

<b>Title:</b> Police Whistleblowing: Changes to Police (Conduct) Regulations 2012 and Home Office guidance on police officer misconduct  <b>IA No:</b> HO0175  <b>Lead department or agency:</b> Home Office  <b>Other departments or agencies:</b> None	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> March 2015		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Secondary Legislation		
<b>Contact for enquiries:</b> Police Regulations Consultation Team policeregsconsultation@homeoffice.gsi.gov.uk			

<b>Summary: Intervention and Options</b>	<b>RPC Opinion: N/A</b>
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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
N/K	£0	£0	NO   N/A

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

It is important, given the power they hold, that the police maintain the highest standards of integrity. A key way in which wrongdoing or poor practice in the police can come to light is when the police themselves report it. However these reports are not always made. Police officers may choose not to come forward because they fear disciplinary action against them, other consequences for their career or reprisals from colleagues. Government intervention is necessary so that wrongdoing and poor practice in the police are brought to light whenever possible.

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

The Government aims to increase the confidence of police officers and staff to come forward and report wrongdoing by colleagues and poor practice by their force.

The intended effect of this policy is that a greater proportion of potential whistleblowers will come forward with their concerns.

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

Policy options:

**Option 0:** Do nothing.

**Option 1 (preferred):** Amend guidance and regulation to make it clear that: **whistleblowers should not be subject to disciplinary action as a reprisal for raising a concern; reprisals against whistleblowers should be treated as a conduct matter; and where an allegation is made against a whistleblower, the investigating officer should assess whether it has been made as a reprisal.** This option is preferred as it should increase the confidence of police officers and staff to come forward and report wrongdoing.

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

Does implementation go beyond minimum EU requirements? N/A					
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro N/A	< 20 N/A	Small N/A	Medium N/A	Large N/A
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	Traded: N/A		Non-traded: 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 : Mike Penning Date: 09/03/2015

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Amend guidance and regulation to make it clear that: whistleblowers should not be subject to disciplinary action as a reprisal for raising a concern; reprisals against whistleblowers should be treated as a conduct matter; and where an allegation is made against a whistleblower, the investigating officer should assess whether it has been made as a reprisal.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)			
			Low: N/K	High: N/K	Best Estimate: NOT KNOWN	
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Cost</b> (Present Value)	
Low						
High						
Best Estimate		N/K		N/K	N/K	
<b>Description and scale of key monetised costs by 'main affected groups'</b> No costs have been monetised as cost data is not available.						
<b>Other key non-monetised costs by 'main affected groups'</b> <b>Police forces:</b> could need to carry out extra investigations if a greater proportion of potential whistleblowers come forward about wrongdoing, or if they need to conduct additional investigations into reprisals taken against whistleblowers as a consequence of their initial report. <b>The Independent Police Complaints Commission:</b> there could be a cost to carry out additional investigations if a greater proportion of potential whistleblowers come forward about serious and sensitive matters.						
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Benefit</b> (Present Value)	
Low						
High						
Best Estimate		N/K		N/K	N/K	
<b>Description and scale of key monetised benefits by 'main affected groups'</b> No benefits have been monetised as data is not available.						
<b>Other key non-monetised benefits by 'main affected groups'</b> <b>The wider public</b> may benefit if greater police integrity is achieved. <b>Police forces</b> may benefit by detecting wrongdoing or poor practice earlier if a greater proportion of whistleblowers come forward. There is also a benefit in reducing the likelihood of employment tribunals arising as the result of unfair treatment of whistleblowers by their organisation or colleagues. <b>Police whistleblowers</b> may benefit from a reduced likelihood of unfair treatment by their organisation or colleagues.						
Key assumptions/sensitivities/risks					Discount rate (%)	3.5%
It is not possible to assess how many more whistleblowers will come forward or how many more examples of wrongdoing or poor practice will come to light as a result of these policies. Whistleblowing can be a difficult and stressful decision so it is unlikely that individuals will know how they might feel in different scenarios before they exist in practice. The exact extent of the impact whistleblowers have on maintaining police integrity or the public perception of the police is also unknown.						

