



5 October 2011

SUPPLEMENTARY PACK 1

ARGYLL AND BUTE COUNCIL – THURSDAY 6 OCTOBE 2011 AT 11.00 AM

I enclose extracts from the Minutes of Executive meeting held on 29 September 2011 in respect of items 10 (**CORPORATE GOVERNANCE IMPROVEMENT PLAN**) and 11 (**ELECTIONS TO THE CROFTING COMMISSION: CONSULTATION PAPER ON DRAFT REGULATIONS**) which were marked “to follow” on the above agenda.

I also enclose herewith item 12 (**FURTHER CONSULTATION ON THE FUTURE OF POLICING**) which was also marked “to follow” on the above agenda.

Douglas Hendry
Executive Director - Customer Services

TO FOLLOW ITEMS

- 10. CORPORATE GOVERNANCE IMPROVEMENT PLAN**
Recommendation by the Executive of 29 September 2011 (Pages 1 - 2) and Report by Executive Director of Customer Services (previously circulated to Executive)
- 11. ELECTIONS TO THE CROFTING COMMISSION: CONSULTATION PAPER ON DRAFT REGULATIONS**
Recommendation by the Executive of 29 September 2011 (Pages 3 - 4) and Report by Executive Director of Customer Services (previously circulated to Executive)
- 12. FURTHER CONSULTATION ON THE FUTURE OF POLICING**
Report by Executive Director of Customer Services (Pages 5 - 86)

ALL MEMBERS

Contact: Sandra McGlynn Tel: 01546 604401

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ARGYLL AND BUTE COUNCIL

COUNCIL

CUSTOMER SERVICES

6 OCTOBER 2011

EXTRACT OF MINUTE OF EXECUTIVE 29 SEPTEMBER 2011

* **16. CORPORATE GOVERNANCE IMPROVEMENT PLAN**

A report detailing the Corporate Governance Improvement Plan and draft Joint Statement of Governance and Internal Control to accompany the 2010 – 2011 Annual Accounts was considered.

Decision

1. Noted the content of the report.
2. Approved the Corporate Governance Improvement Plan.

(Reference: Report by Executive Director – Customer Services dated September 2011, submitted)

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ARGYLL AND BUTE COUNCIL

COUNCIL

CUSTOMER SERVICES

6 OCTOBER 2011

EXTRACT OF MINUTE OF EXECUTIVE 29 SEPTEMBER 2011

* 18. **CONSULTATION PAPER ON THE DRAFT ELECTION REGULATIONS TO THE CROFTING COMMISSION**

A report updating members on the current Consultation on Crofting Elections was considered.

Decision

Agreed to recommend to the Council the adoption of Option 1 for Argyll and Bute as detailed in Appendix 3 to the report.

(Reference: Report by Executive Director – Customer Services dated 19 September 2011, submitted)

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ARGYLL & BUTE COUNCIL**COUNCIL****CUSTOMER SERVICES****THURSDAY 6 OCTOBER 2011**

**SCOTTISH GOVERNMENT CONSULTATION: REFORMING POLICE AND
FIRE AND RESCUE SERVICES IN SCOTLAND**

1. SUMMARY

- 1.1 The Executive, at their meeting on 21st April 2011 considered two Scottish Government consultations in respect of the future of (a) Police and (b) Fire and Rescue services in Scotland. The terms of a response were agreed.
- 1.2 On 11th August 2011 the Executive considered a report outlining concerns expressed by COSLA around the Police consultation and agreed that I should write to the First Minister, and the Justice Secretary, maintaining the Council's previous position in regard to the proposals.
- 1.3 On 7th September 2011, the First Minister outlined proposals to bring forward legislation that will establish a single Police Service for Scotland, and on 8th September the Cabinet Secretary for Justice published an outline business case and consultation document seeking views on proposals for the detailed operation of these services. These documents can be found in the following link:
<http://www.scotland.gov.uk/Resource/Doc/357525/0120778.pdf>

A hard copy of the document, setting out the detail of the matters on which views are requested is attached (appendix 1).
- 1.4 This paper suggests arrangements, given the timescales for responses, to permit a Council view to be expressed on these latest proposals.

2. RECOMMENDATIONS

- 2.1 The Executive Director – Customer Services be instructed to draft a response to the proposals which will follow the Council's existing policy position, as set out in responses to the previous consultation, so far as is possible, in consultation with the Leader and Depute Leader of the Council, and submit this to the Scottish Government before the consultation deadline of 2nd November 2011.

