

<b>Title:</b> <b>Maintaining Quality Forensic Evidence</b> <b>IA No:</b>  <b>Lead department or agency:</b>  Home Office  <b>Other departments or agencies:</b>  BIS  MoJ	<b>Impact Assessment (IA)</b>	
	<b>Date:</b> 10/08/2013	
	<b>Stage:</b> Consultation	
	<b>Source of intervention:</b> Domestic	
	<b>Type of measure:</b> Primary legislation	
	<b>Contact for enquiries:</b> Rebecca Taylor 020 7035 8066	
	<b>Summary: Intervention and Options</b>	
<b>RPC Opinion:</b>		

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as Two-Out?
-£4.6m	-£2.1m	£0.2m	Yes   IN

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

The role of the Forensic Regulator is to ensure forensic evidence across the criminal justice system is subject to appropriate scientific quality standards. To date the Regulator has been successful on a non statutory basis due to co-operation from commercial providers and the police. Government intervention is needed because there is risk that, due to increasing pressure on all sides to cut costs and the UK opting out of the EU requirement for standards, a forensic service provider or police force will in the future choose to operate outside the Regulator's quality standards. The Regulator believes statutory powers are needed, a view supported by the major commercial providers and the Science and Technology Select Committee.

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

The policy objective is to ensure the forensic evidence provided to the criminal courts meets the standards the Forensic Regulator considers appropriate. The intended effect is to ensure the evidence on which individuals are convicted or acquitted is correct, and to maintain the confidence of the public and the judiciary in the use of forensic evidence.

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

**Option 1:** Do nothing - continue with Regulator's non statutory role and non statutory Code of Practice. Continue with system whereby he can only investigate with consent of the organisation concerned.

**Option 2:** Introduce a statutory role of Forensic Regulator, statutory Code of Practice to which any organisation providing or procuring forensic services must comply, and statutory power to investigate serious quality failures.

Option 2 is the preferred option because of the risk of a forensic provider refusing to comply with non statutory standards and the resulting threat to the criminal justice system were forensic evidence to fall below required standards.

<b>Will the policy be reviewed?</b> Yes/No		<b>If applicable, set review date:</b> TBC			
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.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> None	<b>Non-traded:</b> None	

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

Signed by the responsible Minister:



Date: 6 Nov 2013

# Summary: Analysis & Evidence

## Policy Option 2

Description: Remove the requirement to renew personal licences

### FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0	High: -9.2	Best Estimate: -4.6

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	1	0	0
High	1.5		1.1	9.2
Best Estimate	0.8		0.5	4.6

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

- Initial and annual costs to private companies providing forensic evidence to the defence to ensure they meet the required accreditation standards.
- Initial and annual costs to police forensic labs that are not yet at the required standard of accreditation.

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

- Cost to solicitors and Legal Aid Agency in checking that chosen forensic service providers have the necessary accreditation.

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

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

We are unable to monetise any of the benefits of option 2.

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

- Compliance with standards reduces likelihood of a quality failure in forensic evidence (with attendant costs to forensic provider in reviewing and retesting linked cases, and to CJS if a trial collapses/there has been a miscarriage of justice).
- Statutory standards creates a level playing field, so that the main commercial providers (which are currently struggling) are not undercut by in-house work from police forces or new providers which does not meet the necessary standards.

#### Key assumptions/sensitivities/risks

Discount rate (%)

3.5

- The scope of the Regulatory Code may extend if put under statute. This would increase the accreditation costs the private and Police forensic providers would have to pay.
- The forensics market is unstable. Retenders under the Police procurement framework are all scheduled for the same time in summer 2014. There could be large change in shares/staff numbers.

### BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0.5	Benefits: 0	Net: -0.5	Yes	IN

## A. Strategic Overview

### A.1 BACKGROUND

1. It is essential to maintain public confidence in the forensic evidence used to convict, or exonerate, people in court. To achieve this, all stages of the forensic evidence process, from collection at the crime scene, through analysis by police or private laboratories to the presentation of evidence in court, must meet an appropriate set of quality standards.
2. Currently, these standards are administered by the Forensic Science Regulator, a non statutory public appointee operating independently of the Home Office, on behalf of the criminal justice system as a whole.
3. An [EU Framework decision](#)<sup>1</sup> requires forensic service providers to hold ISO 17025 accreditation for all DNA profiling and fingerprint enhancement laboratories. This requirement extends to police laboratories. Deadlines for gaining accreditation are staggered between 2013 and 2015. However, the EU decision was not transposed into UK law, and the UK has now opted out of this measure, removing the legal obligation to comply with these standards.
4. The Regulator has published a voluntary Code of Practice, setting out the standards required for any organisation or individual working with forensic evidence. The Code adds the UK context to the requirements of ISO 17025 and gives direction on topics such as validation, contamination control and information security. The Regulator works with police forces and private laboratories on a voluntary non statutory basis to implement this Code of Practice.
5. The Regulator investigates any potentially serious quality breach by a forensic service provider, and makes recommendations to that provider in order to ensure the error is not repeated. Again, this is on a voluntary basis relying on the co-operation of the organisation involved.
6. The police agree contracts for provision of forensic services on a regional basis, as part of the Home Office's forensic procurement framework. Under this framework, contracts require providers to hold ISO 17025 accreditation and meet other quality requirements including compliance with the Regulator's Code of Practice and compliance with investigations by the Regulator. There are contractual penalties for failing to meet these requirements. The major private laboratories and all police forces are currently part of the procurement framework – but this may not always be the case. There is also the possibility at some point the standards requirements could be forced out of the contracts under the framework due to pressure on all sides to reduce costs.

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<sup>1</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009F0905:EN:HTML>

7. Some of the safeguards above, such as contractual obligations, do not extend to the provision of forensic services to the defence. Provision of forensic services to the defence is more fragmented, and without the co-ordinating and gate keeping role of national police leads and the Crown Prosecution Service, a voluntary and co-operative approach is less effective. Standards for forensic service providers for the defence rely on a case by case assessment by legal representatives procuring the service.

## **A.2 GROUPS AFFECTED**

### *Police forces*

8. All England and Wales police forces will be required to comply with the Code, including ISO 17025 accreditation where appropriate, for their in house forensic work. The scope of 'forensics' will be defined more fully as part of the consultation. The Forensic Regulator already has an agreement with ACPO (Association of Chief Police Officers) that forces will obtain 17025 accreditation in areas the Regulator considers necessary.

### *Forensic service providers on the national procurement framework*

9. All forensic service providers will be required to comply with the Code, including ISO 17025 accreditation where appropriate. This is already written into the contracts between police and FSPs as part of the national procurement framework, which comprises 13 FSPs supplying the vast majority of police forces outsourced forensic services.

### *Forensic service providers NOT on the national procurement framework*

10. Certain specialist or infrequently used services are supplied to the police by companies outside the procurement framework. Forensic service provision to the defence is outside the framework (although some companies on the framework do defence work). All of these providers will be required to comply with the Code, including ISO 17025 accreditation where appropriate. There is no agreement already in place with these providers. Some may meet the standards already, and some will not. These companies will usually be small (less than 10 people, many less than 5 including sole practitioners).

### *Defence solicitors, defendants and Legal Aid Agency*

11. Defence solicitors procuring forensic services would have to find suppliers that met the statutory standards. Costs of meeting standards could be passed on to the defendant. For legal aid cases where there are caps on rates for forensic experts, there could be a reduced supply.

## **A.3 CONSULTATION**

### **Within Government:**

12. The Forensic Policy Group and the Forensic Regulator's Advisory Council have been consulted on this policy. These groups include representation from national policing leads, police force forensic managers, the CPS (Crown Prosecution Service) and the Association of Forensic Service Providers as well as the Regulator himself. The Ministry of Justice and Legal Aid Agency have been consulted.

### **Public Consultation:**

13. A public consultation is being carried out alongside this impact assessment. The consultation will give all affected groups a chance to comment on issues such as the range of forensic disciplines to which standards should apply, which organisations should have regard to a statutory Code, appropriate enforcement, and the estimates used in this Impact Assessment.
14. This policy has been discussed in Parliament by the Science and Technology Select Committee, who published their report on 26 July.

