

<b>Title:</b> Stopping police officers resigning or retiring to avoid disciplinary action.  <b>IA No:</b> HO0135  <b>Lead department or agency:</b> Home Office  <b>Other departments or agencies:</b> N/A	<b>Impact Assessment (IA)</b>				
	<b>Date:</b> 03/12/2014				
	<b>Stage:</b> Final				
	<b>Source of intervention:</b> Domestic				
	<b>Type of measure:</b> Secondary Legislation				
<b>Contact for enquiries:</b> Matthew Burton Police Integrity and Powers Unit, Crime and Policing Group, Home Office, 020 7035 3723, matthew.burton1@homeoffice.gsi.gov.uk					
<b>Summary: Intervention and Options</b>				<b>RPC Opinion:</b> N/A	

Cost of Preferred (or more likely) Option					
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as	
£8.3m	£0m	£0m	No	N/A	

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

Many police officers (178 in 2012-2013) resign or retire whilst subject to an investigation for gross misconduct or when required to attend a misconduct hearing, resulting in the investigation not being pursued or the hearing not concluding. This can be damaging to trust and confidence in policing. It is important that officers who commit gross misconduct are brought to justice through the police disciplinary system. This is to ensure that trust and confidence in the police complaints and disciplinary system, and in policing integrity more widely, are maintained. Police forces often see the resignations of officers subject to disciplinary proceedings as a success due to the money saved, and the fact that the officer is out of the force. They are therefore unlikely to stop officers resigning without government intervention.

**What are the policy objectives and the intended effects?**

The policy objectives are:  
To improve confidence in the police complaints and disciplinary systems and in policing integrity more broadly by ensuring that police misconduct is punished effectively; and to ensure that there is no perception amongst the public that police officers are able to escape justice through resignation or retirement.

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

Options considered are: Option 0, do nothing; Option 1, amending primary legislation so that the Police (Conduct) Regulations 2012 would apply to police officers who have left the force; Option 2, amend the Police (Conduct) Regulations 2012 so that police officers under investigation for gross misconduct will not be able to give notice to resign or retire without the consent of the chief officer, and impose a duty on the chief officer to withhold consent unless the officer is medically unfit to be the subject of proceedings or there are other exceptional circumstances that mean the resignation or retirement should be accepted. Option 3 is to ask chief officers to use their existing general powers to take hearings to a conclusion against officers who have resigned or retired. Option 2 is the only option that will fully address the problem within this Parliament and is the preferred option. Given the relative cost saving of option 1, we would recommend that this option is pursued when parliamentary time allows.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> July 2015						
Does implementation go beyond minimum EU requirements?						
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro	< 20	Small	Medium	Large
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)				<b>Traded:</b> N/A	<b>Non-traded:</b> N/A	

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

Signed by the responsible Minister: \_\_\_\_\_ Mike Penning \_\_\_\_\_ Date: \_\_\_\_\_ 16/12/2014 \_\_\_\_\_

# Summary: Analysis & Evidence

# Policy Option 1

Description: Amend primary legislation so that the Police (Conduct) Regulations 2012 would apply to police officers who have left the force.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -14.3	High: -5.3	Best Estimate: -8.3

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	1.7	14.3
High	N/A	0.6	5.3
Best Estimate	N/A	1	8.3

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

Based on 2013 figures - an estimated annual cost of £700,000 to the police of running additional misconduct hearings. An additional annual cost involved in taking investigations to their full conclusion, which we estimate to be £130,000. An additional cost from appeals of approximately £140,000.

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

The policy would lead to some additional costs to the police aside from the costs of misconduct hearings and investigation costs, such as admin costs, however we do not have any data on these associated costs and so are unable to provide a monetary estimate.

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

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

No benefits have been monetised.