3. DETAIL

- 3.1 The Scottish Government intends to bring forward legislation to create a Single Scottish Police Service, and a Single Scottish Fire and Rescue Service. This follows consultation on the principles of reform, and engagement with stake holders across Scotland about the future of these services. Responses to the Government's earlier consultation, together with analysis of them were published in June 2011.
- 3.2 The further consultation which has now been announced, and which runs until 2nd November 2011, sets out how the Scottish Government intends to establish single services, and invites comments to help shape the final proposals, and the legislation which will be brought forward. The specific matters which this further consultation paper covers can be seen from the document (appendix 1) and range from seeking views on how the proposed purpose of Policing and the Scottish Fire and Rescue Service can be strengthened, to obtaining views on the proposals to integrate the existing bodies into a single service or on how and when partnership arrangements should adapt to align with proposed new structure. Specifically, proposals are set out which consider defining the purpose of Police, and Fire and Rescue Services, and also sets out proposals for governance, scrutiny, the workforce and funding.
- 3.3 It is understood that the Government will continue dialogue with stakeholders during the consultation period.
- 3.4 The period of the consultation exercise is such that it would not be possible to obtain approval from the Executive, or from the full Council, at their next regular meetings on 3rd and 24th November respectively. Accordingly, it is recommended that the drafting of a response to the consultation be delegated to the Executive Director – Customer Services, in consultation with the Leader and Depute Leader of the Council.

4. CONCLUSION

The paper recommends a mechanism whereby a Council response to the Government consultation can be submitted timeously.

5. IMPLICATIONS

- 5.1 Policy: Any response drafted will have regard to existing Council policy.

- 5.2 Financial: None at this stage.
- 5.3 Legal: None at this stage.
- 5.4 HR: None at this stage.
- 5.5 Equalities: None at this stage.
- 5.6 Risk: None at this stage.

Executive Director – Customer Services
28 September 2011

For further information please contact: Douglas Hendry, Executive Director –
Customer Services 01546604244

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Keeping Scotland Safe and Strong: A Consultation on Reforming Police and Fire and Rescue Services in Scotland

September 2011

Keeping Scotland Safe and Strong: A Consultation on Reforming Police and Fire and Rescue Services in Scotland

September 2011

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FOREWORD FROM THE CABINET SECRETARY FOR JUSTICE

Scotland's police and fire and rescue services are performing well. Over the last 4 years we have made real progress in making our communities safer and stronger. Crime is at a 35-year low and the clear up rate for violent crime at a 35-year high, helped by the 1,000 additional police officers we have put into communities. Fire deaths are almost 50 per cent lower than they were a decade ago. And both services are key players in the delivery of a far wider range of outcomes, for example working with their partners to improve the life chances of children and young people, and supporting economic growth.

But that success is under threat from cuts by the Westminster government. And the challenges faced by both services continue to increase. We need to reform to maintain and build on success in delivering frontline services in our communities – particularly for those who need them most. We want to ensure that the police and fire and rescue services are in the best possible shape to meet the demands of the 21st century and the expectations of communities. We want to modernise and simplify governance and outdated delivery structures which are over 35 years old and - with 16 regional boards and 16 separate services as well as the Scottish Police Services Authority – which are no longer aligned with the rest of the public sector. And we want to improve. But reform is not just about saving money. Most of all, we want to create the conditions for services to improve for our citizens and our communities:

- protecting and improving frontline services for local communities by reducing duplication in supporting areas like payroll and HR, and delivering services such as roads policing in different ways. Scotland can no longer afford to do things eight times over;
- keeping communities safer by providing more equitable access across Scotland to specialist support, expertise and national capacity when it is needed;
- strengthening the links between police and fire and rescue services and the communities they serve through locally elected members, creating a new direct relationship with each of Scotland's 32 local authorities rather than the regional Joint Boards, and improving partnership working with other agencies; and
- providing clearer national governance for national issues and national delivery.

We said in our manifesto that we want to create a better Scotland; a more successful country with opportunities for all to flourish. To deliver this, we need an ambitious

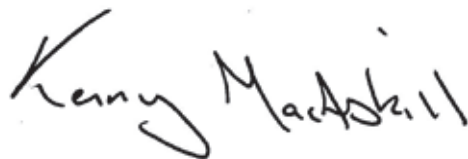
programme of reform and change which reaches into every part of government and society. Police and fire and rescue reform contributes to meeting that vision by enabling better services that empower individuals and communities to take responsibility for improving their own lives and work with other agencies to focus on prevention.

