system. This reform includes changes to the definition of a complaint, allowing forces to resolve issues outside of the complaints system where appropriate, ending the practice of non-recording of complaints and changes to streamline the system.

Reform C: Introduce a system of super-complaints. Enable super-complaints to be made by organisations about trends and patterns of aspects of policing that might be significantly harming the interests of the public or undermining public confidence.

Reform D: Reform the Independent Police Complaints Commission's (IPCC) Modes of Investigation (MOI) Framework. This proposal will remove the option for the IPCC to carry out managed and supervised investigations and introduce a new MOI, "IPCC-directed investigations".

Reform E: Extend and clarify the powers of the IPCC. A package of measures aimed at increasing and clarifying the powers and jurisdiction of the IPCC.

Reform F: Protections for whistleblowers. Allow the IPCC to conduct investigations into police whistleblowing reports, including carrying out covert investigations to protect information and protect the identity of the police whistleblower through the use of non disclosure agreements (NDA).

Reform G: Reform of the IPCC Governance. To reform the corporate structure and governance of the IPCC and rename the organisation as the Office for Police Conduct (OPC).

Will the policy be reviewed? It will be reviewed. If applicable, set review date: /					
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
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded:	Non-traded:

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 : Date:

Summary: Analysis & Evidence

Reform A

Description: Structural Reform of the Police Complaints System

FULL ECONOMIC ASSESSMENT

Price Base Year 15/16	PV Base Year 2015	Time Period Years 10 (17/18 start)	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £1.0m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate	NK	£2.5m	£19.6m

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

- Responsibility for dealing with appeals against complaints decisions will now be with PCCs rather than Chief Constables. This will impose costs to PCCs of dealing with appeals previously dealt with by Chief Constables, estimated to be £2.4m per year.
- A possible increase in the number of appeals resulting in estimated costs to PCCs of £120k per year.

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

- Extension of the centurion IT license used to deal with complaints to include PCC staff. We were unable to obtain information on the cost of this license but it is likely to be small.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	NK	£2.4m	£18.6m

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

- Savings to Chief Constables as PCCs will now deal with their complaints appeals, estimated to be £2.4m per year.

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

- Involving PCCs more in the complaints system should improve accountability and drive improvements to the system.
- Chief Constables will no longer deal with most appeals which should increase public confidence in the appeals system.

Key assumptions/sensitivities/risks

Discount rate 3.5%

- Estimates are based on the average cost of an appeal of £628, which is based on the average staff rank and time spent working on appeals from a sample of forces. If we vary this assumption by taking the 25th and 75th percentiles from our sample, then the transfer of cost (estimated at £2.4m per year) has a range of £899k - 93.55m. This should not affect the net present value as this is a transfer of costs from police forces to PCCs.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of BIT?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

Summary: Analysis & Evidence

Reform B

Description: Reforming the Central Tenets of the Complaints System

FULL ECONOMIC ASSESSMENT

Price Base Year 15/16	PV Base Year 2015	Time Period Years 10 (17/18 start)	Net Benefit (Present Value (PV)) (£m)		
			Low: £59.0m	High: £83.4m	Best Estimate: £71.1m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		£2.8m	£21.9m
High		£6.0m	£46.3m
Best Estimate	NK	£4.4m	£34.2m

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

- As all complaints are now recorded (assuming they are not resolved outside of the complaints system), there will be a cost to PCCs of dealing with additional appeals against complaint outcomes, estimated to be £850k per year.
- Police forces may need to deal with additional complaints if improvements in the quality of the complaints system leads to more complainants. The cost of this is estimated to be £2.8m per year (best), £1.5m per year (low), £4.0m per year (high).
- As a result of increased confidence in the complaints system, there will be a cost to PCCs of dealing with additional appeals, estimated to be £0.8m per year (best), £0.4m per year (low), £1.1m per year (high).

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

- As a result of increased confidence in the complaints system, there will be a cost to the IPCC of dealing with an additional 300-780 appeals. We are unable to provide a specific costing for this figure as the IPCC were unable to provide an estimate of the cost of an appeal.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	NK	£13.6m	£105.3m

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

- All complaints will now be recorded, so the IPCC will no longer have to deal with non-recording appeals. This is estimated to create savings for the IPCC of £1.1m per year.
- Police forces will be able to resolve more complaints locally and will be required to carry out fewer investigations, resulting in savings of £12.5m per year.

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

- Police forces will benefit from being able to resolve issues outside of the complaints system which is likely to cost less than a local resolution. We cannot monetise this benefit as we do not have information on the costs of issues which are resolved outside of the system.

Key assumptions/sensitivities/risks

Discount rate

3.5%

- We assume that the proportion of complaints which are not dealt with by local resolution or investigation will remain the same.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of BIT?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

Summary: Analysis & Evidence

Description: Introduce a System of Super-complaints

FULL ECONOMIC ASSESSMENT

Price Base Year 15/16	PV Base Year 2015	Time Period Years 10 (17/18 start)	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -£1.2m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate	NK	£0.2m	£1.2m

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

- Cost to HMIC of administering the super-complaints system, estimated to be £150k per year.

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

- Cost to the Home Office of setting up and running a super-complaints designation system.

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

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

It is not possible to monetise the benefits of the super-complaints system as it is a new system and so we have no way to accurately estimate its effects.

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

- More effective targeting of inspections and investigations.
- Independent organisations will be able to put forward a complaint on behalf of people who do not typically engage with the police complaints system.

Key assumptions/sensitivities/risks

Discount rate

3.5%

- We do not anticipate that super-complaints will require a full scale investigation. Should a super-complaint result in the need for a thematic inspection for example, then this could divert significant resources from HMIC, police forces and PCCs resulting in large additional costs.

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of BIT?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

Summary: Analysis & Evidence

Reform D

Description: Reform the IPCC's Modes of Investigation (MOI) Framework

FULL ECONOMIC ASSESSMENT

Price Base Year 15/16	PV Base Year 2015	Time Period Years 10 (17/18 start)	Net Benefit (Present Value (PV)) (£m)		
			Low: -£4.5m	High: -£1.2m	Best Estimate: -£2.8m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		£0.7m	£5.4m
High		£1.1m	£8.7m
Best Estimate	NK	£0.9m	£7.0m

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

- Cost to the IPCC of carrying out directed investigations, estimated to be £910k per year (best), £690k per year (low), £1,120k per year (high).

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

- Cost to the IPCC of carrying out an increased number of independent investigations. As we have no evidence on which to base an estimate of the number of investigations which will be transferred from the police to the IPCC this cost cannot be quantified however the net effect will be zero due to savings to the police.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	NK	£0.5m	£4.2m

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

- Savings to the IPCC as they will no longer carry out supervised and managed investigations, estimated to be £540k per year.

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

- Savings to the police as the IPCC will carry out an increased number of investigations independently.

Key assumptions/sensitivities/risks

Discount rate

3.5%

- The quantified costs and benefits assume that the number of investigations directed by the IPCC will be similar to the number of investigations which are currently supervised and managed by them. As the threshold for deciding that an investigation should be undertaken by the police on behalf of the IPCC is being raised, there may be an increased pressure / need for prioritisation.

BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:	In scope of BIT?	Measure qualifies as
Costs: 0 Benefits: 0 Net: 0	No	NA

Summary: Analysis & Evidence

Description: Extend and Clarify the Powers of the IPCC

FULL ECONOMIC ASSESSMENT

Price Base Year 15/16	PV Base Year 2015	Time Period Years 10 (17/18 start)	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: NK

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

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

None as there was insufficient evidence on which to base monetised estimates of the costs.

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

- Costs to the IPCC if the Commission uses the power of initiative to investigate a wider array of matters. This cannot be monetised as we do not know how often the IPCC will use this new power.
- Allowing the IPCC to reopen cases may lead to additional costs in reassessing new evidence and issuing revised conclusions. This cannot be monetised as we do not know how many cases this would apply to.
- Public confidence and the reputation of the IPCC may be negatively affected if numerous cases have to be reopened.
- Cost to the IPCC of checking that police forces have complied with their recommendations following an investigation.

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

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

None as there was insufficient evidence on which to base monetised estimates of the benefits.

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

- Power of Initiative should provide savings to the IPCC as they do not require referrals from the police and can start investigations more quickly. This cannot be monetised as we do not know how often the IPCC will use this new power.
- Public confidence in the system should increase due to a perception that the system is more independent and can investigate with fewer delays.
- The power to reopen cases will benefit the public as conclusions can be changed based on new evidence.
- Enabling the IPCC to make determinations and suggest remedies based on complaints, will mean that complaints can be resolved in a manner which is more satisfying to complainants, reducing the number of appeals and resubmission of complaints.

Key assumptions/sensitivities/risks

Discount rate

3.5%

- The key risk within the package of measures that make up Reform E are forces choosing not to act on the IPCC's recommended remedies. This could diminish public confidence in the ability of the IPCC to ensure effective outcomes as well as in the police complaints system itself.

BUSINESS ASSESSMENT (Option 5)

Direct impact on business (Equivalent Annual) £m:			In scope of BIT?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

Summary: Analysis & Evidence

Reform F

Description: Protections for Whistleblowers

FULL ECONOMIC ASSESSMENT

Price Base Year 15/16	PV Base Year 2015	Time Period Years 10 (17/18 start)	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: NK

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

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

We are unable to estimate the number of additional whistleblowers who will come forward and as a result, the costs cannot be monetised.

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

- Cost to the IPCC of the decision-making process by which they decide whether or not to launch an investigation, and for preliminary enquiries once this decision has been made.
- Cost to the IPCC of investigating additional whistleblowing reports if confidence in the system increases.

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

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

We are unable to estimate the number of additional whistleblowers who will come forward and as a result, the benefits cannot be monetised.

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

- The police force and general public should benefit if a greater number of whistleblowers come forward so that police conduct can be improved.
- Due to greater anonymity for whistleblowers, there should be a reduced number of employment tribunals which come about because whistleblowers are subsequently treated unfairly.

Key assumptions/sensitivities/risks

Discount rate

3.5%

- We are unable to estimate how many more individuals will come forward as a result of these reforms, however the estimated cost of an IPCC investigation in 2015/16 is £70k (based on their projected caseload and expenditure) and £1,400 for the police.

BUSINESS ASSESSMENT (Option 6)

Direct impact on business (Equivalent Annual) £m:			In scope of BIT?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

Summary: Analysis & Evidence

Description: Reform of the IPCC Governance

FULL ECONOMIC ASSESSMENT

Price Base Year 15/16	PV Base Year 2015	Time Period Years 10 (17/18 start)	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -£0.5m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate	£0.6m	NK	£0.5m

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

- Transitional costs associated with the implementation of the structural reform of the IPCC, estimated to be £0.6m (PV of £0.5m).

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

- There may be familiarisation costs associated with the proposal as existing members of staff adjust to the new structure of governance. Due to a lack of evidence on which to base an estimate, the value of these familiarisation costs has not been quantified.

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

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

None as there was insufficient evidence on which to base monetised estimates of the benefits.

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

- The IPCC will have a more streamlined system of hierarchy with a single line of accountability up to the Director-General. This should improve organisational efficiency and public confidence in decision-making. Currently the Commission makes decisions, such as referral to the Crown Prosecution Service, but responsibility for the investigation report (upon which decisions are taken) rests solely with the individual investigator.
- The new organisational structure will strengthen oversight and corporate governance by ending the existing "dual role" of Commissioners in which they are engaged in both operational activity and governance of the organisation. The new arrangements, in which the Board will contain a majority of non-executive members, will support the more efficient running of the organisation.

Key assumptions/sensitivities/risks

Discount rate

3.5%

- There is the assumption that the employment costs for the Director General and his staff alongside a tier of senior managers will be the same as for the commissioners who are currently employed. There is also the assumption that these staff will be able to handover all duties within a period of three months.

BUSINESS ASSESSMENT (Option 7)

Direct impact on business (Equivalent Annual) £m:			In scope of BIT?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

1.1 In July 2014, the Government announced a review of the entire police complaints system, including the role, powers and funding of the Independent Police Complaints Commission (IPCC) and the local role played by Police & Crime Commissioners (PCC).

1.2 The review found that elements of the police complaints system do not work efficiently or effectively. There is a lack of confidence in the system. Although the number of recorded complaints against the police has risen, most people dissatisfied with the police choose not to complain. In 2013/14, 87% of people who expressed that they had been dissatisfied with the police in the previous five years chose not to complain.¹ The proportion of people who choose not to complain against the police has remained largely static for the past five years. Only 58% of people are confident that if they were to complain it would be handled fairly.² Those members of the public who do complain are often not satisfied with how their complaint is handled. In 2013/14, 72% of people were dissatisfied with how their complaint was handled.³ A significant number of decisions taken by police forces about complaints are overturned on appeal. In 2014/15, 40% of appeals to the IPCC against decisions taken by police forces were upheld.⁴ Since 2011/12, the proportion of appeals against local investigations upheld by the IPCC has risen from 31% to 39%.⁵

1.3 Reform of the complaints system has not kept pace with reforms to the rest of the policing landscape. In particular, the police complaints system does not reflect changes brought about through the introduction of PCCs. With the exception of complaints made against chief constables, for which they are the appropriate authority, PCCs have only a relatively limited role in regards to the complaints system, confined to a general monitoring role and holding chief constables to account for overall performance.

1.4 Considerable consultation has taken place on potential reforms of the police complaints system (see section E) and a consultation stage Impact Assessment of these reforms was produced.⁶ Now there is the opportunity for the proposed reforms to be brought into legislation.

Whistleblowing

1.5 The consultation also included proposals on strengthening protections for whistleblowers to give them the confidence and reassurance that they need to raise their concerns. A whistleblower⁷ is a person who reports in good faith any kind of activity or information that is deemed illegal, dishonest or against the principles of the organisation. In the police, whistleblowing occurs when police officers or staff raise a concern about wrongdoing or poor practice in their force, whether with a line manager, the force Professional Standards Department (PSD), the IPCC, or occasionally, when necessary, elsewhere through an external reporting route such as Crimestoppers.