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

The policy may act as a deterrent and lead to fewer incidences of police misconduct. It should also ensure that those police officers who commit misconduct are punished appropriately, which has justice related benefits particularly for victims. The maximum punishment is dismissal. It may increase public trust in policing integrity and the police complaints and disciplinary systems by demonstrating that serious misconduct in the police is being punished effectively.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
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There is a risk that data that has been provided is not accurate or that figures from 2013 will not reflect the number of cases there will be in future. The number of misconduct cases is not predictable. In developing cost estimates we have assumed that hearings will last an average of 3 days in the future, roughly comparable to past hearings on average. There is a risk that some hearings will be more complex and costly. We test these assumptions using sensitivity analysis.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	N/A	N/A

# Summary: Analysis & Evidence

# Policy Option 2

Description: Police officers under investigation for gross misconduct will not be able to give notice to resign or retire without the consent of the chief officer, and impose a duty on the chief officer to withhold consent

## FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -14.4	High: -5.3	Best Estimate: -8.3

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	4.3	36.8
High	N/A	2.5	21.5
Best Estimate	N/A	3.2	27.6

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

Based on 2013 figures - an estimated annual cost of £700,000 to the police of running additional misconduct hearings. An additional annual cost involved in taking investigations to their full conclusion, which we estimate to be £130,000. A further approximate £2,250,000 annual cost involved in paying the salary and associated costs of officers who would otherwise have retired or resigned. An additional cost from appeals of approximately £140,000.

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

The policy would lead to some additional costs to the police aside from the costs of misconduct hearings and investigation costs, such as admin costs, however we do not have any data on these associated costs and so are unable to provide a monetary estimate. As many officers will eventually be dismissed for misconduct there is also a non-monetised cost associated with paying these officers until they are dismissed - such payments may be unpalatable to the public.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	2.61	22.5
High	N/A	1.88	16.2
Best Estimate	N/A	2.25	19.4

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

For those officers who would have retired (9 officers in 2012-13) there would be a benefit to the exchequer of deferring payment of the officers pension until after the disciplinary hearing had concluded - at which point the officer could then retire. We estimate it would off-set about two-thirds of the cost for the few officers that would have retired, approximately £155,000 overall. The police officers who would otherwise have retired or resigned will benefit from the ongoing payment of their salary, which is estimated as £2,250,000. However, those officers who would have retired would not receive payment of their pension until after the disciplinary hearing had concluded, giving a net benefit to all officers of £2,095,000.

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

The policy may act as a deterrent and lead to fewer incidences of police misconduct. It should also ensure that those police officers who commit misconduct are punished appropriately, which has justice related benefits particularly for victims. The maximum punishment is dismissal. It may increase public trust in policing integrity and the police complaints and disciplinary systems by demonstrating that serious misconduct in the police is being punished effectively.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
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There is a risk that data that has been provided is not accurate or that figures from 2013 will not reflect the number of cases there will be in future. The number of misconduct cases is not predictable. In developing cost estimates we have assumed that hearings will last an average of 3 days in the future, there is a risk that some cases will be more complex and costly. We test these assumptions using sensitivity analysis.

## BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	N/A	N/A

# Summary: Analysis & Evidence

# Policy Option 3

**Description:** Ask chief officers to use their existing general powers to take hearings to a conclusion against officers who have resigned or retired

## FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low:	N/K	High:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/K	N/K	N/K
High	N/K	N/K	N/K
Best Estimate	N/K	£0 - £1,000,000 (p/a)	N/K

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

Based on 2013 figures – a maximum estimated annual cost of £700,000 to the police of running additional misconduct hearings. An additional annual cost involved in taking investigations to their full conclusion, which we estimate to be a maximum of £130,000. An additional annual cost from appeals up to a maximum of approximately £140,000. These costs will be multiplied by the percentage of cases dealt with by chief officers who implement the policy, so will be a fraction of the above cost in line with the fraction of cases implemented .

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

The policy would lead to some additional costs to the police aside from the costs of misconduct hearings and investigation costs, such as admin costs, however we do not have any data on these associated costs and so are unable to provide a monetary estimate.

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

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

No benefits have been monetised.

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

The policy may act as a deterrent and lead to fewer incidences of police misconduct. It may ensure that those police officers who commit misconduct are punished appropriately, if implemented fully by chief officers, which has justice related benefits particularly for victims. The maximum punishment is dismissal. It may increase public trust in policing integrity and the police complaints and disciplinary systems by demonstrating that serious misconduct in the police is being punished effectively.