We have already consulted widely and, in the case of both police and fire and rescue, there is widespread agreement the status quo is unsustainable and that reform is necessary. Building on work we carried out with the police and fire and rescue services and with other partners during 2010, we consulted publicly earlier this year on the case for reform. Our Manifesto set out our reform ambitions. And in recent months Roseanna Cunningham and I have visited every part of Scotland to speak to those police officers and fire-fighters who work across Scotland keeping us safe, and to their partners who work closely with the two services. I am very grateful to everyone who has worked with us over the last 18 months and more to compile a considerable weight of evidence on the relative merits of different options.

Having considered all of the information available, and all of the representations made, I have concluded that establishing a single Scottish Police Service and a single Scottish Fire and Rescue Service provide the greatest scope for delivering the outcomes we seek. Single services provide the best opportunity to protect and improve front line services in our communities. They are the least complex and most efficient option and will enable maximum scope to cut out unnecessary duplication. They maximise the potential for more effective local services and long-term financial sustainability.

We want to ensure that policing and fire and rescue services remain strongly rooted in and responsive to our communities, and that resources are where people want to see them – supporting the front line. I believe that our proposals, on which I am now seeking your views, will best deliver these ambitions. Our proposals have built upon and fully align with the principles set out by the Christie Commission. Better aligning police and fire and rescue services with community planning arrangements will promote local service integration and partnership working. Crucially, our proposals will increase the focus on prevention, and on the ability of these services to respond to local priorities in every area of Scotland.

This consultation paper sets out the Scottish Government's proposals for how these new single Scottish services would work in practice, and seeks your views on the detailed provisions in the legislation which we will bring forward to Parliament. We remain committed to working with the services and other stakeholders to ensure that change is fully informed by their experience and expertise. Responses to the consultation, and those continuing discussions, will inform final decisions on the detailed arrangements for reform.



Kenny MacAskill MSP
Cabinet Secretary for Justice
September 2011

INTRODUCTION

1. The Scottish Government intends to bring forward legislation to create a single Scottish Police Service and a single Scottish Fire and Rescue Service. This follows consultation on the principles of reform, and an extensive programme of engagement over many months with stakeholders across Scotland about the future of the Scottish police and fire and rescue services. Responses to the Scottish Government's earlier consultation, along with analyses of them, were published on the Scottish Government website in June 2011¹.
2. This consultation paper sets out how the Scottish Government intends to establish single services, and invites comments to help shape the final proposals, and the legislation that we will be bringing forward. In particular it sets out proposals for a new purpose for policing and fire and rescue, and how the structure of policing and fire and rescue will be framed including our proposals for governance, scrutiny, the workforce and funding. This consultation paper is being published alongside Outline Business Cases for the reform of police and fire and rescue services, an initial Equalities Impact Assessment, and a Business and Regulatory Impact Assessment. These documents can be found at <http://www.scotland.gov.uk/policereform> and <http://www.scotland.gov.uk/firereform>.
3. The consultation questions are set out on page 56. Annex A provides details on how you can respond. Responses are invited by no later than **2 November 2011**. Dialogue with key stakeholders about the detail of the proposals will continue throughout this period.

¹ <http://www.scotland.gov.uk/Topics/Justice/public-safety/Police/ConsultationFuturePolicin>
<http://www.scotland.gov.uk/Topics/Justice/public-safety/fire-and-rescue-services/fire-reform>

PART A - POLICE

1. A MODERN PURPOSE FOR POLICING

Introduction

1.1. This section sets out our intention to express a modern purpose for policing in 21st century Scotland. The purpose will reflect the broad role which the police play in serving communities across Scotland; in delivering a wide range of outcomes through the many partnerships that policing supports; and will help to establish the culture and ethos of the service, informing strategic planning and priority setting nationally and locally.

Current Arrangements

1.2. There is currently no formally defined purpose for policing in Scotland. Section 17 of the Police (Scotland) Act 1967, which sets out some of the duties of a police constable, is widely seen as important: it sets out the duties of a constable as being to “to guard, patrol and watch so as – (i) to prevent the commission of offences, (ii) to preserve order, and (iii) to protect life and property.” It goes on to set out a wider list of functions of constables (see Annex D for a full extract of section 17) and recognises that the functions of constables go far beyond section 17 to include a range of both statutory and common law powers and duties. Section 17(1) (a), in particular - “to guard, patrol and watch” - is widely remembered and quoted as being indicative of the purpose of policing in Scotland.