¹ <http://www.ons.gov.uk/ons/about-ons/business-transparency/freedom-of-information/what-can-i-request/published-ad-hoc-data/crime/march-2015/complaints-made-against-the-police.xls>

² https://www.ipcc.gov.uk/sites/default/files/Documents/guidelines_reports/IPCC_Public_confidence_survey_2014.pdf

³ <http://www.ons.gov.uk/ons/about-ons/business-transparency/freedom-of-information/what-can-i-request/published-ad-hoc-data/crime/march-2015/complaints-made-against-the-police.xls>

⁴ http://www.ipcc.gov.uk/sites/default/files/Documents/research_stats/complaints_statistics_2014_15.pdf

⁵ http://www.ipcc.gov.uk/sites/default/files/Documents/research_stats/complaints_statistics_2014_15.pdf

⁶ See

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411949/response_improving_police_integrity_police_complaints_system_impact_assessment.pdf

⁷ Based on the definition in the Public Interest Disclosure Act (PIDA) 1998:

<http://www.legislation.gov.uk/ukpga/1998/23/contents>

1.6 Many police officers and staff are already prepared to report concerns. Police PSDs receive an estimated 3,900 reports a year⁸ from concerned officers and staff. There is currently no data available on the outcome of each report but approximately 88% of cases against police officers that are investigated as gross misconduct arise from internal reports, without a public complaint having been made⁹. However, there are likely to be times when officers choose not to come forward.

1.7 In January 2015, Her Majesty's Inspectorate of Constabulary (HMIC) published their report '*Integrity matters: An inspection of arrangements to ensure integrity and to provide the capability to tackle corruption in policing*'.¹⁰ The report found that the overwhelming majority of those within policing were aware of their responsibility to report wrongdoing and 87% were aware of the methods available to them to do so. However, it found there were still cases where officers and staff feared that making a report would have adverse consequences for them, for example, if it became known that they were a whistleblower. In addition to this, a survey which HMIC carried out as part of this inspection indicated that some officers and staff who have challenged or reported wrongdoing have suffered detriment as a result of reporting wrongdoing when it has become known to their colleagues that they are a whistleblower.

1.8 The Government set out its response to the *Improving Police Integrity* consultation in March 2015 and the commitment to strengthen protections for police whistleblowers was reaffirmed in the Queen's Speech at the start of this Parliament. The Home Secretary is introducing provisions in the Policing and Crime Bill to allow the IPCC to investigate concerns reported by whistleblowers, including carrying out a covert investigation where appropriate, to protect information and the identity of the police whistleblower. The College of Policing will also publish National Guidance for Police Whistleblowers which will set out the support whistleblowers should expect to receive.

1.9 The measures in the Bill will help to enable the IPCC to investigate concerns reported by those serving with the police and, where appropriate, carry out a 'covert investigation' through the use of non-disclosure agreements. This will enable the IPCC to protect information and the identity of the police whistleblower, where necessary.

A.2 Groups Affected

1.10 The reforms will affect: the general public; PCCs; Chief Constables; police personnel; the IPCC; HMIC; and organisations who may wish to lodge a super-complaint.

A.3 Consultation

1.11 The Government held a public consultation on reforms to the complaints system and on protections to whistleblowers. It launched on 11 December 2014 and ran until 5 February 2015. The consultation invited views on the proposed changes to the police complaints system and sought further information and data that would help assess the impact of the proposed policies. A consultation document¹¹ and consultation stage impact assessment of these reforms were produced¹² and further details of the consultation can be found in section E.

B. Rationale for Government Intervention

Complaints

2.1 Public Satisfaction: Although the number of recorded complaints against the police has risen, most people dissatisfied with the police choose not to complain. In 2013/14, 87% of people

⁸ Data from a 2014 Home Office survey of Police Forces. This data has not previously been published and is unverified.

⁹ ADR returned to the Home Office for the period November 2012 – November 2013

¹⁰ <https://www.justiceinspectors.gov.uk/hmic/publication/integrity-matters/>

¹¹ See

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411970/improving_police_integrity_reforming_the_police_complaints_and_disciplinary_systems.pdf

¹² See

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411949/response_improving_police_integrity_police_complaints_system_impact_assessment.pdf

who expressed that they had been dissatisfied with the police in the previous five years chose not to complain. Some members of the public are unaware of the police complaints system and do not know how to make a complaint. Many people also lack confidence in the ability of the police to deal fairly with their complaints. Many members of the public who have complained are often not satisfied with how their complaint is handled. In 2013/14, 72% of people were dissatisfied with how their complaint was handled.

2.2 **Timeliness:** The average time taken to finalise complaint cases increased in 2014/15 – the first increase in four years. It took an average of 110 working days to finalise complaint cases in 2014/15, nearly two weeks longer than the average time in 2013/14 (101 working days). The complaints system is complex and, as a result, resolution of complaints can be slow. The legislation and guidance explaining how the complaints system operates is long and difficult to follow.

2.3 **Effectiveness:** A significant number of decisions taken by police forces about complaints are overturned on appeal. In 2014/15, 40% of appeals to the IPCC against decisions taken by police forces were upheld. Over the last four years, the proportion of appeals upheld by the IPCC has risen from 30% to 40%.

2.4 **Police Satisfaction:** Police officers who are the subject of complaints also lack faith in the system, and are reluctant to engage in what they view as an adversarial process. They feel that the system fails in any efforts to help improve the service they give to the public by focusing too narrowly on apportioning blame and whether officers have committed misconduct.

Whistleblowing

2.5 Anecdotal evidence and the numbers of officers and staff using external reporting routes (e.g. Crimestoppers) suggests that police whistleblowers lack confidence in the ability of the force system to protect their identity and this therefore prevents them from reporting. If it becomes known that they are a whistleblower they may suffer an adverse reaction from the force which could have an impact on their career. Further, 'covert investigations' will ensure that vital evidence needed as part of the investigation can be obtained without the identity of the whistleblower being disclosed to third parties.

2.6 A reluctance to come forward and report wrongdoing is not unique to the police: similar reluctance can be found in other organisations. Research into whistleblowers across all professions by the charity Public Concern at Work shows that the response individuals most commonly say their fear is dismissal. At the first time of reporting a concern, 66% of those who feared a specific type of response feared dismissal.¹³

2.7 It is essential that officers and staff have confidence that the system will deal with their concern effectively, and that protections are available to ensure genuine whistleblowers do not suffer detrimental treatment by their force. If officers do not come forward it may be more difficult to resolve problems, which in turn may lead to damage in public confidence and trust in the police.

Summary

2.8 It is clear that many people are dissatisfied with the complaints and police whistleblowing systems, with complaints taking too long and too many decisions being overturned following appeal. As these systems are largely prescribed by law, government intervention is required to reform them.

C. Objectives

¹³ Whistleblowing: the inside story. <http://www.pcaw.org.uk/files/Whistleblowing%20-%20the%20inside%20story%20FINAL.pdf>

3.1 Complaints made against the police must be responded to in a way that restores trust, builds public confidence, and allows lessons to be learned. The reforms aim to produce:

- A *customer focused* police complaints system that puts the emphasis on resolving issues to the satisfaction of the complainant where possible and in a *timely* fashion, not on apportioning blame.
- A more *transparent* and *independent* police complaints system that has effective *local oversight* and that provides the public with clear information on the performance of the complaints system with which to hold their PCC and force to account.
- A *simpler and less bureaucratic* police complaints system that is easy to understand and that sets out clearly how a complaint can be made, how it will be handled and what outcome can be expected.
- A police complaints system that enables the PCC and chief constable to identify *patterns and trends* of dissatisfaction being raised with the force and allows them to address any *systemic issues*.
- A more effective IPCC that can *commence investigations without waiting* for a referral from a police force and recommend remedies to provide more effective outcomes for complainants.
- A *simpler framework for IPCC investigations* that provides clarity and transparency for complainants and the public around the reasons for police assistance in IPCC investigations.

Whistleblowing

3.2 To increase the confidence of genuine whistleblowers to report their concerns by ensuring that investigations can be carried out effectively and sufficient protections are in place for those individuals who report concerns.

D. Description of Options Considered

Option 0 - Do Nothing

4.1 The current system for dealing with complaints made against the police will remain unchanged and the issues identified by the review of the police complaints system will not be addressed. The current framework for the way in which the IPCC oversees investigations undertaken by the police on its behalf will remain unchanged and the IPCC will remain unable to act without a referral from a police force. The current whistleblowing investigations and disciplinary processes will remain unchanged. Details of the way in which the current system works will be given in the next section (Option 1), followed by details of the proposed reforms to the system.

Option 1: Proposed Reforms

4.2 The following package of reforms together forms Option 1.

Reform A: Structural Reform of the Police Complaints System

4.3 Currently, police forces deal with the receiving and recording of all complaints, as well as all contact with complainants. Appeals against police complaints are also dealt with largely by Chief Constables. This reform will strengthen the role of directly elected PCCs in the complaints system by shifting responsibility for some or all of these processes away from police forces to PCCs. PCCs will be able to choose between three models, with Model A being the minimum requirement and each subsequent model building on the last. Models B and C will be opt-in for PCCs. This reform will therefore allow PCCs to decide how aspects of the police complaints system should be structured locally. The models are as follows:

- A. Strengthened Oversight Role and Appeals. A more explicit responsibility for ensuring the effective and efficient delivery of the local police complaints system, and direct responsibility for hearing those appeals currently heard by Chief Constables.
- B. Receiving and Recording. Enabling PCCs to take on responsibility for the initial part of the complaints handling process, including the ability to resolve issues outside of the complaints system where appropriate, the duty to make initial contact with a complainant to understand how best their issue might be resolved, and the recording of complaints.
- C. Single Point of Contact. Enabling PCCs to take responsibility for all statutory duties regarding contact with the complainant throughout the complaint process. This would allow PCCs to essentially act as a single point of contact and communication for the complainant.

4.4 Whilst Model A will be mandatory, the legislation will enable PCCs to either take on responsibility for each of the functions described in Models B and C directly, or leave these functions with the police. Where a PCC decides to take on responsibility directly, they will have some freedom to be able to implement such arrangements as they consider appropriate and effective in engaging with their local communities to improve public confidence in the police complaints system.

4.5 Model A includes the proposal to transfer responsibility for considering appeals against the outcomes of certain complaints from chief constables to PCCs.

Reform B: Reforming the Central Tenets of the Complaints System

i) To clarify the definition of a complaint

4.6 This proposal will clarify the definition of a complaint. Currently, complaints are defined by section 12 of the Police Reform Act 2002 as a complaint about the conduct of a person serving with the police. We intend to clarify this definition to make it clear that complaints can include issues of policing practice and service failure as well as the conduct of an individual. By clarifying the definition of a complaint, the Government hopes to increase the efficiency with which some complaints can be resolved. We will enable forces to resolve a complaint without the need to tie all issues to the conduct of an individual. This should in turn make the complaints system less adversarial for the police.

ii) Resolving issues outside of the complaints system

4.7 Currently, on receipt of a complaint which involves low-level matters, many police forces seek to resolve it quickly, without formally recording it as a complaint. A number of forces have set up 'triage' or 'customer service' teams in order to do this. The Government is committed to the principle that complaints concerning low-level matters should be dealt with as quickly as possible. Therefore, we want the resolution of customer service issues outside of the complaints system to be provided for in the legislation, with the legislation making clear that the appropriate authority may (on receipt of a complaint) consider whether it is suitable for resolution informally and, if it decides it is, take steps to seek to resolve the complaint without needing to formally record it as a complaint.

4.8 Forces would only be able to resolve issues outside of the complaints system where it was appropriate to do so i.e. where the complainant was happy for it to be so and where there was no suggestion that the issue complained of would justify, if proved, the bringing of criminal or disciplinary proceedings, or breached Article 2 or 3 of the European Convention on Human Rights (ECHR).

iii) Ending the practice of non-recording complaints

4.9 This proposal will end the practice of non-recording complaints on certain grounds where a member of the public is clear they want to make a complaint. Currently, complaints are non-recorded for a variety of reasons. These include cases in which the complaint has been or is being resolved through existing misconduct or criminal proceedings, the complaint has been withdrawn, the matter is already subject to another separate complaint made by the same complainant, the

complainant fails to disclose his/her name or address and it is not possible to obtain that information through reasonable steps, or the complaint is vexatious, repetitious or fanciful. The reform will change this practice and require any complaint that is not resolved outside of the complaints system to be recorded. The current practice of non-recording certain complaints does not work effectively. Appeal upheld rates are over 40%, which suggests a fundamental difference in interpretation of the legislation between the IPCC and forces, and labelling complaints as vexatious or repetitious risks antagonising complainants.

4.10 This proposal will therefore also remove an appeal point. Members of the public whose complaints are non-recorded can currently appeal that decision to the IPCC. This often results in a confusing and counter-productive bureaucratic loop leaving neither the police nor the complainant closer to satisfaction. The reform will remove this appeal point.

iv) Simplifying the complaints system

4.11 This proposal will remove the confusing categories of local resolution, locally investigation and disapplication for how a complaint must be handled, replacing them with a number of statutory duties. These are not terms the public understands. The Government is committed to shifting the focus to how a complaint might be best resolved to the complainant's satisfaction, rather than how to categorise complaints.

4.12 Instead, there will be simply a series of statutory duties on the force or the PCC. A statutory duty to contact the complainant to understand how their complaint might be resolved, a duty to take reasonable and proportionate action to resolve the complaint, a duty to keep the complainant updated on the progress of their complaint, and a duty to inform the complainant of the outcome of their complaint. The main duty will be to take reasonable and proportionate action to resolve a complaint. In some cases, that may be to take no action. What constitutes reasonable and proportionate action will be benchmarked and subject to guidance. Forces will be obliged under that duty to investigate where there is a clear indication that the conduct complained of, if proved, would justify the bringing of criminal or disciplinary proceedings or breaches Article 2 or 3 of the ECHR.