## **B. Rationale**

15. The Forensic Regulator has previously ensured the quality of forensic evidence to the Criminal Justice system on a voluntary basis; relying on co-operation from the police and the limited number of commercial providers. The forensics market is changing, due in part to pressure on all sides to reduce costs. Police are doing more forensics work in-house and smaller enterprises are entering the market, where until 2011 it was dominated by a single Government owned company the FSS (Forensic Science Service). The value of the outsourced market has fallen rapidly (from an estimated £170 million/year whilst the FSS were in place, to an estimated £60 million in 2013-14<sup>2</sup>).
16. More companies in the market are likely to make it harder to ensure the quality of forensics, and in particular to ensure that providers of forensic work have obtained the ISO17025 standard, a European-wide benchmark of quality. Some internal police force labs have not yet acquired this accreditation, and it is also likely that some private providers may be lacking it too. The pressure to reduce costs along with changing market structure - organisations may enter and leave the market more rapidly – is likely to make it harder for the Regulator to build the kind of relationships which have previously allowed voluntary regulation to be successful.
17. All of these factors mean there is an increased risk that in the future, a forensic service provider (or police force carrying out forensic work in house) may decide not to, or be unable to, comply with the existing non statutory standards and Code of Practice set by the Regulator. Equally an organisation could, in the future, refuse to comply with an investigation or suggested improvements

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<sup>2</sup> Association of Forensic Service Providers

instigated by the Regulator following a serious quality breach. In short – the quality of forensic evidence might decline and result in miscarriages of justice.

18. Creating a statutory code of practice for forensic service providers will ensure that all companies are operating at the same level. This will ensure that small and medium enterprises are not at a disadvantage and are not undercut on quality and cost by police labs that can produce forensics in house for less. Provided that they also comply with the statutory standards, this will also ensure that the market remains accessible to new SMEs.
19. There is therefore a strong rationale for intervention to firm up the regulators role and ensure all providers of forensics reach the required standard of quality.

## **C. Objectives**

20. This policy will help ensure the integrity of all forensic evidence used by the criminal justice system. The objective is to protect against miscarriages of justice or lost prosecutions that could result from poor quality or incorrect evidence, and to maintain the trust of the public and the judiciary in forensic evidence used in criminal proceedings. A further objective is to support a competitive market by ensuring a level playing field between the police and private providers on quality standards.

## **D. Options**

The options considered in this IA are:

### **Option 1: Do nothing**

21. Continue with Regulator's non statutory role and non statutory Code of Practice. Continue with a system whereby he can only investigate with consent of the organisation concerned.

### **Option 2: Introduce a statutory role of Forensic Regulator, statutory Code of Practice to which any organisation providing or procuring forensic services must comply, and statutory power to investigate serious quality failures.**

22. Option 2 aims to put the role of the Forensic Science Regulator on a statutory basis, to strengthen his position and independence from the Home Office and give further weight to his recommendations.
23. The Regulator's Code of Practice will be put on a statutory basis, and any organisation providing or procuring forensic services for the criminal justice system (including police forces and private laboratories, expert witnesses, prosecution and defence) must have regard to it.
24. The Code incorporates requirements for ISO17025 accreditation for laboratories, widening the scope set out in the EU framework to make it more appropriate to the UK forensic market.

25. The Regulator's powers to investigate will be put on a statutory basis, reducing the possibility of an organisation refusing to co-operate.
26. Because forensic evidence usually ends up in court, having statutory regulation may be sufficient as non compliance could be challenged in court. It is proposed that the Regulator would also have the power to recommend that the UK Accreditation Service (UKAS) review an organisation's accreditation, and the power to recommend that the organisation be suspended from the national forensic procurement framework. However further enforcement powers will be considered as part of the consultation, including financial penalties or a public register of non compliant organisations.

**Option 2 is the preferred option.**

## **E. Appraisal**

### **E.1 GENERAL ASSUMPTIONS AND DATA**

#### *Prosecution forensic service providers' market*

27. All prosecution forensics are supplied by companies on the police procurement framework. These companies all meet the required accreditation standards.