Key assumptions/sensitivities/risks	<b>Discount rate (%)</b>	3.5%
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There is a risk that data that has been provided is not accurate or that figures from 2013 will not reflect the number of cases there will be in future. The number of misconduct cases is not predictable. In developing cost estimates we have assumed that hearings will last an average of 3 days in the future, roughly comparable to past hearings on average. There is a risk that some cases will be more complex and costly. We test these assumptions using sensitivity analysis. There is a risk that chief officers will refuse to take hearings to a conclusion as they have doubted their legal ability to do so under their general powers. The cost of this option is therefore dependant on chief officers' propensity to take hearings to a conclusion, which is unknown. We provide illustrative costs for this option using sensitivity analysis to model differences in this propensity.

## BUSINESS ASSESSMENT (Option 3)

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>In scope of OITO?</b>	<b>Measure qualifies as</b>
<b>Costs:</b> 0	<b>Benefits:</b> 0	<b>Net:</b> 0	N/A	N/A

## Evidence Base (for summary sheets)

### ***Background and Problem under consideration***

1. Currently police officers can resign or retire during an investigation into gross misconduct or after such an investigation has concluded that the officer has a case to answer for gross misconduct. This often involves officers leaving the force before they face the outcome of disciplinary proceedings in high-profile cases of alleged police misconduct. This can lead to a perception amongst the public of police officers escaping punishment and result in feelings of injustice on the part of members of the public who have filed complaints against the police and the families of those who have died following contact with the police. This in turn could lead to trust and confidence in the police, and the police complaints and disciplinary systems, being undermined. The Independent Police Complaints Commission (IPCC), which is the statutory guardian of the police complaints system has identified this as a problem in relation to its own independent investigations into the most serious and sensitive cases.
2. On 12 February 2013 as a part of her oral statement on police integrity the Home Secretary said that, to prevent officers who lose their jobs as a result of misconduct being recruited by other forces, we would introduce a national register of officers struck-off from the police. The list will be managed and published by the College of Policing. In addition, hearings will be taken to their conclusion notwithstanding the officer's departure from the force. Where gross misconduct is proven, these officers would also be struck-off by the College of Policing.
3. The primary group affected by the policy options will be the police, especially professional standards departments within the police. As the IPCC already take their independent investigations to a conclusion after an officer resigns or retires there is unlikely to be any additional burden on the IPCC.

### ***Rationale for intervention***

4. It is important that officers who commit gross misconduct are brought to justice through the police disciplinary system. This is to ensure that trust and confidence in the police complaints and disciplinary system, and in policing integrity more widely, are maintained. Currently the police disciplinary system as set out in the Police (Conduct) Regulations 2012 does not apply to officers who retire or resign whilst under investigation as the regulations only apply to serving members of police forces. This means that where an officer resigns or retires they do not have to attend a misconduct hearing and cannot be dismissed, since they have already left the force.
5. There is a perception amongst the press and some members of the public<sup>1</sup> that officers are able to escape justice by resigning or retiring rather than facing justice before a misconduct hearing. This perception is especially acute amongst those who have made a complaint against the police or the family members of those who have died following police contact. It is important that officers who commit gross misconduct are brought to justice through the police disciplinary system. This is to ensure that trust and confidence in the police complaints and disciplinary system, and in policing integrity more widely, are maintained.
6. Chief officers of police doubt both their legal ability to take hearings to a conclusion against former officers and their ability to stop officers retiring and resigning unless they are

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<sup>1</sup> See for example

<http://www.theguardian.com/uk/2011/oct/31/police-officers-escaping-punishment-resigning-panorama>

<http://www.dailymail.co.uk/news/article-2055682/Hundreds-police-officers-resigning-quiet-despite-admitting-offences.html>

<http://www.bbc.co.uk/news/uk-27943874>

<http://www.manchestereveningnews.co.uk/news/greater-manchester-news/new-law-stop-police-resigning-7846341>

suspended since there is no specific provision in legislation that would enable them to do so and they would have to rely on general powers. Chief officers have also objected to the costs involved in refusing resignations or retirements. Given these objections, chief officers are unlikely to deal with this issue themselves unless Government action is taken.

### **Objectives**

The objectives are:

- to improve confidence in the police complaints and disciplinary systems and in policing integrity more broadly by ensuring that police misconduct is punished effectively; and
- to ensure that there is no perception amongst the public that police officers are able to escape justice through resignation or retirement.