4.13 This proposal includes streamlining the appeals process so that there is one appeal point. If a complainant is unhappy with the outcome of their complaint, they may seek a 'review' to confirm that the outcome of your complaint was reasonable and proportionate. This will replace the five appeal points that currently exist.

v) Making it easier to deal with vexatious and persistent complaints

4.14 The Government also invited views on how to make it easier for forces to deal with vexatious and persistent complaints. The Government will continue to work with policing partners on the issue of vexatious and persistent complaints. It intends to introduce a national policy of unreasonable complainant conduct, but this will not require changes to primary legislation. As a result, the issue of vexatious and persistent complaints are not considered in this impact assessment.

Reform C: Introduce a System of Super-complaints

4.15 This proposal will enable complaints to be made by organisations (referred to as designated bodies) about trends and patterns of aspects of policing that might be significantly harming the interests of the public or significantly undermining confidence. The primary purpose of the system would be to capture national or cross-force issues that are not otherwise captured by the existing complaints system, IPCC investigations or HMIC inspections. A further purpose is an additional safety net mechanism for capturing localised systemic issues that have not been identified or addressed through the individual complaints system.

4.16 The responsibility for consideration and resolution of super-complaints should fall to all of the three key policing bodies: HMIC, IPCC and the College of Policing. HMIC will own the system.

Proposed process for handling and resolving a police super-complaint

4.17 There will be three main stages to the super-complaints process – pre-submission, handling and resolution.

i) Pre-submission

4.18 The handling of designated bodies and the super-complaints they submit is a critical part of the system. Therefore, a key feature of the policing super-complaints system will be regular dialogue between designated consumer bodies and the responsible organisations. This will mean that no super-complaint is submitted in isolation and that any issues can be identified early.

ii) Handling

4.19 As the ownership of standards in the policing landscape are shared, all super-complaints will be considered by a panel comprising of IPCC, HMIC, the College of Policing and an independent member. The panel would consider the super-complaint and agree appropriate action. This will ensure that the full range of possible actions can be considered.

4.20 A range of options will be available to the panel for dealing with a super-complaint. This will include some form of investigation into the conduct of an officer or group of officers to be carried out by the IPCC; some form of consideration of the way in which the force or forces conduct themselves leading to an inspection by HMIC either thematic or in the course of the PEEL inspection program; and possible revision to national guidance by the College of Policing or the National Police Chiefs' Council (or locally produced guidance).

iii) Resolution

4.21 Once the panel had made their decision, the super-complaint would be referred to the appropriate body, who would then take the appropriate action to resolve the issue.

Reform D: Reform the IPCC's Modes of Investigation (MOI) Framework

4.22 This proposal will remove the option for the IPCC to carry out managed and supervised investigations and introduce a new mode of investigation (MOI), "IPCC-directed investigations". Currently, the IPCC can investigate a complaint itself, exert direction and control over an investigation (managed) or have the police investigate within prescribed terms of reference (supervised). The new MOI, "IPCC-directed investigations", will be the only form of investigation that sits in the space between one that is referred back to a force with no IPCC involvement and a fully independent IPCC investigation. By replacing two MOIs (managed and supervised) with one more clearly defined MOI (IPCC-directed), the MOI framework will be simplified by making it clearer to complainants and the public when the police is involved in investigating under an IPCC-badged investigation. IPCC-directed investigations will also clarify the IPCC's ability to direct investigations undertaken by the police on its behalf and place a higher degree of accountability, scrutiny and transparency on the IPCC to justify decisions not to investigate independently.

4.23 The new framework will increase the independence of all IPCC investigations by ensuring the IPCC can exert more effective direction and control over investigations that police forces undertake on its behalf. The IPCC's ability to direct the course of the investigation will be clarified (e.g. setting clear delivery timeframes, identifying questions that require answering) and a duty will be placed on the police officer in charge of the investigation to comply with the IPCC's directions. This is allied to the existing duty on chief constables to adequately resource investigations.

4.24 Not only will IPCC-directed investigations be more independent than managed and supervised investigations but the new MOI framework will introduce a presumption that the IPCC will undertake an independent investigation wherever possible. Where the IPCC decides that it will have a role in the investigation, the default will be to investigate independently. Only where the IPCC determines that it would be most effective for the matter to be investigated by the force, should it rebut the presumption of an independent investigation and opt for the IPCC-directed investigation. Authority for undertaking an IPCC-directed investigation will be sought from a senior investigator or commissioner (or equivalent under a new governance structure) at the outset to

ensure consistency of approach across the MOI decision-making process. There will be a duty on the IPCC to consider the ongoing suitability of the IPCC-directed MOI and whether it would be most effective for it to become an independent investigation.

4.25 The IPCC will be required to be more accountable and transparent about their reasons for not investigating independently by communicating the MOI rationale to complainants and interested parties at the outset and in their final report (subject to a harm test). The IPCC will also be obliged to publish how many directed investigations it has undertaken as part of its reporting requirements.

Reform E: Extend and Clarify the Powers of the IPCC

4.26 This reform comprises a package of measures aimed at increasing and clarifying the powers and jurisdiction of the IPCC. As a package, they are aimed at ensuring greater independence and operational effectiveness for the IPCC as well as providing greater transparency and clarity for the public and the police. The individual measures are outlined in turn below.

i) Give the IPCC the power of initiative

The IPCC is currently able to direct police forces to refer matters to it, although this process takes time and delays that arise as a result can diminish public confidence in the IPCC and the ability of the system to respond to complaints effectively. This proposal will enable the IPCC to launch an investigation without a referral from the police.

ii) Provide the IPCC with the power to reopen closed investigations

There is currently uncertainty as to whether the IPCC is legally permitted to reopen investigations that have been formally closed, regardless of whether new information comes to light, or if the investigation itself is called into question. This proposal will enable the IPCC to reopen investigations and amend its findings, if there is sufficient justification to do so.

iii) Enable the IPCC to make determinations

The IPCC is currently unable to make determinations on the outcome of complaints which do not amount to recordable conduct or a criminal matter. The proposal will ensure that the IPCC can make determinations in cases that do not involve misconduct or criminal allegations, as well as make clear determinations when reviewing cases.

iv) Enable the IPCC to recommend remedies

Current legislation allows the IPCC to make certain directions as to the course of action a complaint should take, but these are geared towards institutional responses and learning and do not provide a direct remedy to complainants. The proposals will provide the IPCC with wider statutory powers to recommend remedies, including recommending an apology be made to the complainant or that the complaint go through formal mediation.

Reform F: Protections for Whistleblowers

4.27 This proposal allows the IPCC to conduct investigations into police whistleblowing reports, including carrying out covert investigations to protect information and protect the identity of the police whistleblower through the use of non disclosure agreements (NDA).

4.28 Currently, where a whistleblowing report is made directly to the IPCC, the IPCC will send the matter to the police force for a referral. If the matter meets the mandatory referral criteria it will be referred to the IPCC for an investigation under Schedule 3 to the Police Reform Act 2002 if it is in relation to the conduct of an individual. The IPCC do not have the power to investigate a whistleblowing report without first receiving a referral from the police force.

4.29 In March 2015, changes were made to the Police (Conduct) (Amendment) Regulations 2015 to ensure that the principles set out in the Public Interest Disclosure Act 1998 are incorporated in the police disciplinary process i.e. police officers and staff are protected from unfair disciplinary action and reprisals as a result of blowing the whistle.

4.30 This reform will protect the identity of the individual whistleblower through enabling the IPCC to manage the early stages of a whistleblowing allegation reported to it directly without a referral from the police force, and allow the IPCC to conduct covert investigations by restricting the sharing of information to any person(s) it chooses from a list of designated contacts including Chief Officers, those within Professional Standards Departments and Anti-Corruption Units in police forces.

4.31 We envisage the process will be:

- The IPCC would receive a whistleblowing report directly and will decide whether it will investigate. There will be no requirement to investigate and IPCC will apply the public interest test to help in making such decisions. If the IPCC decides to investigate then it will determine the mode of investigation (independent or IPCC-directed). Where the whistleblower has asked to be anonymous, the IPCC will decide whether to conduct the investigation covertly. In many cases it might be sensible to share reports with forces to promote learning or because the force may be better placed to respond. However, where the whistleblower has asked to be anonymous, the IPCC will only be able to share reports or information with police forces if they have the prior consent of the whistleblower. Exceptions to this will be where there is a clear indication of a criminal offence or misconduct, where the IPCC will be able to refer matters to the Crown Prosecution Service or the Police.
- At the IPCC's request, the relevant force will be required to provide the IPCC with a list of designated contacts within the force who can be used to support the IPCC's independent investigations and act as covert sources for the IPCC.
- The IPCC would select from the list the named individuals who are permitted to know any details of the case and identify those persons as designated contacts for the purposes of the investigation. It will be reasonable in many cases for the chief constable to know, but the IPCC may wish to exclude them in some cases.
- The IPCC will draft a NDA using a standard template which will set out the duties of the relevant individual(s) and send the NDA to the designated contact(s) to sign. It will be necessary for the NDA to be signed before any information, including the name of the whistleblower, can be shared.
- During the investigation, those persons who have signed non-disclosure agreements would be required to take all reasonable steps to provide such information to the IPCC as it requests (or, if they are not able to do so, explain why and indicate whether the information may be obtained elsewhere). Those persons would not be able to disclose information about the investigation to any third parties without first obtaining the written consent of the IPCC. Any disclosure without consent would render the person liable to disciplinary proceedings¹⁴.

4.32 Under these arrangements, the IPCC will be able to initiate its own investigations. This will mean the IPCC can investigate even where it has not received a report from a whistleblower but has nevertheless become aware of the concerns.

Reform G: Reform of IPCC Governance

4.33 To reform the corporate structure and governance of the IPCC and rename the organisation as the Office for Police Conduct (OPC). The reforms will replace the existing Commission structure with a single-head, the Director General, who will have ultimate responsibility for all casework decisions. . The functions of the IPCC (including oversight of the police complaints system and its role as an appeal body for police complaints) will become functions of the Director General. Corporate governance will be provided by a unitary board (the "Office") with a majority of non-executive members

¹⁴ Something which would be made clear in the non-disclosure agreement and which would be included in future amendments to Police (Conduct) Regulations.

4.34 The Director General and the Office will have a statutory responsibility jointly to prepare and publish a strategy for the carrying out of their functions, as well as preparing a code of practice dealing with the relationship between the Director General and the Office.

E. Consultation

Within Government

5.1 The Home Secretary announced the review of the police complaints system in July 2014.

Public Consultation

5.2 From an early stage, the Government invited views on how the police complaints system could be improved from a wide variety of groups, including the police, PCCs, the IPCC, solicitors, community-based organisations as well as members of the public who have made complaints about the police.

5.3 Following the conclusion of the review of the police complaints system, the Government held a public consultation. The consultation was launched on 11 December 2014 and ran until 5 February 2015. The consultation invited views on the proposed changes to the police complaints system, protections for whistleblowers, and sought further information and data that would help assess the impact of the proposed policies. There were 73 responses to an online survey, the majority of which were received from individual police officers. There were 78 written responses, the majority of which were from policing partners, including police forces, PCCs and police staff associations. The Government also held three meetings with partners, where attendees included the National Policing Lead, police staff associations, police officers deployed in professional standards departments and PCCs. Further work also took place with a representative sample of 10 police force professional standards departments and the IPCC. The Government response to that consultation was published on 12 March 2015.¹⁵

5.4 Since the publication of the Government response to the consultation, officials have continued to engage with key partners on the details of the proposed reforms to the complaints systems and protections for whistleblowers. The Police Integrity Working Group, including representatives from the IPCC, HMIC, Police Federation, Association of PCCs, College of Policing and Police Superintendents' Association have given continued consideration to the proposals, and a Police Complaints Practitioners Group, comprised of representatives from numerous force Professional Standards Departments and people responsible for complaints working in the Office of the PCC, has been established to work through the practical implications of the proposed reforms.

5.5 The consultation asked for views in relation to the proposals listed under the different reforms.

5.6 **Reform A:** The consultation asked for views as to whether the proposal to enable PCCs to take on greater responsibility for certain functions of the complaints system struck the right balance between ensuring local flexibility for PCCs to respond to the needs of their constituents and ensuring consistency in how complaints are dealt with throughout England and Wales.

5.7 The Government received a variety of views in response to this question. There was broad support for PCCs taking on a greater role in the complaints system. Most of these responses were from PCCs, but some police forces also expressed support for this proposal. In particular, the majority of PCCs who responded to the consultation, as well as some police forces, supported the idea that PCCs should take on responsibility for considering appeals on the outcome of complaints currently heard by chief constables. It was recognised that this would provide additional independence to the system.

¹⁵https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411970/improving_police_integrity_reforming_the_police_complaints_and_disciplinary_systems.pdf

5.8 Some respondents were concerned about the potential fragmentation of the complaints system across England and Wales and the impact this may have on the ability of the public to understand how a complaint may be handled. Other respondents were concerned about whether a lack of capability or capacity in the office of the PCC may mean that complaints and appeals take longer to be resolved than they do currently.

5.9 The specific models that the consultation response proposed giving PCCs the ability to adopt have evolved following ongoing discussions with policing partners. In particular, the Government no longer intends to give PCCs a formal role in the resolution process once an issue has been recorded as a complaint. A number of respondents to the consultation raised their concern about the impact such a reform would have on the principle of operational independence, and that it would undermine the independence benefits of moving appeals to PCCs away from chief constables. Having given further consideration to these issues, the proposed models for a PCC to adopt have been adjusted appropriately. The Government believes that with strengthened oversight of the complaints system, mandatory hearing of certain appeals, and the option to take on direct responsibility for both the front of the complaints system (including resolving issues outside of the complaints system where appropriate) and all contact with the complainant, PCCs will have the levers they require to drive performance of the complaints system locally.

5.10 **Reform B:** The consultation asked for views on a series of proposals to reform the tenets of the complaints system.

5.11 With regards to the proposal to clarify the definition of a complaint to cover policing practice and service failure as well as the conduct of someone serving with the police, the majority of respondents supported this proposal.