#### *Defence forensic service providers' market*

28. We assume that SMEs will comprise a large proportion of the market for forensic services to the defence, but data is not held centrally on the provision of forensics to the defence. We assume that they are less likely to have accreditation. These small forensic service providers will often be providing a specialised service, in just one area of forensics.
29. In 2011-12 there were 620,250<sup>3</sup> crown and magistrates court cases involving legal aid, out of a total of 1,533,920<sup>4</sup> defendants proceeded against in – equivalent to approximately 40%.
30. An estimated £4.33 million was spent on expert services for legal aid criminal cases in 2011-12 for the defence<sup>5</sup>. From experience, the Home Office estimate that £1.25 million of that would be spent on forensics services requiring accreditation.
31. But forensics services may be used in all defence cases, not just those involving legal aid. So we assume that the composition of expenditure across the total defence spend is the same as for those cases involving legal aid. The above

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<sup>3</sup> Legal Services Commission legal aid statistics: <http://www.justice.gov.uk/publications/corporate-reports/legal-services-commission>

<sup>4</sup> Ministry of Justice Criminal Justice statistics: <https://www.gov.uk/government/publications/criminal-justice-statistics-in-england-and-wales-earlier-editions-in-the-series>

<sup>5</sup> Legal Aid agency

information is used to produce an estimate of the total annual defence spend in scope of required accreditation of £3.1 million<sup>6</sup>.

#### *Initial police accreditation cost*

32. Police laboratories have outlined how much it would cost them to receive full accreditation. Some costs were given as a range. We have looked at the lower and upper bound and taken a mid-range best estimate. A full breakdown of police accreditation costs can be found at Appendix A.

**Table 1 – Total initial accreditation costs for police laboratories<sup>7</sup>**

Lower	£	62,180
Upper	£	93,416
<b>Best</b>	<b>£</b>	<b>77,798</b>

#### *Annual police accreditation*

33. Annual expenditure by police forces on maintaining their accreditation. (See Appendix A for full details).

**Table 2 – Total annual accreditation costs for police laboratories<sup>8</sup>**

Lower	£	47,741
Upper	£	61,416
<b>Best</b>	<b>£</b>	<b>54,629</b>

#### *ISO 17025 accreditation cost*

34. Rather than simply being a certificate, accreditation is gained from maintaining quality standards in forensic procedures. Accreditation costs include accreditation fees and other costs such as quality managers, internal audits and proficiency tests. The cost of accreditation therefore increases with the size of the business and laboratory that is being operated.
35. The current cost to the private forensic laboratories of obtaining annual accreditation, and complying with other aspects of the Regulator's Code of Practice, is estimated at 15% of turnover<sup>9</sup>. We assume this ratio will hold across all forensic providers.
36. Assuming that the ratio of initial to annual accreditation costs from the police is the same for business, we estimate that:

<sup>6</sup> 1.25 million/40%=3.1 million

<sup>7</sup> Year to October 2012.

<sup>8</sup> Year to October 2012.

<sup>9</sup> This was reported by some of the firms in the Police procurement framework.



- **Initial accreditation = 21.4%<sup>10</sup> of annual turnover**
- **Annual accreditation =15% of annual turnover**

### **Option 1 : Do nothing**

37. There are no additional costs and benefits to the baseline associated with the do nothing option

**Option 2: Introduce a statutory role of Forensic Regulator, statutory Code of Practice to which any organisation providing or procuring forensic services must comply, and statutory power to investigate serious quality failures.**

## **E.2 COSTS**

### **Costs to business**

#### ***Transition costs***

##### *Initial accreditation costs*

38. We know that all companies supplying forensic evidence to the prosecution already have full accreditation. Therefore there are no additional costs for these businesses. It is estimated that the market value in scope for accreditation for businesses supplying forensics to the defence is £3.1 million.

39. Initial accreditation costs are therefore estimated to be up to £0.6m (21.4% of £3.1m).

40. To avoid underestimating the costs we model an upper bound of complete non-compliance, implying that all accreditation costs would be additional, and a lower bound of full compliance and no additional accreditation costs. Without more specific information, we calculate the best estimate as the mid point between these two.

41. Therefore we estimate that the additional **initial cost of accreditation for business is £0.3 million** (with an upper bound of £0.6 million).