### **Groups Affected**

7. The main group affected will be the police, specifically:

- Professional Standards Departments (PSDs) responsible for investigating gross misconduct cases.
- Those police officers who will be subject to investigation for gross misconduct in the future.
- Police forces (that might have to keep police officers on the books whilst investigations take place)
- Misconduct hearing panels
- Police Disciplinary Appeals Tribunals

### **Options**

#### **Option 0: Do nothing**

8. Police officers will continue to be able to retire or resign whilst under investigation for gross misconduct, which could hamper the Government's drive to increase trust and confidence in the police. Chief officers in some high-profile cases have suspended officers and refused to consent to their resignations, but this does not always happen when officers are suspended, and there is no power that would enable a chief officer to stop an officer resigning or retiring if the officer is not suspended. This option would mean that there is no additional cost imposed upon the police.

#### **Option 1: Amend primary legislation in the next Parliament so that the Police (Conduct) Regulations would apply to officers who had resigned or retired.**

9. We could amend sections 50, 51 and 84 of the Police Act 1996 so that the Police (Conduct) Regulations 2012 will apply to former police officers. This would ensure that chief officers must take misconduct hearings to a conclusion against officers who retire or resign to avoid dismissal after they had resigned or retired and left the force; these officers could then be entered on a list held by the College of Policing if they would have been dismissed rather than entered on the list as having resigned or retired whilst under investigation. However this option is not available within this Parliament due to the lack of a suitable legislative vehicle.

#### **Option 2: Amend secondary legislation within this Parliament to include a provision that a police officer subject to an investigation that could lead to that officer's dismissal would not be able to give notice to resign or retire without the consent of the chief officer.**

10. We could amend the Police (Conduct) Regulations so that any police officer who is subject to an investigation that could lead to dismissal would not be able to give notice of resignation or retirement without the consent of the chief officer, chief officers would be duty bound to

withhold consent in such cases unless the officer is medically unfit or other there are other exceptional circumstances.

### **Option 3: Ask chief officers to take investigations and hearings to a conclusion following an officer's resignation or retirement under their general powers.**

11. We believe there is a reasonable argument that chief officers and PCCs are able to take hearings to a conclusion using their general powers; however the Conduct Regulations could not apply. There is a risk that chief officers and PCCs would not be willing to take hearings to a conclusion, some chief officers have expressed concern over whether they are able to do this. They could face legal challenge if they did so and whilst there would be a reasonable chance of successfully defending such a challenge this may not convince chief officers. This option is not likely to be effective as chief officers are likely to resist taking investigations and hearings to a conclusion in all cases unless they are compelled to do so.

### ***Appraisal (Costs and Benefits)***

#### *Assumptions:*

#### Investigations

12. The effect of the change under options 1 and 2, and to a lesser extent option 3, would be that those officers who otherwise resign or retire (under option 1) or who would have resigned or retired (under option 2) prior to, or during, an investigation taking place - approximately 86 potential cases from 2013<sup>2</sup> - would instead now have their misconduct allegations investigated fully and, if appropriate, taken to a misconduct hearing. We estimate that each additional investigation will cost the police approximately £1,200 to £1,800.

13. This estimate is based on two pieces of information, firstly the estimated number of man hours that went into conducting an investigation: 43.6 hours. Secondly, an estimated weighted average cost per man hour of £35. This cost per hour is calculated using two elements:

- Standard costs per hour for police staff, police officers of rank Sergeant and below and senior police officers, which are £20.94, £36.51 and £58.79 respectively.<sup>3</sup>
- The estimated share of these ranks within PSDs. We have used Police Workforce data to estimate the average split between police staff and police officers, which we estimate to be 43% police staff and 57% police officers.<sup>4</sup> We have then had to make a further assumption regarding the proportions of police officers in complaints functions who are Sergeant and below and who are senior officers (i.e. Inspector and above). PSDs regularly deal with serious allegations of misconduct and corruption and there can be a need to manage difficult and complex investigations, including some covert operations. These investigations will necessarily require involvement and oversight by senior officers. In addition, where investigations involve senior officers it is likely that other senior officers will need to carry out part or all of those investigations. Although every PSD is likely to vary in the make up of its

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<sup>2</sup> In November 2013 we sent a survey out to forces in England and Wales in cooperation with the National Policing Portfolio for Complaints and Misconduct. The survey asked for returns on gross misconduct disciplinary outcomes between 22 November 2012 when the Police (Conduct) Regulations 2012 came into force and 22 November 2013.