1.3. These statutory duties, and the flexible way in which they have been interpreted, have served policing well and are still central to much police activity. We do not propose to change them fundamentally, but to update the way in which they are expressed. It is clear that the role of the police and the nature of the issues and problems they deal with, and how they deal with them, has changed significantly since 1967. Today’s police officers do much more than ‘guard, patrol and watch’. They work hand-in-hand with a range of community planning partners to deliver shared outcomes across justice, education, health and other sectors, building relationships with communities and intervening early to prevent people getting involved in crime by addressing its root causes and to increase the well-being of communities.

Scottish Government Proposals

1.4. We propose to establish a modern purpose for policing in 21st century Scotland. Such a purpose will be a declaration of the outcomes policing is seeking to achieve and will include some broad strategic principles for delivering them. Its aim, in line with the Christie Commission, will be to encourage policing to focus on improving the safety and well-being of individuals, families and communities by prioritising preventative action to address the causes of crime, disorder and danger and contribute to an array of other positive outcomes in areas such as health and education. The supporting principles will encourage efficiency and effectiveness, preventative action,

partnership with community planning partners and others, and community engagement.

- 1.5. In many ways, a modern purpose will reaffirm the way most of Scotland's communities are already policed but will also signal a strengthened resolve to improve people's lives by preventing harm from happening in the first place.
- 1.6. There are a range of ways in which a new modern purpose for policing could be delivered: through legislation, through a statutory framework or through national guidance. A proposed modern purpose of policing is provided below as a starting point and we would welcome views on this:

PURPOSE OF POLICING

The purpose of policing is to improve the safety and well-being of individuals, families and communities in Scotland.

- 1.7. The purpose would shape the delivery of policing in Scotland and help to establish the culture and ethos of the police service and how it works with others. In that respect, we expect that Scottish Ministers; the Scottish Police Authority; and the Chief Constable, chief officers, and local commanders of the Scottish police service, will have regard to the policing purpose when setting strategic plans and priorities.

Question 1: What are your views on how we might strengthen the proposed purpose? Should the purpose be set out in national guidance, or in some other way.

FUNCTIONS AND OATH

Introduction

- 1.8. In this section we propose that the duties set out in the Police (Scotland) Act 1967 will be retained in the reform legislation, but that we will modernise the terminology used to express them. We also propose to update the wording of the oath which officers take on appointment to the Office of Constable.

Current arrangements

Office of Constable

- 1.9. Every officer in Scotland is a 'Constable', irrespective of rank. It is from the Office of Constable that each officer derives their legal powers. On appointment, each officer makes a declaration to "faithfully discharge the duties of the Office of Constable". The Office of Constable means a police officer has the additional legal powers of arrest and control of the public given through a sworn oath and warrant. Each sworn constable is an independent legal official; they are not agents of the police force, police authority or government, though

they are subject to the direction and control of the chief constable. The execution of their powers, free from political interference, is the cornerstone of the criminal justice system in this country.

- 1.10. Some of the core functions of police constables are set out in section 17 of the Police (Scotland) Act 1967. They include: to guard, patrol and watch so as – (i) to prevent the commission of offences, (ii) to preserve order, and (iii) to protect life and property. Police officers also have a range of other statutory and common law powers and duties.

Oath

- 1.11. The oath made by officers on appointment has remained unchanged since 1892. It has stood the test of time well but in recognition of the changing role of both the police service and individual officers we would welcome views on whether we should take this opportunity to amend the oath to reflect those changes.

- 1.12. The wording of the current oath is:

“I hereby do solemnly and sincerely and truly declare and affirm that I will faithfully discharge the duties of the office of constable”.

Scottish Government Proposals

Duties on holders of the Office of Constable

- 1.13. We will retain all of the duties placed on police constables under the 1967 Act in the reform legislation, but we will restate and reframe them using more modern language.

Oath

- 1.14. We propose to update the wording of the oath. A possible new wording might be:

“I sincerely declare and affirm that I will faithfully discharge the duties of the office of constable with fairness, integrity, diligence and impartiality, according to law.”

Question 2: What are your views on our plans to retain existing functions in a modern form and on our proposals to modernise the oath?