#### ***Annual monetised costs***

##### *Annual accreditation costs*

42. Private forensic service providers must pay annually to maintain their quality standards and therefore their accreditation. We assume that the same companies who would not comply with the standards for initial accreditation would not voluntarily comply annually. This market value of £3.1 million is then multiplied by the 15% of turnover that companies must pay for annual accreditation. We model an upper bound of complete non-compliance and lower bound of full compliance. The best estimate is the mid point between these two.

43. Therefore we estimate that the additional **annual cost of accreditation for business is £0.2 million** (with an upper bound of £0.4 million).

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<sup>10</sup> 15%/(£54,629/£77,798)

## **Costs to the public sector (police/LAs/the courts)**

### ***Transition costs***

#### *Initial accreditation costs*

44. Information as of June 2013 suggests 9<sup>11</sup> police forces (out of 43) will not make the November 2013 deadline for accreditation as they have agreed to. By the time of the second deadline, in 2015, it is not certain all forces will wish to continue with the agreement. Option 2 may therefore impose costs on forces not willing/able to meet the standards on a voluntary basis.
45. To avoid underestimating the costs we assume that all 9 of the aforementioned forces would not voluntarily comply with the standards. We are unsure of the level of accreditation that these laboratories might already have. We have used a best estimate between the upper bound of complete non-compliance and full accreditation costs and a lower bound of full compliance and no accreditation costs.
46. Therefore we estimate the additional **initial cost of accreditation to Police forces to be £0.4 million** (with an upper bound of £0.8 million).

### ***Annual monetised costs***

#### *Annual accreditation costs*

47. We also assume that the 9 forces that are unlikely to comply by November 2013 would remain non-compliant each year thereafter.
48. We have used a best estimate between the upper bound of complete non-compliance and full accreditation costs and a lower bound of full compliance and no accreditation costs.
49. Therefore we estimate the additional **annual cost of accreditation to Police forces to be £0.3 million** (with an upper bound of £0.6 million).

### ***Annual non monetised costs***

#### *Cost to defence solicitors, Legal Aid Agency and defendants*

50. There would be a limited cost to solicitors and the Legal Aid Agency in checking that chosen forensic service providers have the necessary accreditation for services involving forensic analysis. Case file reviews and expert opinions will not be included unless testing and analysis of evidence has been involved, which will limit the number of cases where this is applicable.
51. We estimate these costs to be **negligible**.

## **E.3 BENEFITS**

### **Benefits to business**

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<sup>11</sup> Information from Home Office CAST (Centre for Applied Science and Technology).

## ***Non monetised benefits***

### *Efficiency savings*

52. Implementing quality standards has benefits for both police forces and forensic service providers. These will include efficiency savings, as documenting processes will remove duplication of effort and identify ineffective processes. It will also reduce errors, with the attendant loss of reputation and public confidence which could damage a business or lead to increased challenges of evidence in court. The assessment process provides assurance of the ongoing competency of staff.
53. Organisations also benefit significantly from the Regulator carrying out an investigation in response to a serious quality failure. Such an investigation provides advice in rectifying the problem and, once concluded and any recommendations acted upon, will help restore CJS confidence in the organisation's work.

### *Competitiveness*

54. Small and medium commercial providers will be less likely to be undercut by in house providers that are not subject to as much scrutiny and may not meet required standards. Under option 2 all forensic providers, both in house and private, must comply with the same standards.

## **Benefits to the public sector (police/LAs/the courts)**

### ***Non monetised benefits***

#### *Integrity of forensic evidence*

55. Data is not available on the number of lost prosecutions or miscarriages of justice resulting from below standard forensic evidence, but there have been high profile examples<sup>12</sup>. Quality standards will prevent systematic poor quality analysis and errors resulting from poor processes. Whilst quality standards will not always prevent human error, where such an error does occur it will be identified more quickly and will be easier to isolate, meaning the review of other affected cases will be smaller and could be completed more quickly. The process to document and investigate any error or non-conformance would ensure that the impact is contained and any necessary improvements made to reduce the likelihood of a repeat.

#### *Cost to defence solicitors, Legal Aid Agency and defendants*

56. There are benefits to defendants, solicitors and the LAA including an easier method of identifying high standard providers and greater assurance in the analysis provided.