<sup>3</sup> These are hourly costs in 2013 prices and take into account standard data on pay, hours, expenses, pensions, National Insurance contributions and police workforce statistics.

<sup>4</sup> Police Workforce, England and Wales 31<sup>st</sup> March 2014, tables at: <https://www.gov.uk/government/statistics/tables-for-police-workforce-england-and-wales-31-march-2014>. There are 637 staff and 828 officers in 'Complaints and Discipline' functions.

staff, it is reasonable to assume therefore that there will be a significant presence at senior officer level in these teams. We estimate, for the sake of identifying costs, that the proportion of police officers that are Inspector or above could therefore be around 40%, with the remaining 60% of officers Sergeant or below. The result is an assumed split of PSDs as follows: 43% police staff; 34% police officers of rank Sergeant and below; and 23% police officers of rank Inspector and above. Multiplying these percentages by the individual costs per hour above gives a weighted average hourly cost of just under £35.

14. We use data on the estimated number of man hours that went into completing investigations, obtained from a Home Office survey of police forces. This data gives an average length of a local investigation as 43.6 hours. Multiplying the estimated length of an investigation with our weighted hourly cost allows us to come to an estimated cost of an investigation of around £1,500.
15. We apply an uncertainty range of 20% either side of this central estimate to give an approximate range of £1,200-£1,800 for an investigation. This figure should be treated as indicative for two reasons. Firstly it is based on the estimated composition of police force complaints teams, for which we do not know the actual figures. Secondly, the survey which provided the man hours information was only completed by 18 out of 43 forces, and many respondents emphasised that their figures were only indicative estimates, as they did not regularly record this information. As a result these estimates should be treated with care.

### Hearings

16. There were a further 92 cases from 2013 where an officer resigned or retired after an investigation had concluded and a determination had been made that there was a case to answer for gross misconduct at a hearing. For these cases there would be no additional investigation cost, but there would be an additional cost of holding a misconduct hearing, this cost would apply to all three options, although for option 3 it would be in proportion to the number of cases taken to a conclusion. Some of these cases involve officers resigning just before the conclusion of a misconduct hearing and would not involve any additional costs provided that the officer would be dismissed.
17. In addition to the increased hearing costs and direct investigation costs, there will also be additional work and associated costs for PSDs to take forward the investigations where otherwise these would have ceased upon the resignation or retirement of the individuals. As these are subject to operational decisions by local policing bodies and PSDs we do not know exactly what those costs might be. There will be a greater impact on the forces where more of these cases arise but this is broadly in proportion to a forces ability to absorb the impact of such costs. We estimate the cost of each misconduct hearing to be approximately £3914.35 (see breakdown at Table 1 below).

*Table 1: Estimate of costs for an average misconduct hearing:*

Misconduct Hearing Costs (Per Hearing)			
	Fees/Salary	Expenses	Total
Assistant Chief Constable	£1,558.49		£1,558.49
Superintendent	£1,091.68		£1,091.68
Independent Member	£889.19	£22.50	£911.69
Legal Advisor (47% of Panels)	£352.50		£352.50
<b>Total</b>	<b>£3,891</b>	<b>£22.50</b>	<b>£3,914</b>



## Appeals

18. A misconduct hearing involves consideration by a panel, which is typically made up of an Assistant Chief Constable, a Superintendent (or HR professional) and an independent member. Any finding against, and/or outcome imposed on, the officer could then be challenged through the Police Discipline Appeals Tribunal (PDAT), which consists of a legally-qualified Chair, a serving officer of ACPO rank, and a retired member of a police force who was a member of an appropriate staff association. If the policy leads to an increased number of appeals this could lead to a further additional cost on PCCs in paying for the appeal hearing.
19. That some officers currently choose to resign or retire rather than face disciplinary proceedings is not necessarily an admission to the allegations made. These officers would be given a full opportunity to clear their name at a hearing. However, where a finding is made and/or a disciplinary outcome imposed there may be an increase in the number of cases that also proceed to the PDAT stage. There were 73 appeals against the finding and/or outcome of a gross misconduct hearing in 2013, an appeal rate of 25.6%, the majority of these are dealt with by PDAT chairs on the papers without proceeding to a full hearing. We estimate the cost of an average full PDAT hearing to be approximately £3,115 (see breakdown at Table 2 below), but it is not possible to know what effect the proposal may have on the appeal rate.