## BUSINESS ASSESSMENT (Option 1)

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

## **A) Problem under consideration**

1. Whistleblowing<sup>1</sup> occurs when police officers or staff raise a concern about wrongdoing or poor practice in their force, whether with a line manager, the force Professional Standards Department (PSD), the Independent Police Complaints Commission (IPCC), or occasionally, when necessary, elsewhere. Whistleblowing is not just about addressing misconduct. Individuals may come forward with concerns about wider poor practice, allowing the force to pick up potential problems at an early stage and to learn and improve as an organisation.
2. The Standards of Professional Behaviour set out in the Police (Conduct) Regulations 2012<sup>2</sup> and the Code of Ethics<sup>3</sup>, launched by the College of Policing in July 2014, include a positive obligation for police officers and staff to challenge or report the conduct of colleagues that falls below the expected standards.
3. Many police officers and staff are already prepared to take a stand and become whistleblowers. Police PSDs receive an estimated 3,900 reports a year from concerned officers and staff.<sup>4</sup> There is currently no data available on the outcome of each report but approximately 88% of cases against police officers that are investigated as gross misconduct arise from internal reports, without a public complaint being made<sup>5</sup>. However, there are likely to be times when officers choose not to come forward.
4. In January 2015, Her Majesty's Inspectorate of Constabulary (HMIC) published their report 'Integrity matters: An inspection of arrangements to ensure integrity and to provide the capability to tackle corruption in policing'.<sup>6</sup> The report found that although the overwhelming majority of those within policing were aware of their responsibility to report wrongdoing, and 87% were aware of the methods available to them to do so, there will still cases where officers and staff feared that making a report would have adverse consequences for them. In addition to this, a survey which HMIC carried out as part of this inspection indicated that some officers and staff who have challenged or reported wrongdoing have indeed suffered detriment as a result of reporting wrongdoing.
5. The proposals put forward by the Government and detailed in this impact assessment have been subject to a public consultation, which ran from 18 November 2014 to 2 January 2015. The Police Federation, Superintendants Association and Chief Police Officers Staff Association issued a joint response to this consultation, which recognised that some officers choose not to come forward because of the fear of disciplinary action or other detrimental treatment. The response from the National Black Police Association stated that they had supported 'many' officers and staff who had reported wrongdoing and bad practise, who had then been subjected to 'bullying, harassment, and have had misconduct proceedings wrongly brought against them'.

## **B) Rationale for intervention**

6. There are a number of reasons why officers may choose not to come forward, including: the quality and clarity of the reporting options available to them; a lack of confidence that anything will be done; the fear of disciplinary action, career damage, or reprisals by colleagues; and the culture of the organisation<sup>7</sup>.
7. A reluctance to come forward and report wrongdoing is not unique to the police: similar reluctance can be found in other organisations. Research into whistleblowers across all professions by the charity Public Concern at Work shows that the response that individuals most commonly say they fear is dismissal. At the first time of reporting a concern, 66% of those who feared a specific type of

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<sup>1</sup> Based on the definition in the Public Interest Disclosure Act (PIDA)

<sup>2</sup> Police (Conduct) Regulations 2012: [http://www.legislation.gov.uk/uksi/2012/2632/pdfs/ukxi\\_20122632\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/2632/pdfs/ukxi_20122632_en.pdf)

<sup>3</sup> Code of Ethics: <http://www.college.police.uk/en/20972.htm>

<sup>4</sup> Data from a 2014 Home Office survey of PSDs. This data has not previously been published and is unverified.

<sup>5</sup> Data returned to the Home Office for the period November 2012 – November 2013

<sup>6</sup> <https://www.justiceinspectorates.gov.uk/hmic/publication/integrity-matters/>

<sup>7</sup> Loyens, K. (2013) Why police officers and labour inspectors (do not) blow the whistle: A grid group cultural theory perspective. *Policing: An International Journal of Police Strategies & Management*, Vol. 36 No. 1.

response feared dismissal. The same research found that 24% of individuals are actually dismissed after raising a concern once<sup>8</sup>.

8. It is essential that officers and staff have confidence that reporting wrongdoing will be a positive experience and will not result in detrimental treatment by their force or colleagues. If officers do not come forward it may not allow the resolution of problems and could also harm public trust in the police.
9. Police officers and staff are protected from unfair treatment by their employer and colleagues under the Public Interest Disclosure Act 1998<sup>9</sup>, but this only provides a remedy through the courts when the whistleblower feels they have already suffered detriment. The Government is responsible for the regulations which govern police disciplinary matters, and wants to act to protect officers at an earlier stage.

### **C) Policy objective**

10. Our objective is to increase the proportion of potential whistleblowers that will come forward with their concerns. To achieve this objective, it is necessary to increase the confidence of police officers and staff to come forward and report wrongdoing by colleagues and poor practice by their force.