5.12 With regards to the proposal to require all complaints to be recorded, a clear majority of respondents supported this proposal. Following ongoing consultation with key stakeholders on this issue, we have clarified the language regarding this reform to reflect the increased focus on forces being able to resolve certain issues outside of the complaints system where it is appropriate to do so. As per 4.11, the Government is committed to ending the practice of non-recording complaints on certain grounds where a member of the public is clear they want to make a complaint.

5.13 With regards to the proposal to replace the terms 'disapplication' and 'discontinuance' with 'a decision to end and investigation', almost all respondents supported the proposal to replace the terms 'disapplication' and 'discontinuance'. Some respondents proposed that the new term should be 'no further action' since this was less likely to cause confusion.

5.14 **Reform C:** The consultation asked for views about the introduction of a system of super-complaints, as well as for views as to who would be best placed to receive super-complaints and whether any or all of the IPCC, HMIC and the College of Policing would require new powers to respond to a super-complaint effectively.

5.15 Most respondents considered that the introduction of a system of super-complaints would have positive benefits for police accountability and the ability of the police to improve the service they offer to the public.

5.16 Views were mixed as to which organisation was best placed to receive a super-complaint. While most believed that the IPCC was best placed to take on this role, other respondents suggested that HMIC, the College of Policing or the Home Office may be better placed.

5.17 **Reform D:** The consultation asked for views about removing the option for the IPCC to conduct managed and supervised investigations as well as the circumstances in which the IPCC should be able to seek police assistance with their investigations.

5.18 A majority of respondents agreed with the principle that police involvement should be kept to an absolute minimum in IPCC investigations to ensure greater clarity about the independence of those investigations, as well as the practical impact such involvement can have on police re-

sources. Although a minority considered that there should be no police involvement at all, a majority thought that it would be impossible for the IPCC to conduct investigations without some involvement from the police.

5.19 A significant minority, including the IPCC and the National Policing Lead for Complaints and Misconduct, felt that supervised investigations were no longer needed but that managed investigations would be necessary in some cases.

5.20 **Reform E:** The consultation asked for respondents' views on giving the IPCC the power of initiative, the ability to make determinations and suggest remedies (i., iii. and iv. in paragraph 4.26 above).

5.21 A clear majority of respondents were in favour of giving the IPCC the power of initiative, with over two-thirds of respondents who expressed a view either agreeing or strongly agreeing. Similarly, a clear majority of respondents were in favour of allowing the IPCC to make determinations and uphold complaints, with over two-thirds of respondents who expressed a view either agreeing or strongly agreeing. There was a fairly even split between respondents who agreed and disagreed with allowing the IPCC wider powers to recommend remedies. Some respondents agreed that the IPCC should have stronger powers of remedy but not if this included recommending financial compensation.

5.22 The power for the IPCC to reopen cases, was requested by the IPCC. This will ensure a more efficient and effective IPCC by more clearly defining its jurisdiction and powers.

5.23 Formalising the power for the IPCC to reopen cases is important to ensure that the IPCC can change its findings to reflect new evidence.

5.24 **Reform F:** The consultation asked for views as to whether the IPCC should have the power to manage the early stages of an investigation relating to a matter brought directly to their attention, and for views as to whether the introduction of covert investigations would increase the ability of the IPCC to carry out investigations and prevent the possibility of collusion, the destruction of evidence or pressure being applied to the investigation.

5.25 63% of respondents were in favour of allowing the IPCC to record conduct matters reported by whistleblowers, with only 26% disagreeing. The remainder neither agreed nor disagreed. Police forces were split over the issue, with 45% agreeing and 41% disagreeing, whereas other groups of respondents were clearly in favour of the proposal.

5.26 The most common answer to the question asking how cases reported to the IPCC that are not serious enough to warrant an IPCC investigation should be dealt with was that they should be referred back to the force. Other respondents proposed they should be investigated independently, or that PCCs should have a role.

5.27 54% of respondents agreed that the introduction of covert investigations would have the intended effect. Police and Crime Commissioners and individual police officers were strongly in favour of this proposal, whereas police forces were not.

5.28 **Reform G:** The Government also held a public consultation between December 2015 and January 2016 on reform of the organisational structure and governance of the Independent Police Complaints Commission. The Government consulted on a number of issues and 80% of respondents agreed that the IPCC should be led by a single head with complete independence from government in operational decisions. 91% of respondents agreed that the reformed IPCC should have a clear line of decision-making within the organisation and 86% agreed that the IPCC should retain operational independence regardless of any other changes made to its organisation and structure.

5.29 In publishing its response, *Reforming the IPCC: structure and governance – summary of responses and next steps* (7 March 2016), the Government announced its intentions to take forward legislation to implement governance reforms.

F. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

6.1 As part of the Consultation and the subsequent policy development work, efforts were made to gather additional information on the costs and nature of the police complaints system. Requests for information were sent to both a sample of police forces and the IPCC on a range of subjects. We also spoke to stakeholders and administrators of the commercial super-complaints systems to assess the financial impact it has on them. The information gathered, together with that received in earlier data gathering exercises, as well as annual statistics, was used to help identify the costs and benefits of the proposed reforms which are discussed below.

Complaint numbers

6.2 In 2014/15 there were a total of 37,105¹⁶ complaints recorded against the police (which represented 69,571 allegations). This is a 6% increase compared to 2013/14 and represents a 62% increase since 2004/05¹⁷. Additionally, this number does not cover all those complaints which the force decided not to record (there were 1696 appeals against non-recording decisions, for example, which gives a sense of volumes) and those which the force was able to resolve immediately outside of the complaints system. In 2014/15, 34,003 complaints were finalised and 62,193 allegations were finalised.

6.3 In 2014/15, 50% of allegations finalised locally (no involvement from the IPCC) were finalised through local investigations, 34% through local resolutions, 8% were withdrawn and 6% were disapplied, dispensed or discontinued.¹⁸ Overall responsibility for complaints in police forces lies with PSDs, however many local resolutions and some local investigations are carried out by police officers deployed outside PSDs. Based on information provided by forces, we estimate that the split between PSD and non-PSD is 19% and 81% respectively for local resolutions and 70% and 30% respectively for investigations.¹⁹ Assuming an average of 1.875²⁰ allegations per complaint (the IPCC do not publish complaints finalised data, only allegation level data), this leads to the following estimates of numbers of complaints²¹:

- Approximately 2,162 complaints are locally resolved by PSD staff.
- Approximately 9,218 complaints are locally resolved by non-PSD staff.
- Approximately 11,698 complaints are locally investigated by PSD staff.
- Approximately 5,013 complaints are locally investigated by non-PSD staff.
- Approximately 2,726 complaints are withdrawn.
- Approximately 1,802 complaints are disapplied.
- Approximately 401 complaints are discontinued.

6.4 In addition to the initial complaint handling there are also any subsequent appeals to consider. The relevant appeal body is either the chief constable of the police force in question or the IPCC, depending on the complaint in question. In practice, many of the appeals made to Chief Constables are handled by members of a police force's PSD or by other senior police officers. The table below lays out the number of appeals lodged following different outcomes with Police forces and the IPCC in 2014/15.

¹⁶ https://www.ipcc.gov.uk/sites/default/files/Documents/research_stats/complaints_statistics_2014_15.pdf.

¹⁷ https://www.ipcc.gov.uk/sites/default/files/Documents/research_stats/complaints_statistics_2014_15.pdf.

¹⁸ https://www.ipcc.gov.uk/sites/default/files/Documents/research_stats/complaints_statistics_2014_15.pdf.

¹⁹ This information was obtained by surveying ten professional standards departments during the consultation.

²⁰ Based on IPCC 2014/15 figures of 69,600 allegations and 37,100 complaints.

²¹ Calculated based on IPCC figures of allegation resolutions which are then scaled by 1.88 to calculate these estimates of complaint resolution.

Table 1 – Police Complaints Appeals Received in 2014/15 (Source: IPCC Annual Statistics):

	Local Investigations	Local resolutions	Disapplication	Discontinuation	Non-Recording	Total
Chief Constables	1,898	1,507	409	12	N/A	3,826
IPCC	2,035	73	110	9	1,696	4,400
Total	3,933	1,580	519	21	1,696	8,226

Local Investigations and Resolutions

6.5 In this impact assessment, we make repeated use of our estimates of the average costs of resolving a complaint at a local level. There are two main variables. Inevitably, where a force is required to investigate a complaint, the costs are higher than when they are able to resolve the complaint without an investigation i.e. through an apology or mediation. The reforms to the central tenets of the complaints system – basing the resolution of a complaint around what is reasonable and proportionate, and a focus on the customer – should reduce the number of complaint investigations forces are required to conduct. Additionally, costs vary according to whether the complaint is resolved by a police force’s PSD or by police officers working in other roles. The extent to which PSDs or police officers in other roles handle resolutions and investigations varies across police forces. On average, 19% of local resolutions and 70% of local investigations are performed by PSD staff, with the remainder done by non-PSD staff.²² Generally speaking, non-PSD resolutions and investigations are less expensive, as non-PSD officers tend to handle the most straightforward complaints. We have not assumed any change in this split of work.

6.6 The costs of PSD resolutions and investigations are calculated as follows; firstly a cost per hour of PSD time is calculated as £33.94 per person. This is based on two factors:

- Standard costs per hour for police staff, police officers of rank Sergeant and below and senior police officers, which are £21.38, £38.43 and £58.16 respectively.²³
- Data gathered from a survey of ten police forces on the share of these ranks within PSDs and the time they spend on complaints work. On average, 34% of police complaints work is done by police staff, 54% is done by Constables and Sergeants and 12% of work is done by senior police officers (Inspectors and above).

This cost per hour is then combined with estimates of the man-hours required to complete a PSD local resolution and local investigation gathered from a sample of police forces. The average time to complete a PSD local resolution is 11 hours; the corresponding figure for PSD local investigations is 40 hours. This generates an average cost per local resolution and investigation of **£389** for a PSD local resolution and **£1371** for a PSD local investigation.

6.7 Non-PSD resolutions and investigations are calculated as follows.

- Again, standard costs per hour for police officers and staff are used. Data gathered from a survey of PSDs provides the approximate workload shares of different ranks for both resolutions and investigations. For local resolutions the workload shares are:
 - Inspectors and above (47%).
 - Constables and sergeants (52%).
 - Police staff (1%).
- For local investigations, the workload shares are:
 - Inspectors and above (54%).
 - Constables and sergeants (45%). Police staff (1%).

²² Based on the figures provided by the sample of forces.

²³ These standard cost estimates per hour are £21.38, £38.43 and £58.16 respectively. The estimated hourly cost of a police officer includes salary, expenses, regional allowance, training and employer contributions to pension and national insurance. The estimates were calculated using the Annualised Survey of Hours Earnings (ASHE), Chartered Institute of Public Finance and Accounting (CIPFA) Police Actuals and Association of Chief Police Officers (ACPO) Mutual Aid Rates.

- These workload shares are used to generate an average cost per hour of non-PSD complaints work for both local resolutions (£47.72) and local investigations (£49.00). Based on data obtained in a survey of PSDs, the typical non-PSD resolution takes approximately 5.175 hours, implying a cost of **£247** per non-PSD local resolution.
- Almost all of the police forces participating in our data collection exercise identified that non-PSD investigations took less time than PSD investigations. They were, however, unable to estimate a typical investigation length. To generate a cost for a non-PSD local investigation, we assume that there is a similar ratio between the length of a non-PSD investigation and a PSD investigation as that between a non-PSD resolution and a PSD resolution. Based on this, non-PSD local investigations require approximately 18.25 hours and cost approximately **£895**.

6.8 To summarise, in the current system the costs of resolving a complaint are as follows:

- A PSD local resolution is estimated to cost approximately £389.
- A PSD local investigation is estimated to cost approximately £1371.
- A non-PSD local resolution is estimated to cost approximately £247.
- A non-PSD local investigation is estimated to cost approximately £895.

6.9 As outlined in section D, the Government is committed to removing the various categories of local resolution, disapplication and local investigation, as well as allowing complaints to be resolved outside of the formal system where appropriate. These will be replaced with a more flexible statutory duty to take reasonable and proportionate action to resolve a complaint, with an obligation to investigate certain complaints under that duty in certain circumstances. The above figures therefore can only represent a broad guide for the cost benefit analysis below but will provide a useful indicator of the likely consequences of the reforms.

Net Present Value (NPV) Calculations

The net present values calculated in this IA are done so on the basis that the first year of implementation will be 2017/18. As figures are calculated throughout the IA in 2015/16 prices the NPV is the discounted sum of the costs throughout the 10 years period from 2017/18 to the end of 2026/27. In other words 10 years of costs with the first year assumed to be discounted by 1.035^2 , then the next year by 1.035^3 and so on.

COSTS AND BENEFITS OF OPTIONS

Option 1: Proposed Reforms

Reform A: Structural Reform of the Police Complaints System

6.10 In order to maintain consistency in the complaints system, while still enabling local accountability and oversight, Reform A will enable PCCs to expand their role in the complaints system locally through selecting one of the three models outlined in Section D.

Costs

6.11 An exact assessment of the full cost of this option is not possible, as it will be for each PCC to decide which model it would like to adopt, with different implications for costs and benefits depending on which model they implement and how they organise those functions. The legislation will be flexible to give PCCs the ability for them to implement the Models in a manner which works best for their local area.

6.12 Model A, which is mandatory for PCCs, will involve a direct transfer of responsibility from Chief Constables to PCCs for the hearing of appeals against determinations in certain categories of complaints. This may result in a need to reappportion relevant funds alongside the transfer of work although this will be a matter for PCCs and Chief Constables to agree. In 2014/15, there were 3,826 force level appeals which were the responsibility of Chief Constables. Most Chief Constables delegate this responsibility to police officers within PSDs and senior officers from within the police force. Under this proposal, all appeals that are currently the responsibility of Chief Constables will

go directly to the PCC. To fulfil this function, PCCs, nationally, would require approximately **£2.4m** per year in additional resources between them. This estimate is based on the current time spent and rank of staff working on appeals. On average, the cost of this resource is estimated as £628 per appeal²⁴. It is possible that this cost could be higher or lower, depending on which staff fulfilled this role in the office of the PCC.