*Table 2: Estimate of costs of an average Police Disciplinary Appeals Tribunal hearing:*

	Fees/Salary	Expenses	Total
Legally Qualified Chair (QC)	£1,294.04	£136.00	£1430.04
Assistant Chief Constable	£1,134.49		£1134.49
Retired Staff Association Member	£503.31	£47.90	£551.21
Total	£2,932	£184	<b>£3,115</b>

## Salary and Related Costs

20. The greatest cost would be in paying the salaries and associated costs involved with employing officers that would otherwise have resigned or retired at an earlier stage. This cost is only associated with option 2 and is not a cost of option 1 or 3. We estimate the salary and associated costs that would need to be paid in relation to officers that were under investigation to be around £26,000 per officer. This is based on an average investigation length of approximately five months, which is the average time taken to investigate a complaint on the latest IPCC figures, and an average overall cost per annum for constables and sergeants that the group finance unit have estimated at £63,000 including pay, pension, National Insurance, regional allowances and expenses. This is essentially a transfer payment from the police to those officers that would otherwise have retired or resigned; in terms of the economic impact for society there will be no net change because it will also feature as an equal benefit to those officers that will be receiving salaries they otherwise would not have received.
21. For those officers who would have retired (9 officers in 2012-13) there would be an benefit to the exchequer under option 2 of deferring payment of the officers pension until after the disciplinary hearing had concluded - at which point the officer could then retire. We do not have exact figures for this benefit available but we estimate it would off-set about two-thirds of the cost for the few officers that would have retired, which would be approximately £17,422. This should also be treated as an equivalent cost to the police officers who will not be receiving these pension payments – for the purpose of the appraisal this will be subtracted from the salary gain (see paragraph 18) to make that a net benefit.

## IPCC

22. The IPCC already takes any independent investigation they undertake to a conclusion notwithstanding an officers departure from the force in order to ensure that lessons are learnt by the police, therefore we would expect there to be no additional cost burden on the IPCC as a result of the proposals under any of the options.

### *Costs and Benefits of Options:*

23. In this section we present the central estimate of the costs and benefits of the options, with only a small range of uncertainty given for these estimates. We then build on this uncertainty range by examining risks and sensitivities in the next section to fully develop high and low estimates of the net present values.

### **Option 0**

24. Option 0, doing nothing, would grant no additional cost but would also bring no additional benefit and would not meet the objective.

### **Option 1**

25. Option 1, primary legislation to extend the Police (Conduct) Regulations to former officers so they could be pursued and have disciplinary action taken against them after resignation or retirement, would involve the cost of approximately 86 additional investigations and 178 additional hearings based on 2013 figures. Assuming no change to the appeal rate of 25.6% from 2013 there would be an additional 45-46 appeals. No staffing costs would have to be paid as the officers would be allowed to resign or retire and any disciplinary action would simply be pursued after they had left the force.

*Table 3: Central estimates for the annual monetised costs of option 1:*

	Number	Cost per unit	Total
<b>Costs:</b>			
Additional investigations	86	-£1,200 to -£1,800	-£103,000 to -£155,000
Additional Hearings	178	-£3,900	-£695,000
Additional Appeals	45-46	-£3,100	-£140,000 to -£145,000
<b>Overall</b>			<b>-£965,000</b>

26. The main benefits of option 1 would be non-monetised benefits, these include:

- ensuring increased transparency, trust and confidence in policing integrity;
- ensuring justice for victims of police misconduct and their families;
- ensuring the police learn the full lessons of investigations into officer misconduct; and
- a possible deterrent to officers who might commit misconduct in the future.

27. Option 1 requires primary legislation that has been determined to be outside of the scope of the available 4<sup>th</sup> session Bills by the House Authorities; it is therefore not implementable within this Parliament.