### **D) Options considered**

#### **Option 0: Do Nothing**

11. Regulations and guidance will remain unchanged.

#### **Option 1: Amend Police (Conduct) Regulations 2012 and Home Office guidance on police officer misconduct, making the following clarifications:**

Clarify that whistleblowers should not be subject to disciplinary action by their force.

12. The Police (Conduct) Regulations 2012 will be amended to state that an officer's actions in making a protected disclosure should not be considered as bringing the force into disrepute or as any other breach of the Standards of Professional Behaviour. This protection would **not** prevent a whistleblower being subject to disciplinary proceedings for actions unrelated to their whistleblowing, or if they are implicated in the misconduct they report

Clarify that reprisals against whistleblowers should be treated as a conduct matter

13. To deter all kinds of reprisals, including false allegations and other kinds of detrimental treatment by colleagues, the Home Office guidance will also make clear that an officer who knowingly takes action as a reprisal against a whistleblower should be considered to have breached the Standards of Professional Behaviour. A reprisal against a whistleblower would be expected to be treated as any other conduct matter, and assessed and investigated where evidence is available.

Clarify that where an allegation is made against a whistleblower, the investigating officer should assess whether it has been made as a reprisal.

14. The Home Office guidance will be amended to protect whistleblowers from unfair allegations that could be made against them as a reprisal for whistleblowing. The Government will make it clear that an officer investigating a conduct matter, and any subsequent misconduct hearing or meeting, should consider whether this may be the case before reaching their decision.

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<sup>8</sup> Whistleblowing: the inside story. <http://www.pcaw.org.uk/files/Whistleblowing%20-%20the%20inside%20story%20FINAL.pdf>

<sup>9</sup> PIDA: <http://www.legislation.gov.uk/ukpga/1998/23/contents>

## **E) Consultation**

15. These proposals have been subject to a public consultation. The consultation asked whether safeguards were required to mitigate against any possible negative implications for whistleblowers or the police disciplinary process, and whether any other changes to regulations should be considered.
16. The majority of staff associations were generally in favour of the proposals in option one, whereas the majority of police forces and police and crime commissioners were not, on the basis that they did not believe the proposals would significantly alter existing practice. Seven other stakeholders responded, six of whom were in favour. Several respondents identified further steps that could be taken to encourage whistleblowers to come forward, some of which are covered by measures the Government are already considering or implementing but which were not part of this consultation.
17. During consultation, a number of questions were asked to aid the monetisation of impacts within the consultation Impact assessment. These included
  - What familiarisation costs will there be for police forces? For example the cost of training staff on the new aspects of the system.
  - Are you able to provide any data or estimates that would enable the non-monetised costs in the impact assessments to be monetised?
  - Are there any further costs, benefits, or other impacts that should be considered in the impact assessments? Please provide data or estimates of the costs where possible.
18. Although some respondents provided useful qualitative and anecdotal information, the responses we received did not provide sufficient information to allow the monetary quantification of the impacts of these policies.
19. We also undertook a separate evidence collection exercise, whereby eight PSDs provided responses to a series of questions which were designed to aid the quantification and monetisation of impacts. The responses to this have been informative, but it is clear that data that would assist in the monetisation of these impacts is not currently collected.

## **F) Monetised and non-monetised costs and benefits of each option**

### **Option 0: Do Nothing**

20. There will be no impact.

### **Option 1: Clarify Police (Conduct) Regulations 2012 & Home Office guidance by making amendments**

21. The Government have attempted to identify all of the relevant costs and benefits of these proposals. The consultation process was used to seek further information about the likely costs and benefits of the proposals, and respondents were asked to provide any data that may help to monetise these costs and benefits. The majority of respondents did not comment on costs and benefits, and those that did were not able to provide further data. The separate evidence collection exercise had a sample of ten PSDs, eight of which responded, and was also designed to aid the monetisation of impacts. The responses to this have been informative, but have not provided sufficient information to estimate many of the impacts highlighted below. We have therefore not been able to fully monetise the costs and benefits of these policy proposals.