#### *Uniform standards*

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<sup>12</sup> <http://lawcommission.justice.gov.uk/areas/expert-evidence-in-criminal-trials.htm>

57. The public, both victims and defendants, will be getting a uniform standard of work in support of their case, without variations based on geographical location or whether they fall on the defence or prosecution side. Quality standards ensure impartiality, due to requirements for peer review and dip sampling.

#### **E.4 NET EFFECT**

**Table 3 – Estimated Net Present Value (NPV) for Option 2**

	<b>Average annual net benefits (£m)</b>	<b>NPV (£m)</b>
Lower bound	0	0
Upper bound	-1.1	-9.2
<b>Best estimate</b>	<b>-0.5</b>	<b>-4.6</b>

58. This assumes a lower bound of full compliance across the board currently and no transition or annual costs.

59. The upper bound assumes transition costs of £1.5 million and annual costs of £1.0 million thereafter with an annual average cost of £1.1 million.

60. The best estimate assumes transition costs of £0.8 million and annual costs of £0.5 million thereafter with an annual average cost of £0.5 million.

61. The best estimate of the net present value of Option 2 is -£4.6 million discounted over 10 years. This does not include any non monetised benefits.

#### **E.5 ONE IN; TWO OUT (OITO)**

62. Option 2 has an on-going year-on-year impact on businesses and is therefore in scope for OITO.

63. This policy would generate costs to business of between £0 and £0.4 million. The best estimate of costs to business is £0.2 million per annum. This equates to a **NET IN of £0.2 million** per year, EANCB (2009 prices).

### **F. Risks**

#### **Option 1 : Do nothing**

64. There is a risk under option 1 that without statutory standards, voluntarily compliance may begin to slip. This could mean that all forensic evidence providers may be inclined to produce sub-standard forensic evidence. This in turn could lead to an increase in the number of lost prosecutions or miscarriages of justice resulting from below standard forensic evidence.

65. Police forces may prefer to produce more of their evidence in house and below the voluntary standards. This would allow them to cut costs but could drive some independent forensic evidence providers out of the market.

**Option 2: Introduce a statutory role of Forensic Regulator, statutory Code of Practice to which any organisation providing or procuring forensic services must comply, and statutory power to investigate serious quality failures.**

66. The forensics market is unstable: value decreasing rapidly, some private organisations facing financial difficulties and large swings in market share due to retendering of regional contracts with police forces. Retenders under the framework are all scheduled for the same time in summer 2014, meaning there could be an extremely large turnaround in these market shares/staff numbers. Rapid expansion/reduction has taken place in the past.

67. The budget for the forensic regulator and his team is currently, under option 1, approximately £800,000 pa. It is not anticipated that this would increase under Option 2. However there is a risk that if the statutory regime proved insufficient, and an enforcement regime was implemented, this might have to increase significantly.

68. This impact assessment assumes that the scope of the Regulatory Code will remain the same when the code is transferred into statute. This could mean that the scope of areas requiring accreditation may be extended beyond what is currently anticipated. (The current accreditation costs are based on accreditation for DNA and fingerprint laboratories; increasing the scope will increase costs beyond that). Standards in the Regulator's Code are designed to be aligned to working practices so many of the costs stem from the principles of good management which should be in place anyway. This should mean that costs should not increase too much, even if the scope of areas requiring accreditation are extended.

69. There is limited information about the additional costs associated with compliance with the Regulator's Code in full, as opposed to just ISO17025 accreditation which is its main focus. A pilot is being undertaken by October this year to assess the extra standards required as part of the Code but these costs may increase.

70. Forensic service providers which are not already compliant with the standards might pass on the costs of implementation to defendants. Where legal aid standard fees apply, and providers are unable to increase their fees, this could result in a reduced supply of providers for legal aid cases

71. There is limited information available about companies providing forensic services to the defence. These are likely to comprise mainly small companies (<20 employees). Although we have tried to take an upper bound approach, there is a risk that these may be over estimates of the costs businesses might face.

72. We have appraised option 2 on the assumption that police forces are operating on a national model in obtaining accreditation for in-house forensics – but the introduction of PCCs could affect that approach.

## F. Enforcement

73. We would assume that police forces, by nature, would not break the law and produce sub-standard forensic evidence. As private forensic firms are supplying forensic evidence to the legal industry we also consider it unlikely that they would produce sub-standard forensic evidence. There is some risk that private forensic firms supplying to the defence may fall below legal standards and this may require enforcement, this would most likely come from the Regulator and his current budget.

