

Title: Changes to the Police Disciplinary System: Holding disciplinary hearings in public; introducing legally-qualified chairs in disciplinary hearings; and changes to chief officer compensation payments. IA No: HO0153 Lead department or agency: Home Office Other departments or agencies: N/A	Impact Assessment (IA)			
	Date: 17 th November 2014			
	Stage: Consultation			
	Source of intervention: Domestic			
	Type of measure: Primary/Secondary			
Contact for enquiries: Police Regulations Consultation Team: policeregsconsultation@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 One-In, Two-Out? Measure qualifies as
-£2.24m	£0m	£0m	No N/A

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

Public perception of police integrity has suffered in the wake of incidents including 'Plebgate', the findings of the Ellison review into the investigation of the murder of Stephen Lawrence, and the findings of the Hillsborough Independent Panel. Police disciplinary hearings, police appeals tribunals, and police special case hearings are currently held in private, shrouding them in an unnecessary air of secrecy. In a system of policing by consent, it is vital that the police maintain, and are seen by the public to maintain, the highest standards of integrity. Government intervention is required to increase the confidence of the public in the police by making the police disciplinary system more just and by opening it to public scrutiny.

What are the policy objectives and the intended effects?

The Government aims to increase the confidence that the public have in the integrity of the police and to increase the justness of the police disciplinary process. The effect of this will be to improve the efficacy of the police force, which relies on the trust of the public to police by consent, and to improve police-public relations.

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

Option 0 - Do nothing.

Option 1 (preferred)- Amend the Police (Conduct) Regulations 2012 so that:

- Police disciplinary hearings and appeals made to Police Appeals Tribunals are held in public by default.
- Disciplinary hearing panels for senior officers are given the ability to remove or adjust compensation payments, as laid out in a chief officer's contract of appointment, if they are subject to a disciplinary finding.
- Legally qualified persons replace senior officers to chair disciplinary hearing panels.

Option 1 is the preferred option as it should make the police disciplinary system more just and open to public scrutiny.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 2019					
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 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

Policy Option 1

Description: Amend the Police (Conduct) Regulations 2012 so that: police disciplinary hearings and appeals made to Police Appeals Tribunals are held in public; disciplinary hearing panels for senior officers are given the ability to remove or adjust compensation payments; legally qualified persons replace senior officers to chair disciplinary hearing panels.

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2014	Time Period 10 Years	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -£2.24m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate		£0.4m	£3.01m

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

Police forces: administering the hearings is estimated to cost approximately £279k per year – or £600 per hearing. For appeals cases, we estimate the cost could be around £71k per year, based on the current rate of 25.6% of cases that reach the appeal stage.

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

Police officers & Special constables: there are likely to be familiarisation costs to officers subject to the disciplinary process, and a potential cost of damage to their reputation from the public proceedings.
Chief officers: there is likely to be a cost to chief officers who are subject to a disciplinary finding, should disciplinary hearing panels exercise the power to remove or adjust their compensation payments.
Public: costs of attending to observe hearings in public.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	£0.09m	£0.77m

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

There will be a saving to police forces from changing the composition of disciplinary hearings panels. Police forces will pay the fees for legally qualified chairs rather than using senior officers. The fees for legally qualified chairs is more than offset by freeing up the time of the senior officer who currently chairs the hearings and removing the need (in 47% of cases) for legal advisors. Changing the composition of the hearings decreases overall costs by about £194 per case on average, amounting to £90K per year.

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

Police & Crime Commissioners: reducing the compensation that is paid to chief officers who are the subject of a disciplinary finding.
Police forces: Potential reductions in number of appeals on technical grounds as a result of legally qualified chairs. Public hearings may increase admissions of wrongdoing and speed up the process.
Public: will benefit from a more efficient & effective police disciplinary system, improving public confidence.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
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- 1) There is an assumption that holding disciplinary and appeals tribunal hearings in public will help to increase the confidence that the public have in the police.
- 2) We assume that police forces can accommodate public hearings within current facilities at minimal cost.
- 3) We assume there will be an average of 465 cases proceeding to disciplinary hearing per year. The costs and benefits of this policy will vary in proportion to any changes in the number of cases.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: £0m	Benefits: £0m	Net: £0m	No	N/A

Evidence Base

A) Problem under consideration

1. Public perception of police integrity has suffered in the wake of incidents including 'Plebgate', the findings of the Ellison review into the investigation of the murder of Stephen Lawrence, and the findings of the Hillsborough Independent Panel. Over time a number of specific issues have arisen which raise serious questions about the effectiveness of the disciplinary system and have the potential to reduce confidence of the public in the disciplinary system.
 - Police disciplinary hearings, police appeals tribunals, and police special case hearings are currently held in private, shrouding them in secrecy
 - The process is entirely managed by the police themselves
 - When chief officers are subject to a disciplinary finding, they are still entitled to full compensation payments, as stipulated in their contract of appointment, if their fixed term appointment is not extended or they are required to resign.