### **Option 2**

28. Option 2 is secondary legislation to ensure that officers subject to an investigation that could lead to dismissal would not be able to give notice to retire or resign without the consent of

the chief officer, and that a chief officer would be duty bound to withhold their consent unless the officer is medically unfit to be the subject of proceedings or there are other exceptional circumstances. This would have all of the same costs as for option 1. In addition to these, there will also be staffing costs for 86 officers who would have been prevented from retiring or resigning and would now have to be paid.

29. In terms of the benefits of this option, there will be a benefit to the exchequer of deferring pension payments to those officers that would have retired. This will also be a cost to those few officers, but they will actually see a net benefit as they will receive the (higher) salary payment instead. The main financial benefit of this option arises as a result of the salary costs – this is a transfer from the police forces to those officers that would otherwise have retired (and received no salary).

*Table 4: Central estimates for the annual monetised costs and benefits of option 2:*

	Number	Cost/Benefit per unit	Total
<b>Costs:</b>			
Additional investigations	86	-£1,200 to £1,800	-£103,000 to -£155,000
Additional Hearings	178	-£3,900	-£695,000
Additional Appeals	45-46	-£3,100	-£140,000 to -£145,000
Additional Staff Costs	86	-£26,134	-£2,250,000
<b>Total Costs</b>			<b>-£3,210,000</b>
<b>Benefits:</b>			
Deferred pension payment	9	£17,422	£155,000
Financial benefit to police officers who would have resigned	77	£26,134	£2,015,000
Net financial benefit to police officer who would have resigned	9	£8,711	£80,000
<b>Total Benefits</b>			<b>£2,250,000</b>
<b>Overall</b>			<b>-£965,000</b>

30. Under this option the net effect is the same as for option 1, but there is an additional £2,250,000 of staff costs that would be payable by police forces.

31. It is worth noting that for this option we have assumed a direct transfer of salary payments from police forces to police officers. In practice, this will only be the case where an officer is suspended on full pay, such that the police force faces costs but receives no direct benefits (since no productive work is done by these officers), whilst officers receives benefits but incur no opportunity costs (since they do not have to work). In practice, there are two other possible outcomes – an officer would be placed on restricted duties or an officer would continue on full duties. We have no evidence regarding the likely split between these three outcomes to enable us to come to a sensible or reliable estimate. It can be noted however that the net present value of this should not depend on this assumption, since any benefits that would accrue to the police forces from fewer suspensions would be offset due to the associated costs to officers.

32. Option 2 would have the same non-monetised benefits as in option 1, these include:

- ensuring increased transparency, trust and confidence in policing integrity;
- ensuring justice for victims of police misconduct and their families;

- ensuring the police learn the full lessons of investigations into officer misconduct; and
- a possible deterrent to officers who might commit misconduct in the future.

33. Option 2 is implementable during this Parliament though secondary legislation.

### **Option 3**

34. Option 3, asking chief officers to use their general powers to take hearings to a conclusion against officers who resign or retire is likely to be ineffective as chief officers are unlikely to accept the legal risk of doing so or take on the financial burden without being compelled to do so. Some chief officers may decide to comply with a request to take hearings to a conclusion but we do not know how many would do so if asked formally. The costs of this option would be a sub set of the costs for option 1 in proportion to the number of cases chief officers took to a conclusion, justice for the victims of those cases and ensuring the police learnt the full lessons of the cases would follow in proportion but increased transparency, trust and confidence, and any deterrent effect are likely to be limited by non-universal application.

### ***Risks, Uncertainty and Sensitivity Analysis***

35. In this section we develop ranges around the central estimates presented above. The options generally share the same underpinning assumptions, and are therefore similarly sensitive to changes in assumptions and involve similar risks.

#### *Number of Investigations*

36. For options 1 and option 2 we have assumed that the number of additional investigations in the future will be the same as the number of investigations that were not pursued (due to resignation or retirement) in 2012/13, which was 86. We do not have evidence of the annual variation in this statistic, but we will test the effect of an increase to 100 and a symmetrical decrease to 72, i.e. +/-14. For options 1 and 2 the change in this assumption means that the cost of additional investigations is £130,000 to £180,000.