74. We will consult on enforcement during the consultation period.

## H. Summary and recommendations

**Table 4 – Summary of costs and benefits (best estimate)**

Option	Costs	Benefits
2	<p><b><i>Monetised</i></b></p> <p>Initial accreditation costs for the police laboratories and private forensic companies <b>£0.8 million</b></p> <p>Annual accreditation costs for the police laboratories and private forensic companies <b>£0.5 million</b></p> <p>Costs to the public sector in checking forensic accreditation. <b>Negligible</b></p>	<p><b><i>Monetised</i></b></p> <p>The benefits are unable to be monetised.</p>
	<p><b><i>Non-monetised</i></b></p> <p>All costs have been monetised.</p>	<p><b><i>Non-monetised</i></b></p> <p>Less chance of a miscarriage of justice and maintaining public trust in forensic evidence.</p> <p>Keeping to required standards will provide efficiency savings.</p> <p>Commercial providers will be less likely to be undercut by in house forensics offering sub standard forensics.</p>

Source: HO modelling

Table presents the total quantified (best estimate) and non monetised benefits, discounted over 10 years. Net present values are calculated over 10 years.

## **I. Implementation**

It is intended to consult on these proposals by the end of 2013, following which the final proposals will be developed. If, following the consultation it is decided to proceed with statutory regulation, the legislative changes will be implemented at the earliest opportunity.

## **J. Monitoring and evaluation**

Monitoring and evaluation of the effectiveness of the regulation would be part of the Regulator's statutory role. It is intended that the Regulator would produce an Annual Report for Parliament on this.

## **K. Feedback**

The public consultation will seek views on the initial proposals. The Regulator is advised by a number of committees drawing from a wide range of expertise; any subsequent feedback would be via this mechanism.

## **Appendix A.**

75. For both private laboratories and police forces, the scope of services offered and the individual approach will change the cost profile. Influencing factors are:

- There are significant additional costs in adding new services or introducing new techniques.
- The scope of activities will affect the number of required Standard Operating Procedures, audits and surveillance visits needed.
- The position of the organisation before gaining accreditation. For instance if an organisation has poor facilities, or has not invested in competence then costs will increase.
- Whether pre-assessments have been undertaken, or if initial assessment has been requested.
- If corrective actions identified during the pre-assessment have been implemented to a satisfactory degree.

76. In general, if an organisation has poor or undocumented procedures and lack of internal auditing, accreditation is going to cost them more.

77. The table below shows the breakdown of accreditation costs for police forces however the components of accreditation will be similar for private forensic firms.



**Table A – Breakdown of police force accreditation costs (Year to Oct. 2012)**

Accreditation Balance Statement (1 <sup>st</sup> Year)					
Item	Fixed Cost	Variable cost <b>lower</b>	Variable cost <b>upper</b>	Variable cost <b>best</b>	Source
Application Fee	1,200				UKAS Fee Summary 2012/13
Cost of Standard	156				BSI
Annual Cost of Quality Manager (QM) with on-cost @18%		38,350	49,560	43,955	Force Consultation
Development of QMS (excluding QM) *		1,000	3,000	2,000	Force Consultation
Development of SOP (excluding QM) *		4,500	13,500	9,000	Force Consultation
Validation Costs		1,615	3,000	2,308	Force Consultation
Pre-Assessment Fee *		4,439	5,500	4,969	UKAS Fee Summary 2012/13
					Force Consultation
Initial Assessment Fee *		4,500	9,900	7,200	UKAS Fee Summary 2012/13
					Force Consultation
Annual Management Fee	100				UKAS Fee Summary 2012/13
Standard Assessment Day Rate (6 month surveillance audit + NC's)		3,020	4,000	3,510	UKAS Fee Summary 2012/13
					Force Consultation
Internal Auditing		3,300	3,500	3,400	Force Consultation
<b>Initial accreditation TOTAL</b>		£62,180	£93,416	<b>£77,798</b>	
<b>Annual accreditation TOTAL</b>		£47,741	£61,416	<b>£54,629</b>	

\* These costs are only applicable in the first