B) Rationale for intervention

2. The problems outlined above prevent the police maintaining, and being seen by the public to maintain, the highest standards of integrity.
3. Government intervention is required because it maintains the regulatory framework for the current disciplinary system. Due to a number of high profile cases, the integrity of the disciplinary system has often been called into question; therefore there is a need to take action to ensure that the system is effective and commands public confidence.

C) Policy objective

4. The policies under consideration aim to increase the confidence that the public have in the integrity of the police and increase the justness of the police disciplinary process by changing the system to:
 - Improve justice
 - Introduce greater independence
 - Improve transparency

D) Options considered

Option 0: do nothing

5. The Police (Conduct) Regulations 2012 and the Police Appeals Tribunal Rules 2012 will remain unchanged.

Option 1: amend Police (Conduct) Regulations 2012 regulations and Police Appeals Tribunal Rules 2012 so that:

a) Police disciplinary hearings, appeals and special case hearings are held in public by default

6. The intention is that misconduct hearings for higher level cases that could lead to dismissal will be public by default. This includes both misconduct hearings and special case hearings but does not include lower level misconduct meetings, which the Government does not intend to make public. Appeals hearings held by Police Appeals Tribunals will also be made public by default.

7. There will be certain situations where it will be necessary and appropriate for all, or parts of, a police disciplinary or appeal hearing to be held in private. The senior officer or legally-qualified person chairing the panel will have to make decisions about when it will be appropriate to exclude the public and to hold either all or part of a hearing in private.
8. In assessing whether the public should be excluded from a hearing or any part of a hearing there are a number of things that may need to be taken into account, including:
 - The transparency of the police misconduct and/or complaints system;
 - The wider public interest in the proceedings;
 - The vulnerability, physical and mental health and/or the welfare of any witnesses who may be called to give evidence at the hearing;
 - Where a misconduct hearing is being held as a direct result of a public complaint; the vulnerability, physical and mental health and/or the welfare of the complainant(s);
 - The physical and mental health and/or welfare of the officer(s) subject to the misconduct hearing;
 - The welfare of any third party not listed above, i.e. where a hearing could disclose personal information relating to a third party;
 - Any factors relating to sensitive police operations that may not be appropriate for public disclosure, including where there would be a risk of the identification of covert human intelligence sources, confidential informants or covert police assets;
 - Whether holding a hearing in public would jeopardise or interfere with any criminal proceedings;
 - Whether holding the hearing would interfere with the prevention or detection of crime or the apprehension of offenders; and
 - Any relevant national security issues.
9. These factors will also need to be taken into account when deciding whether an officer should be named prior to a hearing when the details of the hearing are published.
10. The Independent Police Complaints Commission (IPCC) is a participant at certain misconduct hearings and complainants and interested persons are granted certain rights in relation to their attendance at such hearings. The proposal to hold hearings in public would leave all of the current rights granted to complainants and interested persons intact.
11. The police force will be responsible for publishing, with sufficient notice, the date, time, and place of the hearing in an easily accessible location, together with instructions on how members of the public can attend a hearing and an explanation of any necessary and proportionate rules governing public attendance as specified by the police force. As attendance at police misconduct hearings may involve members of the public being granted access to police premises it may be appropriate for forces to require attendees to produce valid identification documents.
12. It is possible that public access to hearings could also be granted by the use of a live stream to a more accessible location or to the web. Members of the public wishing to attend a hearing will be required to do so at their own expense, except where they are attending as a witness. The police force will be expected to meet the reasonable expenses of any witnesses.

13. It is likely that the taking of photographs during the hearing will be prohibited. The use of sound recording equipment during the hearing will also be prohibited unless expressly agreed by the Chair. The use of live, text-based communications for the purposes of simultaneous reporting of proceedings with the outside world may be permitted if the Chair is satisfied that it does not interfere with the orderly conduct of proceedings.

b) Disciplinary hearing panels for senior officers are given the ability to remove or adjust compensation payments, as laid out in a chief officer's contract of appointment, if they are subject to a disciplinary finding (Winsor recommendation 51)

14. To improve justice, the disciplinary hearing panels for senior officers will be given the ability to remove or adjust compensation payments for a chief officer's contract of appointment if they are subject to a disciplinary finding, if the fixed term appointment is not extended or they are required to resign.