6.13 Increasing the independence of the appeals process may increase the number of complainants who have confidence in the system enough to appeal. This may therefore increase the number of appeals. We can only speculate as to how many more appeals are likely to come about as a result of this. If we assume that it will be between 5% and 20%, then this gives a lower bound of additional cost to PCCs of **£120k** per year and an upper bound of £480k. As we have no evidence that this will cause an increase in the number of appeals, we select the lower bound (£120 per year) for our estimate of cost.

6.14 There are no other additional costs associated with Model A. The burden of a more explicit legislative responsibility for PCCs for the performance of the complaints system locally should be minimal. As a result, Model A only involves the possible transfer of resources between police forces and PCCs, although the exact arrangements will be for PCCs and Chief Constables to agree.

6.15 As with Model A, Models B and C involve PCCs taking on responsibility for functions of the complaints system that are currently done by the police (and predominantly PSDs). There will be some additional cost burdens of a PCC choosing to adopt these models, although these will need to be met through an appropriate transfer of resources from forces to PCCs. Aside from this transfer of resources, the main additional cost will be a possible extension of the Centurion license – the IT system used to record complaints – to staff working in the office of the PCC. We do not have an estimate for the cost of extending this license but it is likely to be relatively small.

6.16 The additional costs associated with Model B are dependent on the approach that PCCs take to attempt to resolve issues outside of the complaints system where it is appropriate to do so. The greater prominence they give this function, the greater the likely transfer of resources will need to be given the inevitable decrease in formal complaints it will produce.

6.17 The costs associated with an increase in complaints being resolved outside of the system, the end of the process of non-recording complaints, and the simplification of the handling of complaints with a focus on reasonable and proportionate resolution (with fewer investigations) will be considered as part of Reform B.

6.18 Model C includes Model B's proposals as well as making PCCs responsible for being a single point of contact for a complainant. We are unable to estimate the time associated with forces keeping a complainant up to date of the progress of their complaint. This is partly due to the changes being made as part of Reform B to increase the flexibility in how and when a complainant is kept updated. We are therefore unable to estimate the required transfer of resources from forces to PCCs for the implementation of Model C.

6.19 The costs associated with Reform A all fall to PCCs, rather than forces.

Benefits

6.20 Depending on the model that a PCC chooses to implement, the benefits to forces will vary. Under Model A, Chief Constables will no longer be responsible for hearing appeals. If we assume that there is a straightforward transfer of resources from forces to PCCs, then we estimate that forces would save approximately **£2.4m** per year²⁵.

²⁴ Based on an internal Home Office survey of 10 police forces.

²⁵ This is the cost to PCCs of carrying out model A, the cost has now been transferred away from forces (see costs section above for calculation).

6.21 There will also be some additional benefits to forces of PCCs taking on functions under Models B and C.

6.22 As directly elected individuals, PCCs are best placed to respond to the needs of their electorate about the changes they should make to the complaints system. This reform will enable PCCs to play a larger role in the complaints system, strengthening local accountability and driving service and efficiency improvements. In particular it may lead to a more customer focused system with more complaints being resolved promptly and proportionately, as opposed to through an investigation.

6.23 The benefits associated with a greater proportion of complaints being resolved through a method other than an investigation, due to a combination of an increased involvement of PCCs in the process and their focus on customer service, and a simplification of the complaints system are articulated under Reform B.

6.24 Many members of the public currently lack confidence in the ability of the police to deal with their complaints fairly. With chief constables often the relevant appeal point for a complaint, it is perceived by many as a case of the police 'marking their own homework'. Reform A, by strengthening PCC general oversight of the complaints system, by increasing the independence of the appeal process, and by hopefully driving a culture of increased customer focus, should work to build confidence and trust in the complaints system as a whole.

Sensitivity Analysis

6.25 To provide an understanding of how seriously expected benefits and costs will change if our data proves to be inaccurate we vary the cost of an appeal. We use the 25th and 75th percentiles of our sample of the cost of an appeal as alternatives for the cost of an appeal. This gives us a higher and lower estimate for the cost of an appeal: £235 and £927. This in turn would require a lower or higher transfer of resources from the police to PCCs than our central estimate (£2.4m) of £0.90m and £3.55m respectively.

Summary

6.26 The main impact of Reform A is a shift of certain functions of the complaints system from forces to PCCs which will require a transfer of resources from forces to PCCs, the magnitude of which will depend on the model a PCC chooses to implement and which will be for PCCs and Chief Constables to agree locally. We expect the adoption of Model A, which is mandatory for all PCCs, to require a transfer of approximately £2.4m from forces to PCCs (range of £0.9m - £3.5m based on uncertain appeal costs). Model B and C are also likely to require a small transfer of resource, in line with the transfer of work, although we are unable to estimate the exact costs associated with implementing Model C. We also anticipate an increase in the number of appeals, leading to additional costs to PCCs of £120k per year.

Reform B: Reform the Central Tenets of the Complaints System

6.27 So as to simplify the system and make it more accessible and understandable to both the public and police personnel, reduce the bureaucracy of the system for forces, reduce the adversarial nature of the system for officers, and to ensure that the system operates as efficiently and effectively as possible – with an emphasis on timely and proportionate resolution, a number of changes are being made to the central tenets of the complaints system. This includes:

- Clarifying the definition of a complaint.
- Legitimising the option of resolving customer service related issues outside of the complaints system.
- Removing the practice of non-recording certain complaints.
- Simplifying the complaints system.

Costs

6.28 Ending the practice of non-recording will mean that approximately 8,500 additional complaints will be entering the system each year (assuming none are able to be resolved outside of the system)²⁶. The majority, being originally non-recorded for being fanciful, vexatious or repetitious will continue to attract minimal police resources, provided no action constitutes a reasonable and proportionate response. We do not estimate that it will take forces longer to record those complaints (that would be not-recorded in the current system) and provide a proportionate response than the time currently allocated to them to provide a robust non-recording decision and handle any subsequent appeals. There is in fact a possible benefit given that by removing the ability to non-record complaints, and the subsequent appeal right, the complaints system is significantly more streamlined.

6.29 Complaints which were previously not recorded must now be recorded. It is likely that the outcome of the majority of these complaints will be for the police to take no action. Therefore a significant number of people who would have previously appealed against their complaint not being recorded will now appeal against the outcome of their complaint (no action taken). If 80% of those who previously appealed their non-recording decision end up appealing their complaint outcome, this would result in approximately 1,356 additional appeals to be heard by PCCs (if we assume the same number of complaints as 2014/15). Based on an internal Home Office survey of 10 police forces we estimate that the average cost of an appeal is £628. This means that PCCs will face costs of approximately **£850k** per year²⁷. The savings to PCCs from no longer dealing with non-recording appeals will be assessed in the corresponding benefits section.

Benefits

Forces

6.30 Together, the changes allow forces to resolve customer service related issues outside of the complaints system whilst simplifying the complaints system to remove the terms local resolution, disapplication, etc with a broad duty to take reasonable and proportionate action should support the shift away from investigations and towards greater use of local resolution. These changes should reduce the percentage of complaints that are required to be investigated as part of the resolution process.

6.31 One of the key principles of Reform B is a simplification of the complaints system, including removing the bureaucracy associated with handling even low-level complaints and streamlining what is currently complex legislation. It is likely that complaints which are not resolved through investigation will now be resolved more quickly. However, given the difficulty in estimating the proportion of issues currently resolved by forces through this approach, and the extent to which they will do so in the future (although we expect in many forces up to 50% of the issues raised with them may be suitable for some form of informal resolution), we are unable to estimate the specific related costs. We will therefore use the approximate local resolution costs and focus more generally on the move away from investigations and the cost savings that should generate.

6.32 There is currently a high degree of variance in the proportion of local resolutions to local investigations between forces in England and Wales. Across all forces in 2014/15, 40% of complaint allegations were locally resolved and 60% were locally investigated.²⁸ By giving greater power to PCCs and by giving greater discretion to forces in deciding the most appropriate way to handle complaints, police forces will be able to resolve more complaints locally and require fewer investigations. In order to estimate the rates which will be achieved after the introduction of the reform we use the current top 5 performing forces (based on low rates of local investigation) as the benchmark which we would expect other forces to be able to achieve as a result of these reforms.

²⁶ Based on 1,696 IPCC non-recording appeals in 2014/15 and an estimate that these appeals represent 20% of all non-recordings. Source: https://www.ipcc.gov.uk/sites/default/files/Documents/research_stats/complaints_statistics_2014_15.pdf

²⁷ Calculated as £628 * 1,356 (estimated number of appeals).

²⁸ This split is based on complaints resolved only through local resolution or local investigation. It does not take into account complaints that were dealt with through disapplication, discontinuance or were withdrawn.

Of cases dealt with just via investigation or local resolution, on average the top 5 performing forces deal with 13% through investigation and 87% through local resolution²⁹.

In order to calculate the anticipated savings if all forces are able to match the top 5 forces, we first summarise the relevant information calculated at the beginning of the appraisal section.

		Cost per Case	Number of Cases (2014/15)	Total Cost
Local Resolution	PSD (19%)	£389	2,162	£0.84m
	Non-PSD (81%)	£247	9,218	£2.28m
Local Investigation	PSD (70%)	£1,371	11,698	£16.04m
	Non-PSD (30%)	£895	5,013	£4.49m
Total	-	-	28,091	£23.65m

6.33 Based on the 2014/15 split across forces (shown in the table above), leads to total costs of £23.7m. If we assume that forces can now achieve the same results as the top 5 performing forces, that is 87% local resolution, 13% local investigation, then the total costs would be £6.7m for local resolutions and £4.5m for local investigations. This leads to an overall total cost of £11.2m per year which represents cost savings across forces of **£12.5m**.

IPCC

6.34 Ending the practice of non-recording will mean that the IPCC no longer hear non-recording appeals. The IPCC received 1,696 non-recording appeals in 2014/15. Whilst the IPCC have been unable to provide us with the average cost of hearing a non-recording appeal, the removal of such an appeal right will produce a saving for the IPCC. In order to estimate this cost we use the cost of an appeal for forces as the best available comparison. Forces spend on average £628³⁰ per appeal and using this as a proxy for the cost of IPCC appeals, we estimate that the IPCC will save **£1.06m** per year.

Additional Impact of Reforms A and B: Additional Complaints

6.35 As well as the above costs and benefits, it is possible that the combined effect of Reforms A and B will be to increase the number of complaints. The following section explores the possible costs that would result from such an increase.

6.36 Reforms A and B are expected to improve the quality of the complaints system and confidence in the system; this has the potential to lead to an increase in the number of members of the public coming forward with a complaint if the public start to believe that the system can deliver better outcomes. It is unclear exactly how large an increase will occur, we therefore provide some possible scenarios of complaint increases to give an idea of how these might affect costs.

Costs

6.37 We believe the most reliable approach to estimate this potential increase is to use information on the increase in complaints volumes that occurred following previous reforms:

- The IPCC was created in April 2004. We assume that the introduction of the IPCC, a major and well publicised change in the police complaints system, could have encouraged those previously reluctant to complain to come forward. Examination of the complaint number statistics supports this idea, showing an increase of over 7000 complaints in 2004/05³¹. It is however possible that not all of the resulting increase in complaint numbers was felt immediately. Complaint numbers continued to increase until 2007/08, where they peaked at 13,000 more complaints than in 2003/04. It is not certain that these increases can be en-

²⁹ Based on: Greater Manchester (20% investigation, 80% local resolution), Humberside (13% investigation, 87% local resolution), Lancashire (6% investigation, 94% local resolution), Sussex (9% investigation, 91% local resolution), Gloucestershire (18% investigation, 82% local investigation).

³⁰ Based on survey of 10 professional standards departments.

³¹ https://www.ipcc.gov.uk/sites/default/files/Documents/research_stats/complaints_statistics_2014_15.pdf

tirely attributed to the introduction of the IPCC, although there are no other clear factors which are likely to have caused such a significant increase. We therefore use a ranged estimate of 5000-13,000 for the potential increase in complaint numbers as a result of these proposed reforms. This takes into account the fact that these reforms may be less high-profile than the creation of the IPCC. At the lower end this would lead to increased costs for locally resolved complaints of £0.47m, investigations of £3.07m, to a total of £3.54m per year³². At the upper end this would lead to increased costs for locally resolved complaints of £1.21m, investigations of £7.99m, totalling £9.20m per year.

However as discussed above, there is the potential for Reform B to increase the rate of complaints resolved without an investigation. An increase of the rate of complaints resolved without an investigation of 40% to 87%³³ (see above) and a corresponding decrease in the rate of investigations from 60% to 13% would significantly reduce any cost increases resulting from additional complaints.³⁴ This would limit increased costs to **£1.53m** at the lower bound of potential volume increases and to **£3.98m** at the upper bound of potential increases.

- Additional complaints will also result in additional appeals to PCCs (under Reform A) and the IPCC. Assuming the new split in appeal ratios discussed above as a result of removing non-recording appeals (14% of recorded complaints result in an appeal heard locally, 6% of complaints result in an appeal heard by the IPCC), there would be an additional 700 to 1,820 appeals to be heard locally each year, costing an additional **£0.44m** to **£1.14m**, and an additional 300 to 780 appeals to the IPCC. We are unable to provide a specific costing for this figure as the IPCC were unable to provide an estimate of the cost of an appeal. There is the possibility that an improved rate of cases resolved without investigation and an improved focus on customer service could temper these increases. Unfortunately, such an outcome cannot be costed, as only an overall figure for the cost of appeals is available.

6.38 The overall potential costs to forces as a result of additional complaints under the anticipated improved rates of local resolution are £1.97m to £5.12m per year³⁵. Taking the mean of these two estimates leads to total additional costs of **£3.55m** per year.