### **Costs**

22. The costs associated with these amendments are expected to be minimal and will be limited to the public sector.
23. The proposed changes to the Police (Conduct) Regulations 2012 are already set out in the Code of Ethics, which was published by the College of Policing in July 2014<sup>10</sup>. Police officers have a positive obligation to abide by the standards set out in the Code of Ethics, which include a duty to challenge

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<sup>10</sup> [http://www.college.police.uk/What-we-do/Ethics/Documents/Code\\_of\\_Ethics.pdf](http://www.college.police.uk/What-we-do/Ethics/Documents/Code_of_Ethics.pdf)

and report wrongdoing. The changes to regulations should not impose a new burden on forces; they strengthen the application of the existing ethical standards and ensure they are carried through into the disciplinary system. Twenty-seven police forces responded to the consultation on these proposals. The majority did not believe that the proposals would require significant changes to be made to existing processes and procedures.

24. Force PSDs will already carry out a thorough assessment as to whether there is a case to answer before moving to disciplinary proceedings. Likewise the panel at any subsequent misconduct hearing or meeting will carry out a thorough assessment of all the evidence available. Clarified guidance will ensure whistleblowing is incorporated into that consideration, but will not add any additional stages or time to the existing process so will not generate any additional costs.
25. If these proposals increase the confidence of police officers and staff to come forward and report wrongdoing, then police forces may need to carry out additional investigations. We estimate that each additional investigation will cost the police approximately £1,400 on average<sup>11</sup>.
26. This estimate is based on the estimated average number of man hours that go into conducting an investigation: 40 hours<sup>12</sup>, and on an estimated weighted average cost per man hour: £34. This cost per hour is calculated using the standard costs per hour for police staff, police officers of rank Sergeant and below and senior police officers<sup>13</sup> and weighted by the average proportion of overall time which is spent on complaints functions by each of these groups<sup>14</sup>.
27. Multiplying the estimated length of an investigation with our weighted hourly cost allows us to come to an estimated cost of an investigation of approximately £1,400.
28. In addition, should the reports pertain to serious or sensitive matters then the IPCC may need to conduct additional investigations. The IPCC estimate that the average cost of conducting an independent investigation is £120,000.<sup>15</sup> Any matters below serious and sensitive will be referred back to the force, therefore only serious and sensitive matters reported by whistleblowers might result in an increased number of investigations by the IPCC.
25. It is not possible to determine the exact number of whistleblowers that will come forward or how many more examples of wrongdoing or poor practice will come to light, as a result of implementing these policies. This is because whistleblowing can be a difficult and stressful decision so it is unlikely that individuals will know how they may react to different scenarios before they exist in practice. For this reason, we have not been able to fully monetise these costs. However, the Government would consider any increase to be a beneficial outcome, as an increase would be expected to allow forces to address problems.
26. There are likely to be minor training costs to police forces as a result of the need to familiarise themselves with these changes. The police officers and staff who will need to do this will be those working in PSDs, and senior officers who make relevant decisions or sit on disciplinary panels. Other organisations that will need to be aware of the changes include the IPCC, police officer and staff associations, and police and crime commissioners. During consultation, four police forces responded to the request for information about familiarisation costs. Although they were unable to provide data, they indicated that the changes were straightforward and that they did not believe that the costs would be significant. This is in line with the majority of the forces who responded to the consultation, who indicated that they did believe that the proposals would require significant changes to be made to their processes and procedures. As a result, it is expected that the costs of training and familiarisation will be minimal.

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<sup>11</sup> Based on a local investigation by a Professional Standards Department.

<sup>12</sup> This is based on a range of estimates provided by 16 Professional Standards Departments to the Home during previous, and consultation stage, stakeholder engagement in 2014 and 2015. Some of these estimates were indicative only.

<sup>13</sup> These standard costs per hour are £21.38, £38.43 and £58.16 respectively. The estimated hourly cost of a police officer includes salary, expenses, regional allowance, training and employer contributions to pension and national insurance. The estimates were calculated using the Annualised Survey of Hours Earnings (ASHE), Chartered Institute of Public Finance and Accounting (CIPFA) Police Actuals and Association of Chief Police Officers (ACPO) Mutual Aid Rates.

<sup>14</sup> This is estimated through data provided by 3 PSDs to the Home Office in 2015, which provided a breakdown of the time spent on complaints by their staff and officers. From this the overall time spent and relative proportions were calculated.