15. The Government intends to amend regulations so that the panel at either a misconduct meeting or a misconduct hearing can prohibit the payment of such compensation to the officer, either in full or above a certain amount, or provide that the payment should be calculated differently, if the officer is given a final written warning. A final written warning is the most stringent sanction that can be applied short of dismissal. The intention is to ensure that a judicious decision can be made regarding the compensation due to officers that, whilst not dismissed, were found to have committed serious enough acts to justify a final warning.

16. This measure reflects recommendation 51 of the independent Winsor review of police officer and staff remuneration and conditions.

c) Legally-qualified chairs are introduced into disciplinary hearings

17. Legally-qualified chairs will replace the senior officer that currently chairs the panel of a disciplinary hearing, and the chief officer in a special case hearing. There will be no change to the composition of panels for senior officers, or for misconduct meetings or appeal hearings.

E) Costs and benefits of each option

Option 0: do nothing

18. There will be no impact.

Option 1: Amend regulations to: (a) hold disciplinary hearings and appeals tribunals in public, (b) implement recommendation 51 of the Winsor review, and (c) introduce legally qualified chairs to disciplinary hearings.

19. The costs and benefits of this option are considered for each of the three main proposals in turn.

a) Police disciplinary hearings, appeals and special case hearings are held in public by default

Costs

20. There is likely to be an additional financial cost to police forces to administer the hearings in public. We estimate this could cost approximately £600¹ per hearing, which amounts to £279k per year based on 465 disciplinary and special case hearings annually. The assumption of 465 cases per year is a central assumption used throughout this IA. It is based on the fact that in 2012/13 there were 285 cases at hearing stage, and that Police forces estimate that this will increase to 465 cases per year, taking into account the forthcoming change to prevent officers resigning or

¹ Figure of £600 is based on responses from a range of Professional Standards Departments on the costs of administering the hearings,

retiring to avoid disciplinary action. Data was provided by the College of Policing on the potential number of additional cases.

21. For appeals cases, we estimate the cost could be around £71k, based on the current appeal rate of 25.6%² cases reaching the appeal stage. Together with the £279k figure, this totals £0.4m per year and a net present value of £3.0m over ten years. We will call for more evidence about the potential costs of holding hearings in public as part of the consultation so that we can better assess the impact of the policy.
22. There are also some non-monetised costs related to this measure. There may be a minimal cost involved in publishing the details of the hearing. There will be a cost to officers in terms of damage to their reputation if there is an adverse outcome for them and that information is made public. There will also be travel costs for any members of the public who elect to attend the public hearings, though we assume that these would be outweighed by the non-financial benefit they gain from attending. There may be a familiarisation cost to police forces, panel members and police officers as a result of this change to the process which we cannot adequately quantify as the impact will vary by individual and police force.

Benefits

23. Holding misconduct hearings, special case hearings and appeal hearings in public by default should:
 - Ensure that the robust response to misconduct that police forces take is visible;
 - Promote greater consistency in decision making by panels;
 - Ensure that the panels for such hearings discharge their duties with the greatest possible degree of professionalism;
 - Ensure hearings proceed, and decisions get made, in an expeditious manner; in future where the panel is dilatory this would be exposed to the public and in the media;
 - Encourage only legitimate legal arguments to be made in defence of officers; and
 - Increase the deterrent effect on other officers through greater visibility of outcomes.
24. There is no suitable evidence or data available at this stage to enable us to reliably monetise these benefits.

b) Disciplinary hearing panels for senior officers are given the ability to remove or adjust compensation payments, as laid out in a chief officer's contract of appointment, if they are subject to a disciplinary finding (Winsor recommendation 51)

Costs

25. There is a likely cost to chief officers who are subject to a disciplinary finding, should disciplinary hearing panels exercise their new power to remove or adjust compensation payments. These have not been monetised at this stage due to the variance in contractual conditions and the unpredictability of cases that occur. We will ask for evidence about the impact of this proposal as part of the consultation. There may be a familiarisation cost to police forces, panel members and police officers as a result of this change to the process which we cannot adequately quantify as the impact will vary by individual and police force. We will ask for evidence of familiarisation costs in the consultation so that we can better assess the impact of the policy.