Summary

6.39 The overall impact of the above is uncertain; it seems unlikely that there would be significant increases in the number of complaints without there first being the increases in cases resolved locally that would accompany improvements in the complaints system. As a result, the combination of these costs and benefits with the lowest Net Present Value (NPV), namely an increase in complaints causing costs of up to £5.12m per year, combined with no improvement in local handling of complaints rates and therefore no additional benefit, is very unlikely. Similarly, there are unlikely to be significant improvements in rates of cases handled locally leading to a benefit of around £12.5m per year, without a correspondingly significant increase in the number of complaints. The highest NPV estimate possible with the above set of costs and benefits is therefore unlikely to materialise. Due to this, it is only appropriate to present our best estimate of the costs and benefits in the headline estimates:

- a significant improvement in the rate of cases resolved locally, leading to benefits of £12.5m;
- a significant increase in the volume of complaints, but costs limited to an additional £3.55m by the improved rate of cases resolved locally;

³² Assumes 34% resolved locally, 50% investigated and uses per case costs calculated at the beginning of the appraisal section.

³³ These percentages are again based on the average of the top 5 performing forces, as listed in the IPCC's 2014/15 complaint resolution statistics.

³⁴ As discussed above, this does not take into account that resolving customer service issues outside of the complaints system will cost less than local resolutions, and our reforms are encouraging forces to resolve issues outside of the system where possible. We are using the cost of a local resolution as compared to a local investigation as it is the best data available.

³⁵ Based on the range of costs of additional complaints (£1.53m - £3.98m) plus the range of costs of additional appeals (£0.44m - £1.14m).

6.40 We omit a High and Low estimate from the headline analysis in order to avoid presenting a misleading estimate of the costs and benefits. We include the costs created by additional complaints as part of Reform B, however it should be noted that additional complaints are also driven in part by Reform A. As a result, the estimate we present for Reform B are total costs of £4.4m a year, benefits of £13.56m a year, resulting in a positive net impact of **£9.16m** a year which has a 10 year NPV of **£71.1m**³⁶.

Reform C: Introduce a System of Super-complaints

Home Office Costs

6.41 The introduction of a policing super-complaint system creates an additional pressure for the Home Office in setting up and running the designation system. We expect this pressure to fall mainly against staff time and we would therefore look to manage this within existing resources.

HMIC Costs

6.42 The primary area for additional costs will be for HMIC to administer the system. Cost will depend on the volume of designated bodies and the number of super-complaints they submit but we would expect the process to allow HMIC to prioritise and smooth the workload. Our initial estimate is that this work would equate to staff costs of around **£150,000** per annum. This would also cover any additional daily rate charges for an independent member for the Triage Panel.

6.43 Lessons learnt from discussion with bodies currently involved in commercial super-complaints systems have led us to decide not to impose the time constraint (90 calendar days³⁷) which exists within commercial super-complaints systems on this policing system. This means that the financial burden experienced by the Competition and Markets Authority following their most recent super-complaint would not be mirrored in the policing system.

6.44 Any additional cost arising as a result of responding to a super-complaint will fall to the organisations concerned (HMIC, IPCC and the College of Policing). As we do not envisage a response to a super-complaint being outside of the current remit of the organisations concerned, we anticipate that the costs arising from responding should be covered under business as usual.

6.45 However, should HMIC, the IPCC and/or the College of Policing determine that a super-complaint requires further work this will result in a need for prioritisation to the organisation concerned. For example, should a thematic inspection be deemed necessary, HMIC would need to divert resources in order to carry out the inspection. We have no evidence on which to base a cost of this further work to investigate a super-complaint, however it is likely to be substantial. Whilst we do not anticipate that super-complaints will require this further type of investigation, it is important to note that this possibility represents a considerable risk. We are unable to monetise the potential costs of this risk as we have no evidence on which to assess the likelihood or nature of the further work which could be required.

Overall Benefits

6.46 This reform will lead to a more proactive and effective targeting of inspections and investigations on the areas that are the most serious and urgent from the public's perspective, thereby contributing to enhancing public confidence. Additionally, an independent organisation has the potential to put forward super-complaints on behalf of those who do not typically complain or engage with the police complaints system. As a result the police will gain a means of understanding and responding to the needs of those unwilling or unable to complain. By heading off problems before they produce significant adverse results for the public this system will help guarantee police legitimacy.

Reform D: Reform the IPCC's Modes of Investigation Framework

Costs

³⁶ Calculated based on the assumption that the proposal will be carried out from 2017/18.

³⁷ Currently in place under the Enterprise Act and the Financial Services Act.

IPCC

6.47 When determining the mode of investigation, the IPCC must have regard to the seriousness of the case and the public interest. The test does not define the threshold for determining whether a particular case would always fall for an independent, managed or supervised investigation but allows the IPCC flexibility to assess these factors against its existing caseload and current trends. The IPCC must prioritise those cases where an independent investigation or its independent oversight can add the most value. As such, the profile of the IPCC's caseload and the way in which the IPCC deploys its resources will vary from one year to the next.

6.48 In 2013/14 the IPCC started 109 independent investigations, 65 supervised investigations and 19 managed investigations. The percentage breakdown of the IPCC's caseload for 2013/14 was: 56% independent; 10% managed; 34% supervised.

6.49 In 2014/15 the IPCC started 241 independent investigations, 74 supervised investigations and 62 managed investigations. The percentage breakdown for 2014/15 was: 64% independent; 16% managed; 20% supervised. The significant increase in independent investigations was due to the increased funding the IPCC received through the IPCC expansion programme to investigate all serious and sensitive cases. The significant increase in managed investigations (19 to 62) was down to a spike in the number of referrals received relating to child sexual abuse that required specialist police capabilities. The proportion of managed and supervised cases decreased by 8% in 2014/15. On average, the IPCC has taken on 110 managed and supervised cases over the past two years which has constituted 40% of its overall caseload.

6.50 It is not possible to accurately assess the future cost of undertaking a new IPCC-directed investigation. However, given the more onerous transparency, accountability and scrutiny mechanisms placed on the IPCC within the IPCC-directed MOI, we estimate that the cost of IPCC-directed investigations will be approximately 25% higher than the cost of managed investigations. Given that managed investigations are estimated to cost £6,600 each³⁸, this would put the cost of an IPCC-directed investigation at approximately £8,250. [Supervised cases that would fall into the IPCC-directed MOI would not necessarily be as costly to run as this. However, this calculation is intended to illustrate the maximum potential additional cost to the IPCC.]

6.51 The following calculation is based on the assumption that all cases that were deemed to require IPCC involvement under the current framework (whether supervised or managed) would, in future, be retained under either an IPCC-directed or an independent investigation.

6.52 Taking the number of managed and supervised cases in 2013/14 (84) as the lower bound of cases that could potentially fall for an IPCC-directed investigation, and multiplying this by the estimated cost of an IPCC-directed investigation (£8,250) provides a total cost to the IPCC of £693,000.

6.53 Likewise, taking the number of managed and supervised cases undertaken in 2014/15 (136) as the upper bound, multiplied by the cost of an IPCC-directed investigation (£8,250), gives a total cost of £1,122,000.

6.54 If we take the central estimate (average) of the upper and lower bound, this would mean a cost to the IPCC of **£908,000** per year. In practice however, we would expect that some cases which would have previously been dealt with by managed or supervised investigation will now be dealt with by independent investigation. This is because the threshold for judging that a directed investigation is required rather than an independent IPCC investigation, is higher than the previous threshold for requiring a managed or supervised investigation. By raising this threshold, more independent investigations will be carried by the IPCC which will result in additional costs to them.

6.55 The IPCC estimates the average cost of an independent investigation to be £70,000. The additional cost to the IPCC of carrying out an independent rather than a directed investigation is

³⁸ Estimate provided to the Home Office by the IPCC.

therefore £61,750³⁹. We have no precise evidence on which to estimate how many additional independent investigations will be required as a result of this increased threshold.

Police

6.56 As above, it is not possible to say how many, if any, cases that would currently fall for managed or supervised investigations may in the future return to forces to undertake without IPCC oversight. Engagement with PSDs suggests that demands on police resources are as high during managed and supervised investigations as during a regular police-led local investigation. Were cases that would have fallen into a managed or supervised MOI referred back to forces for local investigation, it is not expected that the withdrawal of IPCC involvement would incur any additional costs for the police.

Benefits

6.57 There will be greater clarity regarding the independence of investigations, with IPCC-badged investigations having police input only in limited circumstances. Reports from stakeholders suggest that the public do not regard IPCC managed or supervised investigations as properly independent (38% of the public believe that the IPCC is a part of the police); as a result these types of investigations just add complexity to the system.

6.58 The freeing up of resources within the IPCC that will come about by ending oversight of managed and supervised investigations will be redirected to overseeing IPCC-directed investigations. The current cost of managed and supervised investigations is estimated to be £6,600 and £1,760 respectively. As a result, based on 2014/15 figures⁴⁰, we anticipate savings to the IPCC of **£540k** per year.

Police

6.59 As is discussed in the cost section, the reform will result in an increased threshold for deciding that an independent IPCC investigation is not the most effective MOI. As a result there are likely to be fewer directed investigations than there are current managed and supervised investigations. Police resource requirements are likely to be similar in a directed investigation to what they are currently in supervised and managed investigations. Therefore a reduction in the number of investigations in which they are involved, will lead to reduced cost to police forces. As is stated in the previous section, we do not have exact evidence on the number of investigations which will meet the requirements of the new threshold and therefore we do not attempt to quantify this saving to the police.

Summary

By replacing IPCC supervised and managed investigations with a new and more costly mode of investigation known as IPCC-directed investigations, the IPCC will incur additional costs of approximately **£370k** per year. This is calculated as the cost of the new IPCC-directed investigations (£910k per year) minus the previous cost of supervised and managed investigations (£540k per year).

Reform E: Extend and Clarify the Powers of the IPCC

6.60 This proposal encompasses a number of extensions and clarifications of the powers of the IPCC, to strengthen its abilities to satisfactorily resolve complaints and provide clarity on when and where it can investigate matters.

Costs

6.61 There may be additional costs to the IPCC if the Commission uses the power of initiative to investigate a wider array of matters than they do now, adding to its caseload. We are unable to monetise this cost as we do not know how often the IPCC will use this new power. Costs to the

³⁹ This is the cost of an independent investigation (£70k) minus the cost of a directed investigation (£8,250).

⁴⁰ In 2014/15 the IPCC conducted 74 supervised investigations and 62 managed investigations.

IPCC may also increase if the Commission initiates more cases, only to find that they do not warrant further investigation.

6.62 Allowing the IPCC to reopen cases may lead to additional costs in reassessing new evidence and issuing revised conclusions. In extremis, this may require a whole new investigation to be undertaken, incurring significant costs. However, the number of cases where a full reinvestigation is required is expected to be very small. We are unable to monetise this cost as we have no way to estimate how many cases this would apply to. The reputation of the IPCC may be negatively affected if numerous cases have to be reopened, affecting the confidence of the general public in the IPCC's ability to investigate matters appropriately. The IPCC may incur extra costs in justifying specific decisions to reopen cases under legal challenge from police forces.

6.63 Allowing the IPCC to make determinations and suggest remedies is thought to be cost neutral, as the IPCC would have arrived at these conclusions at the end of its investigation, but are now to be given statutory powers to back them up. Additional costs may however be incurred in checking that police forces have complied with the IPCC's recommendations. The IPCC's reputation with the general public may suffer if police forces are seen to not comply with the IPCC's recommendations.

Benefits

6.66 These reforms are expected to provide a number of benefits to the IPCC, the general public and the police.

6.67 Providing the IPCC with the power of initiative is expected to provide a cost benefit to the IPCC by reducing the administrative burden on the Commission in chasing referrals from police forces, and shortening the duration of investigations. We are unable to monetise this cost as we do not know how often the IPCC will use this new power. The power may also lead to a perception amongst the wider public that the Commission is more independent from police forces and is able to respond quicker to events in the public eye. The increased speed with which the IPCC can begin investigations may also lead to better outcomes for the public and the police as delays in investigating may degrade evidence and the testimony of those affected.

6.68 The power to reopen cases will benefit the public and the IPCC where new evidence comes to light calling into question the original conclusions, allowing the IPCC to respond to changing circumstances. Providing the legal basis for the IPCC to reopen cases will also defend the IPCC from broad legal challenges (via judicial review) from police forces on this issue, saving money.

6.69 Enabling the IPCC to make determinations and suggest remedies will benefit the IPCC and the general public, in that the IPCC will be able to resolve complaints in a manner which is more satisfying to complainants, reducing the number of appeals and resubmission of complaints. This will reduce the administrative costs associated with processing appeals and resubmitted complaints, however the number of cases in which the IPCC would make recommendations or suggest remedies is not known, and the effectiveness of these measures in increasing the satisfaction of the complainant cannot be quantified.

Reform F: Protections for Whistleblowers

Costs

6.73 The IPCC will be able to investigate a report by a whistleblower and also initiate its own investigation in whistleblowing cases where it has not received a report but is otherwise aware of the concerns. Where the IPCC decides to investigate a matter themselves, they will need to decide the mode of investigation (independent or IPCC-directed). We expect this decision-making process would incur only minimal costs for the IPCC, however the volumes may be higher, at least initially, as this will be a new reporting route for whistleblowers.

6.74 Where the IPCC decides to investigate, it may need to carry out some preliminary enquiries. It is not possible to assess the cost to the IPCC, due to insufficient information surrounding the extent and nature of preliminary inquiries - such inquiries are subject to significant variation. However, we estimate the costs are likely to be low. The current estimated average cost of an investigation by the IPCC in 2015/16 is £70,000 (based on their projected case load and expenditure). Where the IPCC carries out a full independent investigation into a new whistleblowing report, potentially including a conduct investigation, it could incur costs at this level. We expect this will only occur in a small number of serious cases, given the public interest test and the broad discretion the IPCC will have. The IPCC will be able to prioritise its investigations; therefore the IPCC's overall workload should remain broadly the same. Any additional investigations would need to be funded from within the IPCC's existing budget.