<sup>15</sup> Information provided by the IPCC to the Home Affairs Select

Committee <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmhaff/494/494.pdf>

## Benefits

### *Proportionate to costs*

27. We expect that a greater proportion of potential whistleblowers will come forward as a result of these policy changes. During the consultation period, we asked ten PSDs for their views on whether the proposals might increase whistleblowing. Whilst none were able to give a quantified estimate as part of their response, five of the eight PSDs that responded indicated an expectation of some increase in the number of whistleblowers. An increase in the number of whistleblowers might result in more incidents of wrongdoing, poor practice or reprisals coming to light, allowing forces to address and resolve issues. This could particularly be the case in forces where current confidence, and reporting rates, are low. Three of the five PSDs who expected an increase stated that this would be more likely in such areas. This benefit is proportionate to costs; it will rise as the number of whistleblowers rises and the associated cost of addressing their issues. The government deems increased opportunities for issues to be brought to light and addressed as a beneficial outcome and the net impact is also believed to be positive by definition.

### *Wider impacts*

28. The measures may increase the integrity of the police by deterring wrongdoing, as police officers are at a greater risk of having any poor conduct or discipline exposed by a whistleblower. Thereby reducing the impact that wrongdoing in the police has upon the confidence that the public place in the police. These measures are therefore expected to increase the trust that the public place in the police, enabling them to carry out their role with greater efficacy. If the policies act as a deterrent to wrongdoing it may also mean fewer investigations are required in the long run, reducing investigation costs. However, it has not been possible to estimate the extent of any potential deterrent effect and subsequent impacts due to a lack of data on the wider impact of deterrence measures.
29. There is a saving associated with dealing with wrongdoing and poor practice appropriately and with treating whistleblowers fairly. Legal action is taken against forces for the actions of their officers and for wider failings to meet the force's statutory duties. If other colleagues treat a whistleblower unfairly, and the force has failed to take sufficient measures to prevent this from happening, then employment tribunals may occur. Employment Tribunals may potentially award the whistleblower uncapped compensation. The cost of holding tribunals could be avoided by treating whistleblowers with greater fairness. The cost of a tribunal will vary depending on which 'track' the tribunal is on. For cases involving whistleblowers it is assumed that the tribunal will be either standard track, typically for unfair dismissal cases, or open track, typically for more complex cases such as those involving alleged discrimination. The average cost of standard and open track employment tribunals are £3,310 and £3,820 respectively.<sup>16</sup> The reforms are expected to reduce the likelihood of any given whistleblower engaging in an employment tribunal. During engagement with PSDs, six of the eight responses detailed never having held an employment tribunal due to unfair treatment of a whistleblower. Of those that had, one indicated that unfair treatment of a whistleblower only formed part of the tribunal claim. Insufficient data exists on the number of whistleblowers currently partaking in tribunals due to unfair treatment, as well as the relative proportions following each track, to fully monetise this benefit.
30. There could be a saving in making fewer compensation payments to whistleblowers who are successful in their employment tribunals. Her Majesty's Courts and Tribunals Service do not collect information about the amount of compensation awarded to whistleblowers at employment tribunals. Of the two PSDs that had experienced an employment tribunal brought about by a whistleblower, only one had ever paid compensation as a result. The saving is therefore likely to be small, reflective of a small cost. Indicatively, a police force responded to the public consultation with an example of a case where £5,000 was paid in compensation following detrimental treatment due to whistleblowing. Conversely, the loss of compensation to whistleblowers is not treated as a cost to them, as the compensation is deemed to be proportional to the initial unfair treatment they received, which would also be avoided if the proposed reforms have their intended effect.

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<sup>16</sup> These costs assumes that an employment tribunal consists of the two core processes of receipt & allocation and hearing only.  
[http://www.legislation.gov.uk/ukia/2013/1039/pdfs/ukia\\_20131039\\_en.pdf](http://www.legislation.gov.uk/ukia/2013/1039/pdfs/ukia_20131039_en.pdf);

## **G) Rationale and evidence for the level of analysis used in this impact assessment (proportionality approach)**

31. It is very difficult to estimate the effect this policy might have on the number of whistleblowers prepared to come forward and report wrongdoing by colleagues or poor practice by their force. Whistleblowing can be a difficult and stressful decision so it is unlikely that individuals will know how they might feel in different scenarios before they exist in practice. This view was expressed in both the public consultation and the engagement with PSDs; in neither were any respondents able to indicate the quantifiable changes in volume as a result of the proposed reforms.
32. These proposals have been subject to a consultation process with policing partners via the Police Advisory Board, and a public consultation process. We received 62 responses to this consultation, including responses from 27 forces, 11 local policing bodies, and members of the public, staff associations, and police officers. In addition to this consultation, ten PSDs were asked to contribute information with the specific purpose of aiding the monetisation of impacts. Sufficient data is not available for a full monetisation of the overall costs and benefits. The consultation and PSD engagement generated a level of qualitative consensus regarding some of the anticipated impacts which are outlined in this Impact Assessment.