Benefits

26. There will be some financial savings for Police and Crime Commissioners where compensation payments are reduced or removed. The number of cases is generally expected to be low and the amount of compensation could vary significantly. The number of senior officer cases where this could apply varies significantly. The levels of compensation are also likely to vary between contracts. We have therefore not included a monetised estimate at this stage, but we will ask for

² Based on data collected from Professional Standards Departments for 2012-13 cases.

more data on this as part of the consultation to help assess the impact of the policy. Other benefits are that this may increase the deterrent effect for other senior officers and it will also demonstrate a fairer approach to compensation awards.

c) Legally qualified chairs are introduced into disciplinary hearings

Costs

27. There will be costs from paying the fees for legally qualified chairs, but this is considered as part of the net benefit of changing the composition of panels, as described in the benefits section below.

Benefits

28. Police forces will pay the fees for legally qualified chairs rather than using senior officers. The fees for legally qualified chairs is more than offset by freeing up the time of the senior officer who currently chairs the hearings and removing the need (in 47% of cases³) for legal advisors. Changing the composition of the hearings decreases overall costs by approximately £194 per case on average⁴.

29. In 2012/13 there were 285 cases at hearing stage but police forces estimate that this will increase to 465 cases per year, taking into account the forthcoming change to prevent officers resigning or retiring to avoid dismissal. This generates a net benefit of £90,000 per year.⁵

	Average Annual	Total Over Ten Years (NPV)
Number of Hearings	465	4,650
Additional Benefit of Hearings	£90,000	£770,000

30. Because forces will need to pay fees to legally qualified chairs and may not be able to cash the savings from senior officers, on a purely financial level forces may face a cost.

31. There is also likely to be an improvement in the quality of the judgements following a hearing, which should reduce the number of appeals that are lodged on technical issues. It will also introduce more independence into the panel, whilst retaining the expert voice of the police on the panel, which could have a positive impact on confidence of both the public and police officers themselves in the disciplinary system.

F) Rationale for the level of analysis used in this impact assessment

32. Some of the costs and benefits have not been monetised due to a lack of available data. The proposals considered in this IA will be subject to a public consultation process, during which further information and analysis will be sought and, if available, will be incorporated into a final stage impact assessment.

G) Risks and assumptions

³ Taken from data gathered from various police forces' Professional Standards Departments covering cases in 2012-13

⁴ This uses Police estimates of a maximum £1,995 per case for the fees and expenses of a legally qualified chair, which is based on the fees of legally-qualified chairs at Police Appeals Tribunals for a three day hearing. This is compared with a cost of £1,836 for a Chief Constable (based on average salaries in 2013 - including a 17.8% uplift for non-wage labour costs in line with Eurostat average) plus a weighted average cost of £353 per case for legal advisors, which incorporates the 47% figure. The average net saving per case is therefore calculated as £1,836 + £353 - £1,995 = £194.

⁵ The total net benefit is therefore calculated as: (465 x (£1,836 + £353)) - (465 x £1,995) = £1.02M - £0.93M = £0.09M.

33. There is an overall assumption that holding hearings in public will increase the confidence that the public have in the integrity of the police. We will use the consultation to explore the extent to which this is the case. If this assumption was to fail then the benefits associated with this policy would be lower.
34. We assume that police forces can accommodate public hearings within current facilities at minimal cost. We will be asking about any practical factors and additional costs that should be considered.
35. We have used a central assumption of 465 cases reaching the hearing stage each year. This is based on the fact that in 2012/13 there were 285 cases at hearing stage, and that police forces estimate that this will increase to 465 cases per year, taking into account the forthcoming change to prevent officers resigning or retiring to avoid dismissal. Data was provided by the College of Policing on the potential number of additional cases. If there are fewer or more hearings than we have assumed then the monetised costs and benefits would all decrease or increase respectively. The change in monetised costs and benefits would be proportional to the change in this assumption, so if the number of hearings and appeals were 50% fewer than we assume then the costs and benefits would all reduce by 50%.

H) Wider impacts

36. If the policy options outlined in option 1 lead to a more efficient and effective police disciplinary system the result could be an increase in public confidence in the police.

I) Preferred option and implementation

37. Our preferred option is to implement option 1 through amendments to secondary legislation within this Parliament. A monitoring and evaluation plan will be included in the final stage IA.