6.75 The IPCC will only be able to share reports and information with the force if they obtain consent from the whistleblower, with specified exemptions, and will be able to require the force to explain what action, if any, the force proposes to take. This could therefore create additional work for the force if it then decides to investigate the matter itself, but there will be no obligation to do so. If a conduct matter arises this could also be referred to the force by the IPCC in line with the current procedures for handling conduct matters. This could also create additional work for forces in terms of the number of investigations they would need to carry out. We expect the number of cases to be limited. Therefore this would be manageable within existing budgets.

6.76 The IPCC will use its discretion to decide whether the investigation should be conducted covertly by applying a 'necessary and proportionate' test. Any 'covert investigation' would likely require resources from the force and therefore, depending on the complexity of the case, this could lead to additional costs to forces. However, this is likely to be cheaper for forces than an investigation carried out in its entirety by the force. Forces would be required to take all reasonable steps to provide information and support to the IPCC. We expect the number of cases to be limited, therefore the costs would not be high. However forces would not be able to plan for volumes in advance. Forces are used to providing support to the IPCC in investigations therefore this should be manageable.

6.77 Any covert investigation is assumed to be in replacement of another type of investigation, and therefore the cost of these is not counted in the cost of this proposal.

6.78 The ability of the IPCC to undertake covert investigations could increase the confidence of police officers and staff to come forward and report wrongdoing and therefore we anticipate that the number of whistleblowing reports may increase, and as a result police forces or the IPCC may need to carry out additional investigations. We estimate that each additional investigation will cost the police approximately £1,400 on average⁴¹. This estimate is based on the estimated average number of man hours that go into conducting an investigation: 40 hours⁴², and on an estimated weighted average cost per man hour: £34. This cost per hour is calculated using the standard costs per hour for police staff, police officers of rank Sergeant and below and senior police officers⁴³ and weighted by the average proportion of overall time which is spent on complaints functions by each of these groups⁴⁴. Multiplying the estimated length of an investigation with our weighted hourly cost allows us to come to an estimated cost of an investigation of approximately £1,400.

⁴¹ This is assuming that the investigation is conducted by a Police Professional Standards Department.

⁴² This is based on the average of estimates provided by 16 Professional Standards Departments to the Home Office during both previous and current stakeholder engagement in 2014 and 2015.

⁴³ These standard costs per hour are £21.38, £38.43 and £58.16 respectively. The estimated hourly cost of a police officer includes salary, expenses, regional allowance, training and employer contributions to pension and national insurance. The estimates were calculated using the Annualised Survey of Hours Earnings (ASHE), Chartered Institute of Public Finance and Accounting (CIPFA) Police Actuals and Association of Chief Police Officers (ACPO) Mutual Aid Rates.

⁴⁴ This is estimated through data provided by 3 PSDs to the Home Office in 2015, which provided a breakdown of the time spent on complaints by their staff and officers. From this the overall time spent and relative proportions were calculated.

6.79 In addition, the IPCC will have discretion as to whether it conducts covert investigations in matters where it is considered to be necessary and proportionate. The IPCC estimate that the average cost of conducting a full independent investigation is £70,000⁴⁵.

6.80 As the making of a whistleblowing report is a decision taken by individuals, we therefore cannot predict whether and how many additional individuals might come forward as a result of these reforms. We asked forces to estimate the potential increase, but none could provide an estimate. For this reason, we have not been able to fully monetise these costs. Indicative costs of a percentage increase in the additional investigations due to additional whistleblowing are presented in sensitivity analysis in paragraph 6.87.

Benefits

6.81 A greater proportion of potential whistleblowers may come forward as a result of implementing this policy option, in particular to the IPCC, as a result of increased confidence given the ability of the IPCC to ensure that the identity of the whistleblower will be protected. The Government would consider any increase in the proportion of potential whistleblowers coming forward to be a beneficial outcome, as they would be expected to allow forces to address problems. This benefit is proportional to costs, as it is dependent on the volume of additional whistleblowers coming forward as a result of the reforms.

6.82 During the consultation period, we asked ten PSDs for their views on how far this proposal might increase whistleblowing. Whilst none were able to give a quantified estimate as part of their response, five of the eight PSDs that responded indicated an expectation of some increase in the number of whistleblowers through increased whistleblower confidence. Three of these stated that they expected that the reforms would have a greater impact in forces where whistleblower confidence, and resultant reporting rates, are currently low, while one expected any increase to be minimal. It has not been possible to otherwise obtain a meaningful estimate of the potential increase in numbers. This is because whistleblowing can be a difficult and stressful decision so it is unlikely that individuals will know how they may react to different scenarios before they exist in practise, creating marked difficulty in making any valid predictions. Given this, we are unable to exactly monetise these benefits.

6.83 Four of the eight PSDs that responded expected a greater number of whistleblowers to go to the IPCC as opposed to their force as a result of the proposals, with one stating that 100% may now prefer go to the IPCC.

6.84 The measures may increase the integrity of the police by deterring wrongdoing, thereby reducing the impact that wrongdoing in the police has upon the confidence that the public place in the police. These measures are therefore expected to increase the trust that the public place in the police, enabling them to carry out their role with greater efficacy. If the policies act as a deterrent to wrongdoing it may also mean fewer investigations are required in the long run, reducing investigation costs. This is a wider benefit of the policy, and is not dependent on any increase in whistleblowing.

6.85 Some costs may be avoided as a result of the proposals. The three areas where costs could be avoided are as follows:

- Failure to deal with wrongdoing and poor practice;
- Failure to prevent other colleagues from treating whistleblowers fairly;
- Compensation paid to whistleblowers that bring Employment Tribunals against the force.

6.86 Details on each of (i)-(iii) are set out below.

- There is a cost associated with not dealing with wrongdoing and poor practice and with failing to treat whistleblowers fairly. Avoiding these costs could be a benefit of this policy option. Legal action is taken against forces for the actions of their officers and for wider failings to meet the force's statutory duties. Where a police failing is allowed to escalate and become wide-

⁴⁵ This information has been provided by the IPCC and is an estimate of the average cost of an IPCC investigation in 2015/16, based on their projected caseload and expenditure.

spread, rather than being reported and dealt with early, there may be a cost to the IPCC in carrying out a major investigation, to HMIC in carrying out an inspection into the failing, or to the Home Office in carrying out a public inquiry. This is a wider benefit of the policy, and could be the result of a change in practices that the policy brings, rather than being dependent on increased whistleblowing.

- In addition, if a whistleblower's identity is revealed and he/she is treated unfairly by colleagues, and the force has failed to take sufficient measures to prevent this from happening, whistleblowers may bring Employment Tribunals against their force. Employment Tribunals may potentially award the whistleblower compensation. There is no upper limit placed on the level of compensation an Employment Tribunal may award a whistleblower. The cost of holding tribunals could be avoided by treating whistleblowers with greater fairness. The cost of a tribunal will vary depending on which 'track' the tribunal is on. For cases involving whistleblowers it is assumed that the tribunal will be either standard track, typically for unfair dismissal cases, or open track, typically for more complex cases such as those involving alleged discrimination. The average cost of standard and open track employment tribunals are £3,310 and £3,820 respectively⁴⁶. During engagement with PSDs, six of the eight responses detailed never having held an employment tribunal due to unfair treatment of a whistleblower. Of those that had, one indicated that unfair treatment as a whistleblower only formed part of the tribunal claim. Insufficient data exists on the number of whistleblowers currently partaking in tribunals due to unfair treatment, the relative proportions following each track, and the proportion which may be avoided, to fully monetise this benefit. This is a wider benefit of the policy, and could be the result of a change in practices that the policy brings rather than being dependent on increased whistleblowing.
- Finally, there is a cost in making compensation payments to whistleblowers that are successful in their employment tribunals. This cost may be avoided by treating whistleblowers with greater fairness. Her Majesty's Courts and Tribunals Service do not collect information about the amount of compensation awarded to whistleblowers at employment tribunals. Of the two PSDs that had experienced an employment tribunal brought about by a whistleblower, only one had ever paid compensation as a result. The saving is therefore likely to be small, reflective of a small cost. Indicatively, a police force responded to the public consultation with an example of a case where £5000 was paid in compensation following detrimental treatment due to whistleblowing. This is a wider benefit of the policy, and could be the result of a change in practice that the policy brings, rather than being dependent on increased whistleblowing.

Sensitivity Analysis

6.87 It has not been possible to reliably assess how many more whistleblowers will come forward, or how many more misconduct matters will come to light, as a result of implementing this policy. This is because whistleblowing can be a difficult and stressful decision so it is unlikely that individuals will know how they might feel in different scenarios before they exist in practice. There is therefore a risk that this policy will not affect the number of whistleblowers who are willing to come forward, though the protections for whistleblowers will be improved. The exact extent of the positive impact which whistleblowing has on police forces is not known. It is an important part of ensuring that the public place their trust in the police, but the economic benefit of each *additional* whistleblower is not known.

6.88 In order to provide an indication of the potential cost implications of additional whistleblowing, a sensitivity analysis is presented below on the cost of additional investigations. This analysis does not facilitate monetisation in the central, upper or lower bound estimates because the assumed increase in whistleblowing and subsequent investigations is arbitrary and only included to provide indication.

6.89 Whilst we have not been able to assess the probable increase in whistleblowing reports resulting from these reforms, we can consider what the impact of a given increase in the number of

⁴⁶ These costs assume that an employment tribunal consists of the two core processes of receipt & allocation and hearing only; http://www.legislation.gov.uk/ukia/2013/1039/pdfs/ukia_20131039_en.pdf.

whistleblowers might be. Here we present an indicative estimate of the impact of a 5% increase. The current number of police whistleblowers per annum is assumed to be 3,900. This is based on the only available published data on the number of police whistleblowers in 2013, provided in Freedom of Information Request responses by two forces during 2014. Figures have been scaled nationally through force size by police officer numbers⁴⁷. Of these cases, 99% are assumed to be investigated by PSDs and 1% are assumed to be investigated by the IPCC. This is based on current estimates of approximately 30 whistleblowers per year going directly to the IPCC.

6.90 Therefore the current cost of whistleblowing investigations is estimated to be £7.5m per annum⁴⁸. Table H1 used this information to give an indication of what a 5% increase in the number of whistleblowing reports would be.

Table H1: the indicative cost implication for each 5 percentage point increase in the number of police whistleblowing reports and subsequent investigations

Increase in the volume of whistleblowing reports (per annum)	Number investigated by PSDs	Number investigated by the IPCC	Overall cost of additional investigations	Additional 10 Year NPV ⁴⁹
5%	194	2	£0.41m ⁵⁰	£3.3m

6.91 The figures in the table can present some indication of some of the potential costs for each 5% increment if the proposals create additional whistleblowing volumes. As already stated, we do not have the information to enable to form a reliable estimate of the increase in volumes, and so we have not used this figure to form headline estimates of the costs of the options.

Reform G: Reform of the IPCC Governance

Costs

6.92 The main changes of this policy are to do with the corporate structure of the IPCC. Therefore costs would be incurred if the new staffing costs are more expensive than the old staffing costs. Currently the Commission consists of a Chair and not less than five other members. In addition ,the Commisison must have a Chief Executive. This structure will be replaced by the “Office” comprising the Director General, and a minimum of six other members (both non-executive and employee members) with the non-exectives in a majority. The Commisison and, in future, the Office are able to appoint staff. The employment costs of the Office and its staff are expected to be equivalent to the current employment costs of the Commission and its staff. As a result no ongoing additional costs are expected as a result of this proposal.

6.93 Having said this, there are expected to be some transitional costs associated with the name change and structural reform. These costs will cover the rebranding of the IPCC, the recruitment and training of new staff and the overlapping staff costs for the handover period between the current and new management teams. There will also be some costs to update the IPCC ICT systems.

The following table shows estimates of the costs for each of these factors as well as the year in which the costs are likely to fall.

Cost Factor	Costs (2016/17)	Costs (2017/18)	Costs (Total)	Discounted Costs
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⁴⁷ According to the Police Workforce Statistics 2014 publication, excluding the British Transport Police and Central Service Secondments. Rounded to the nearest 1,000. We recognise that the data from two forces has been scaled by a significant factor and may be nationally unrepresentative. However, this is in line with the attempt of this analysis to provide indicative costs with limited information.

⁴⁸ (3,870 PSD investigations x £1.4k) + (30 IPCC investigations x £70k). Rounded to nearest £100k.

⁴⁹ At a 3.5% discount rate.

⁵⁰ (194 PSD investigations x £1.4k) + (2 IPCC investigations x £70k). Rounded to nearest £10k.

				(Total)¹
Staff Handover Costs	-	£237,735 ²	£237,735	£221,928
Training	-	£20,000 ³	£20,000	£18,670
Recruitment	-	£20,000 ⁴	£20,000	£18,670
Branding	-	£39,484 ⁵	£39,484	£36,858
ICT Update (Hardware)	£133,333 ⁶	£66,667 ⁶	£200,000	£191,058
ICT Update (Staff)	£27,456 ⁷	£13,728 ⁷	£41,184	£39,342
Total	£160,789	£397,614	£558,403	£526,528

¹ Figures are given in 2015/16 prices and have been discounted at an annual rate of 3.5% (base year 15/16).
² Based on 3 months salary of 5 commissioners and 1 chief executive. Monthly salary per commissioner of £13,141. Monthly salary of chief executive of £13,540. (Figures taken from IPCC Annual Report 14/15 and then uplifted to 15/16 prices).
³ Internal Home Office estimate.
⁴ Based on the recruitment costs for Director General and Non-Executive Directors.
⁵ Based on the cost for the ICO to rebrand itself in 09/10 (£35,285) inflated to 15/16 prices.
⁶ IPCC estimate.
⁷ IPCC estimate.

6.94 The total net present value of these transitional costs is therefore **£527,000** (rounded to the nearest thousand) and as the table shows the costs are expected largely to be in 2017/18 with some of the ICT updates starting prior to that in 2016/17. This split of costs between 2016/17 and 2017/18 represents an approximation and it is likely that the costs will not fall in the exact time period as shown.