## **H) Risks and sensitivities**

33. As discussed above, it has not been possible to assess reliably how many more whistleblowers will come forward, or how many more misconduct matters will come to light, as a result of implementing these policies. There is a risk that these policies will not affect the number of whistleblowers who are willing to come forward, though the environment for whistleblowing should be improved. However, our direct stakeholder engagement with PSDs on this issue indicated a degree of confidence in the potential for the reforms to increase the number of whistleblowers. Five of the eight PSDs who responded expected an increase in whistleblowing of some description, while three of these suggested the effect of the reforms would be strongest in forces with 'low levels of confidence in professional reporting'. Some potentially adverse effects were also mentioned, with two PSDs expressing concern that the reforms may be used as a route for avoiding disciplinary action while another suggested they could facilitate malicious reporting – this policy risk has been mitigated by making clear in guidance that whistleblowers who make deliberately false allegations or commit wrongdoing themselves are not exempt from disciplinary action.
34. We have looked for evidence from comparable reforms to inform this impact assessment, particularly regarding the increase in numbers of whistleblowers coming forward. In 2012, the United States Government introduced the Whistleblower Protection Enhancement Act. Amongst other measures to increase protections for whistleblowers, the Act mandated that every Government department would appoint a whistleblower ombudsman to educate employees about prohibitions on retaliation, and rights and remedies against retaliation for those who make protected disclosures. The Office of Special Counsel are responsible for whistleblowing in the public sector of the United States, but given that these reforms were introduced in November 2012, and their latest annual time series data are for the fiscal year 2013-14<sup>17</sup>, it is too early to reliably determine whether these reforms have had an impact on the number of whistleblowers prepared to come forward. However, evidence given to a US Senate subcommittee by the head of the Office of Special Counsel indicates that they expect increased numbers of reports to be made, with the first quarter of financial year 2013 seeing the greatest number of filings in the agency's 35-year history.<sup>18</sup> This is promising, but the US evidence can only provide an illustrative indication of what could be possible for UK policy, rather than an accurate model of the probable impact
35. The exact extent of the positive impact which whistleblowing has on police forces is not known. It is an important part of ensuring that the public place their trust in the police, but the social and economic value of each *additional* whistleblower is not known. It is possible that the additional benefit does not exceed the cost of an additional investigation, especially if the issue would be addressed anyway due to an existing whistleblower. The implications of increased professional reporting are subject to the nature and outcomes of that reporting, which can not be easily predicted. However, the Government considers whistleblowing to be a key part of promoting police integrity.

<sup>17</sup> <https://osc.gov/Resources/6%2027%2014%20ANNUAL%20REPORT.pdf>

<sup>18</sup> [https://osc.gov/Resources/FINAL\\_OSC\\_Lerner\\_Testimony\\_HSGAC\\_Oversight\\_11.19.13.pdf](https://osc.gov/Resources/FINAL_OSC_Lerner_Testimony_HSGAC_Oversight_11.19.13.pdf)



## **I) Wider impacts**

36. These changes may have a wider impact on police culture, by sending a clear message on how whistleblowers should be treated by the disciplinary system and by their force in general.
37. There will be no direct impact beyond police officers, as the Police (Conduct) Regulations 2012 only apply to officers. In the majority of professions (including police staff), terms, conditions and disciplinary processes are set locally, in accordance with employment law, and not through Government regulations.

## **J) Preferred option and implementation**

38. The preferred option is to implement option one: amend the Police (Conduct) Regulations 2012 and accompanying Home Office guidance, to make it clear that whistleblowers should not be subject to unfair disciplinary action, and to deter reprisals against them.
39. The Police Advisory Board were consulted on draft regulations and guidance before laying revised regulations within this Parliament. A review of the policy will take place four years after implementation. This would be expected to be proportionate to the likely impact of the policy, with the aim of establishing that the policy was adopted as expected and, where possible, assessing what actual impact the policy had on whistleblowing practice in the police.

## **K) Monitoring and Evaluation Plan**

40. The Home Office Annual Data Requirement will come into force from April 2015. As part of this, police forces will collect data regarding the number of conduct matters reported internally, and the outcome of these cases. This data will be published and this will assist in the evaluation of these policies.