37. For option 2 this will also have an associated impact on the amount of salaries payable by police forces (a cost) and the same amount received by police officers under investigation (a benefit). With 72 additional investigations this cost and associated benefit would be around £1.9M. With 100 investigations it would be around £2.6M.

#### *Number of Hearings*

38. In line with the uncertainty around the assumption regarding the number of investigations, there is also uncertainty around the number of additional hearings that would occur under options 1 and 2. For the purpose of sensitivity analysis we will make the same proportional adjustment as for number of investigations, which will be 178 +/- 29 hearings – 207 in the high cost case and 149 in the low cost case.

#### *Cost of Hearings*

39. The College of Policing has identified a monetisable risk associated with these options. They have suggested that there is a possibility that additional legal advice might be needed for complex case hearings, which could run up to around £30,000 per case. This cost is not certain and as such can be included in the high estimate of the cost of options 2 and 3. In

line with the College’s estimates, we calculate that if 10% of additional cases were complex (about 18) this could cost about £500,000 in addition to the central estimate.

40. To develop a low estimate, we can adjust the estimate of how long hearings take on average. If hearings were likely to take less time then the costs would be proportionately lower. This is not unrealistic, given that there might be cases where the officer is obviously guilty of misconduct, which is possible given that these are cases where officers would previously have resigned or retired (though not necessarily as an admission of guilt) before the hearing. For the low cost estimate we assume that hearings will take two days on average, rather than three.
41. To illustrate the potential uncertainty around the total cost of additional hearings we can vary both the volume and the cost of hearings simultaneously to give a range for this cost estimate. For the lower cost (hence higher Net Present Value) estimate, we assume there will be 149 additional hearings lasting on average 2 days. The cost of these additional hearings would be approximately £387,000. For the higher cost (and hence lower Net Present Value) estimate we assume 207 additional hearings lasting 3 days each, with 10% costing £30,000 rather than the central estimate of £3,900. This would cost approximately £1.35M. This range applies to Options 1 and 2 equally.

*Summary of Uncertainty and Risks for Options 2 and 3:*

42. The following table presents the results of the combined sensitivity analysis for options 1 and 2, as detailed above:

		Average Annual Costs	Net Present Value
Option 1	Best estimate	-£0.96M	-£8.3M
	Low	-£1.67M	-£14.3M
	High	-£0.62M	-£5.3M
Option 2	Best Estimate	-£3.21M	-£8.3M
	Low	-£4.28M	-£14.4M
	High	-£2.50M	-£5.3M

*Option 3*

43. To provide some illustrative costs for option 3 we simply take a proportion – 25%, 50% and 75% - of the central estimates of the costs of option 1 to model the propensity for Chief Officers to pursue investigations and hearings.

		Average Annual Costs	Net Present Value
Option 3	25%	-£0.24M	-£2.07M
	50%	-£0.48M	-£4.15M
	75%	-£0.72M	-£6.22M

***Wider Impact of proposal***

44. We do not anticipate that the above proposal would have a wider impact upon any businesses or organisations outside of the police with an exception of a small saving to the exchequer that has been included in the calculations above.

***Summary and preferred option with description of implementation plan***

45. At present officers are able to resign or retire whilst under investigation for gross misconduct, avoiding internal disciplinary procedures and leading to a perception of injustice on the part of complainants and the public. Option 1, would ensure that all officers who committed misconduct were brought to justice by taking hearings against officers who retired or resigned whilst under investigation to a conclusion in the most cost effective way possible. However, there is no current vehicle for implementation of option 1, which requires primary legislation. Therefore option 2 is the preferred option to address the issue. Given the relative cost saving of option 1, we would recommend that this option is pursued when parliamentary time allows with option 2 being used only as a temporary fix to the issue whilst a vehicle for primary legislation is unavailable.
46. We plan to implement option 2 before the end of the calendar year (2014) through amendment to the Police (Conduct) Regulations 2012. A statutory consultation with policing stakeholders at the Police Advisory Board disciplinary sub-committee on the regulations was undertaken on 29 September and stakeholders at that board have provided further written feedback. Feedback will be collected from those affected by the policy through future Police Advisory Board meetings and meetings with police stakeholders.