6.95 It is also important to note that the IPCC in any given time period will have some level of staff turnover. It is therefore likely that even without the changes in this proposal some recruitment, training and staff handover costs would be incurred by the IPCC. If this is the case then the additional costs which are listed in the table above will be overestimates. If a significant proportion of these costs would be incurred by the IPCC without this proposal, then the additional costs of this proposal would be much smaller. Given a lack of evidence on which to base an estimate, no attempt has been made to quantify this effect.

6.96 There may also be some familiarisation costs associated with the proposal as existing members of staff adjust to the new structure of governance. Due to a lack of evidence on which to base an estimate, the value of these familiarisation costs has not been quantified.

Benefits

6.97 As was discussed in the costs section there are not expected to be any direct financial benefits associated with the reform of the governance of the IPCC. These would potentially come from lower staff costs, however as was stated in the costs section the staff costs are expected to be the same following the reform.

6.98 The IPCC will have a more streamlined system of hierarchy and with a single line of accountability up to the Director-General. This should improve organisational efficiency and public confidence in decision-making. Currently the Commission makes decisions, such as referral to the Crown Prosecution Service, but responsibility for the investigation report (upon which decisions are taken) rests solely with the individual investigator.

6.99 The new organisational structure will strengthen oversight and corporate governance by ending the existing governance engaged in both operational activity and governance of the organisation. The new arrangements, in which the Board will contain a majority of non-executive members, will support the more efficient running of the organisation.

F. Risks

7.1 We have largely discussed the uncertainties associated with proposed reforms in the appraisal section. In this section we will discuss additional risks that should be further considered.

Option 1: Reform A

7.2 The primary risk for Reform A is that PCCs may initially be less effective as an appeal body than chief officers, until their expertise and capability reaches a similar level (although this would be offset depending on the experience of those in the office of the PCC who actually perform the function) This would result in additional costs, as those resources transferred from police forces would be insufficient. The size and scale of such additional cost has not been estimated, due to insufficient information about the future composition and structure of PCC appeal teams.

7.3 There is also a risk, identified in the analysis of Reform A, that any transfer of resources (if that is the approach that PCCs and Chief Constables agree is sensible) is not as straight forward as the transfer of functions from PSDs to PCCs, given that many members of staff perform more than one role and a direct transfer is unlikely to always be possible.

Option 1: Reform B

7.4 We assume that 80% of people who appealed a non-recording decision will now appeal their complaint outcome, which we estimated to lead to costs of £850k per year. It is entirely possible that in reality a range of 60% to close to 100% may be more reliable. This would instead lead to annual costs of between £640k and £1,065k.

7.5 A further assumption is that after this reform, on average forces will be able to operate as effectively as the top 5 forces currently operate in regards to the split between local resolution and investigations. As the reform promotes an increased use of local resolution, this assumption does not seem unreasonable. However it may be the case that despite the reform, forces are not able to operate as effectively as the top 5. If we assume that 50% of forces are able to, but 50% continue to operate at current levels, then the savings to forces fall from £12.5m to £6.25m each year. Our estimate of £12.5m is still considered to be the most accurate however it is possible that this is an overestimate of the benefits.

7.6 We also assume that IPCC non-recording appeals cost the same as appeals conducted by police forces (£628 per appeal). As non-recording appeals are usually fairly simple in nature, it is possible that costs to the IPCC are less than £628 per appeal. If this is the case, then we are overstating the benefits of reform B. If IPCC non-recording appeals currently cost half as much as police force appeals (£314), then the benefits of reform B fall from £1.06m per year to £530k per year.

Option 1: Reform C

7.7 We do not anticipate that super-complaints will require a full scale investigation. However Reform C's central risk is that the creation of super-complaints will result in significant additional demands on HMIC or other bodies and subsequently on police forces and PCCs. Should a super-complaint result in the need for a thematic inspection for example, then this could divert significant resources from HMIC, police forces and PCCs resulting in large additional costs.

Option 1: Reform D

7.8 The main risk for Reform D is that the IPCC undertakes a higher-than-anticipated number of IPCC-directed investigations that result in a more significant increase in cost and resources for the organisation. This could have a knock-on effect on the number of independent cases it is able to undertake.

Option 1: Reform E

7.9 The key risk within the package of measures that make up Reform E are forces choosing not to act on the IPCC's recommended remedies which could serve to diminish public confidence in the ability of the IPCC to ensure effective outcomes and in public confidence in the police and the police complaints system itself.

Option 1: Reform F

7.10 The main risks are discussed as part of the sensitivity analysis in Section F.

Option 1: All

7.11 The package of reforms is likely to generate some transition costs, at least in the first year. We are unable to provide an estimate of possible transition costs due predominantly to the flexibility the reforms provide, particularly around the ability of PCCs to take on certain functions of the complaints system.

H. Summary and Recommendations

The table below outlines the costs and benefits of the proposed changes.

Table H.1 Costs and Benefits		
Option	Costs	Benefits
1(A)	<p>Monetised</p> <p>10 year NPV: £19.6m</p> <ul style="list-style-type: none"> £2.4m per year, cost to PCCs of carrying out appeals. £120k per year, increase in the number of appeals. 	<p>Monetised</p> <p>10 year NPV: £18.6m</p> <ul style="list-style-type: none"> £2.4m per year, savings to Chief Constables from fewer appeals.
	<p>Non-Monetised</p> <ul style="list-style-type: none"> Extension of the IT license for PCC staff. 	<p>Non-Monetised</p> <ul style="list-style-type: none"> Public confidence in the independence of the system should improve as Chief Constables will no longer deal with most appeals.
1(B)	<p>Monetised</p> <p>10 year NPV: £34.2m</p> <ul style="list-style-type: none"> £850k per year, cost to PCCs of dealing with additional appeals against complaint outcomes. £2.76m per year, cost to police forces of dealing with more complaints. £0.79m per year, cost to PCCs of dealing with appeals resulting from additional complaints. 	<p>Monetised</p> <p>10 year NPV: £105.3m</p> <ul style="list-style-type: none"> £1.06m per year, saving for the IPCC who no longer have to deal with non-recording appeals. £12.5m per year, police forces will be required to carry out fewer investigations.
	<p>Non-Monetised</p> <ul style="list-style-type: none"> Cost to the IPCC of dealing with additional appeals. 	<p>Non-Monetised</p> <ul style="list-style-type: none"> Police forces able to resolve issues outside of the complaints system which will cost less than local resolution.
1(C)	<p>Monetised</p> <p>10 year NPV: £1.2m</p>	<p>Monetised</p>

	<ul style="list-style-type: none"> £150k per year, cost to HMIC of administering super-complaints. 	
	<p>Non-Monetised</p> <ul style="list-style-type: none"> Cost to Home Office of running super-complaints designation system. 	<p>Non-Monetised</p> <ul style="list-style-type: none"> More effective targeting of inspections and investigations. Independent organisations will be able to put forward a complaint on behalf of people who do not typically engage with the police complaints system.
1(D)	<p>Monetised</p> <p>10 year NPV: £7m</p> <ul style="list-style-type: none"> £908k per year, cost to IPCC of carrying out directed investigations. 	<p>Monetised</p> <p>10 year NPV: £4.2m</p> <ul style="list-style-type: none"> £540k per year, saving to the IPCC of no longer carrying out supervised or managed investigations.
	<p>Non-Monetised</p> <ul style="list-style-type: none"> Cost to the IPCC of carrying out an increased number of independent investigations. 	<p>Non-Monetised</p> <ul style="list-style-type: none"> Savings to the police as the IPCC will carry out an increased number of investigations independently.
1(E)	<p>Monetised</p>	<p>Monetised</p>
	<p>Non-Monetised</p> <ul style="list-style-type: none"> Costs to the IPCC if the Commission uses the power of initiative to investigate a wider array of matters. Allowing the IPCC to reopen cases may lead to additional costs in reassessing new evidence and issuing revised conclusions. Public confidence and the reputation of the IPCC may be negatively affected if numerous cases have to be reopened. Cost to the IPCC of checking that police forces have complied with their recommendations following an investigation. 	<p>Non-Monetised</p> <ul style="list-style-type: none"> Power of Initiative should provide savings to the IPCC as they do not require referrals from the police and can start investigations more quickly. Public confidence in the system should increase due to a perception that the system is more independent and can investigate with fewer delays. The power to reopen cases will benefit the public as conclusions can be changed based on new evidence. Enabling the IPCC to make determinations and suggest remedies based on complaints, will mean that complaints can be resolved in a manner which is more satisfying to complainants, reducing the number of appeals and re-submission of complaints.
1(F)	<p>Monetised</p>	<p>Monetised</p>
	<p>Non-Monetised</p> <ul style="list-style-type: none"> Cost to the IPCC of the decision-making process by which they decide whether or not to launch an investigation, and for preliminary enquiries once this decision has been made. Cost to the IPCC of investigating additional whistleblowing reports if confidence in the system increases. 	<p>Non-Monetised</p> <ul style="list-style-type: none"> The police force and general public should benefit if a greater number of whistleblowers come forward so that police conduct can be improved. Due to greater anonymity for whistleblowers, there should be a reduced number of employment tribunals which come about because whistleblowers

		are subsequently treated unfairly.
1(G)	<p style="text-align: center;">Monetised</p> <p>10 year NPV: £0.5m</p> <ul style="list-style-type: none"> £0.6m of transitional costs to implement structural changes of the IPCC 	Monetised
	<p style="text-align: center;">Non-Monetised</p> <ul style="list-style-type: none"> Familiarisation costs associated with the transitioning to new system of governance. 	<p style="text-align: center;">Non-Monetised</p> <ul style="list-style-type: none"> The IPCC will have a more streamlined system of hierarchy with a clear chain of accountability.
Source:		

8.1. Public satisfaction levels with the police complaints system are far too low, with only 1 in 10 of those dissatisfied with the police going on to make a complaint, and only a quarter of those who complain satisfied with the outcome.⁵¹ To address this we have focused on four key policy objectives, as detailed in the Government response to its consultation on proposed reforms to the complaints system. First, the complaints system should be more customer focussed with less emphasis on apportioning blame to officers. Secondly, the police complaints system should be easier for the public to follow. Thirdly, the police complaints system should be more independent of the police, with stronger local accountability. Finally, the complaints system should be a tool through which forces are able to spot systemic issues as they arise. Consequently, whilst a “do nothing” option was considered, it is not recommended.

8.2. Our analysis and stakeholder engagement has revealed a proposed set of policy reforms which we recommend as important to address the policy objectives articulated above. These reforms include giving PCCs a greater role in ensuring the complaints system operates efficiently and effectively at the local level, bringing greater independence to the system by transferring responsibility for certain appeals from Chief Constables to PCCs, and significantly streamlining and simplifying the system as a whole to ensure it is clear and accessible for the public and less bureaucratic for the police.

8.3 We have recognised that making the system more user friendly will likely result in an increase in complaint volumes, increasing costs. However, we are mindful that these are not, in effect, new complaints. Rather, they are complaints that are not currently being addressed, resulting in poor public satisfaction and a loss of information that may be useful in terms of organisational development and improvement. We also recognise that a complaints system focused on resolving complaints reasonably and proportionately, with as few investigations as possible, will be considerably more efficient.

8.4 Reforming the IPCC’s modes of investigation framework to more clearly differentiate between independent IPCC investigations and those IPCC investigations that incorporate police support by ending managed and supervised investigations and introducing IPCC-directed investigations, and clarifying the powers of the IPCC will create a more effective IPCC that can commence investigations without waiting for a referral from a police force and recommend remedies to provide more effective outcomes for complainants. There will be a simpler framework for IPCC investigations that provides clarity and transparency for complainants and the public around the reasons for police assistance in IPCC investigations.

8.5 On whistleblowing, the reforms should increase the confidence of genuine whistleblowers to report their concerns by ensuring that investigations can be carried out effectively and sufficient protections are in place for those individuals who report concerns.

I. Implementation

⁵¹ <http://www.ons.gov.uk/ons/about-ons/business-transparency/freedom-of-information/what-can-i-request/published-ad-hoc-data/crime/march-2015/complaints-made-against-the-police.xls>

9.1 The provisions will come into effect by regulations following Royal Assent, but no sooner than 2 months. We anticipate these regulations coming into effect later in 2017 and will continue working with police forces, the IPCC and College of Policing and other policing partners, to provide support and guidance in advance of implementation dates, including through the mandatory Police Advisory Board consultation, undertaken for all new secondary legislation affecting police.

J. Monitoring and Evaluation

10.1 Evaluation and monitoring will make use of existing information published in the Crime Survey for England and Wales as well as publications by the IPCC about the number of complaints it receives, the way they are resolved, the time it takes to resolve them and public perceptions of the system.

10.2 The effectiveness of the new regime would be monitored by the combination of organisations that have oversight of the policing system, including the IPCC and Her Majesty's Inspectorate of Constabulary during their annual cycle of inspection and reporting programmes.

10.3 In addition, the PCCs new responsibility for the local complaints system will open up another avenue of monitoring and evaluation at a more local level. It will be up to the individual PCCs to put in place the evaluations they deem necessary.

10.4 In the normal way, the Policing and Crime Bill will be subject to post-legislative review three to five years after Royal Assent. A review of these policies will take place four years after implementation. This review would be expected to be proportionate to the likely impact of the policies, with the aim of establishing that the policies were adopted as expected and, where possible, assessing what actual impact the policy had on whistleblowing practice in the police.

K. Feedback

11.1 The Home Office will continue bilateral engagement with police forces and policing partners, as part of this we will seek feedback from those organisations in relation to the policies being introduced and the progress of implementation. The Home Office regularly sends representatives to regional meetings of Police Professional Standards Departments to engage directly with Heads of PSDs and will continue to engage with key stakeholder and representative organisations at a national level.

11.2 In addition, any changes subsequently introduced through Secondary Legislation will be subject to consultation with and representations from the Police Advisory Board before any subsequent regulations are made.