2. STRUCTURE OF A SINGLE SCOTTISH POLICE SERVICE

Introduction

- 2.1. This section sets out the framework for a single police service which would deliver policing to all of Scotland's communities. It would be led by a Chief Constable and be overseen by a new Scottish Police Authority. Government is responsible for providing this framework but most of the detailed managerial and operational delivery of the new police service within that framework will be for the Scottish Police Authority and Chief Constable to determine. Some decisions will need to be taken during the planning phase to ensure that the new service, and its work with other partners, is operationally effective from day one.
- 2.2. We will bring forward legislation which will bring existing police forces, support services and national specialist delivery agencies within a single service structure. These proposals will reduce complexity and duplication and deliver a more streamlined service which prioritises the retention of police officers in communities over the maintenance of an outdated and inefficient structure.

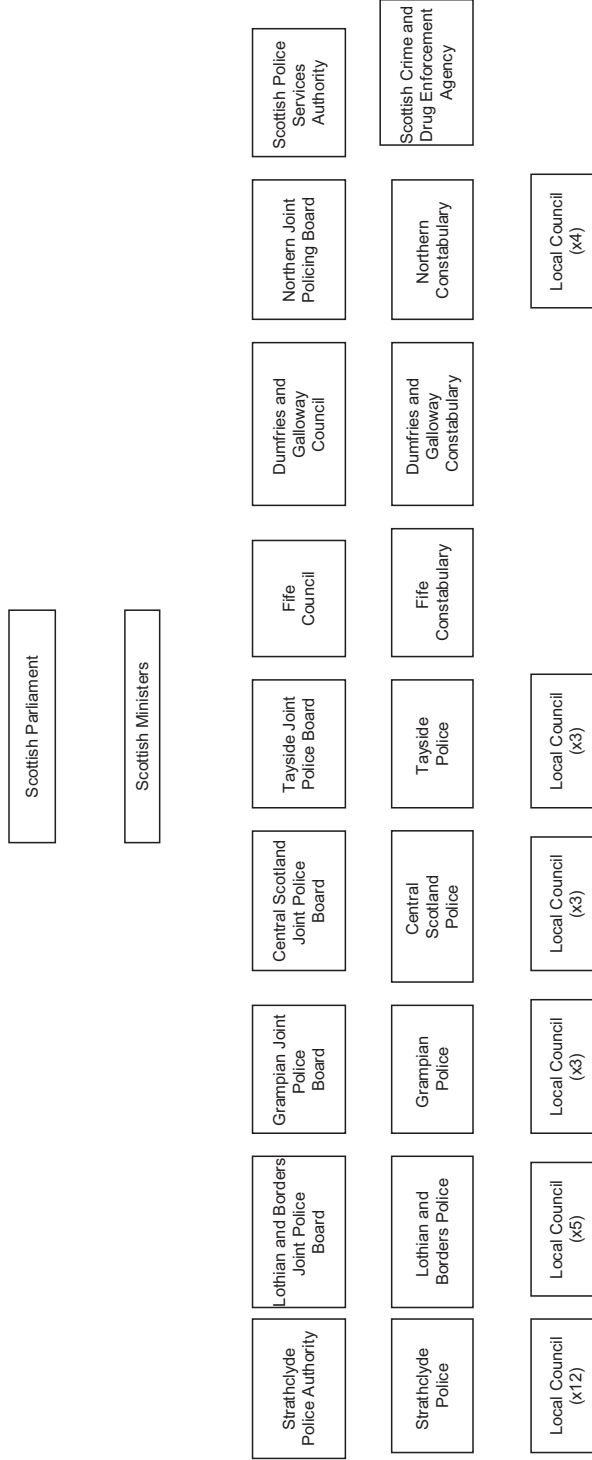
Current arrangements

- 2.3. The existing structure of policing in Scotland dates from 1975 when regional councils were established. There are eight forces, varying very significantly in terms of population, area covered, levels of crime and resources available. These forces are broken down into 27 police divisions which, again, vary very significantly in size and are led by officers from the rank of Chief Inspector to Chief Superintendent.
- 2.4. In addition to the eight forces, national statutory bodies provide national policing services. The Scottish Police Services Authority (SPSA), a non departmental public body, became operational on 1 April 2007 and provides forces with a range of services including forensic science, ICT support, police information and intelligence systems and national training. It is also responsible for maintaining the Scottish Crime and Drug Enforcement Agency (SCDEA), whose primary function is the prevention and detection of serious organised crime across Scotland, including complex fraud, e-crime, drug and people trafficking and counterfeiting. Other national and regional services, such as the Counter-Terrorism Intelligence Unit (CTIU) are provided as collaborative agreements between the forces and there are a range of formal and informal agreements between forces for support when required.
- 2.5. There are a wide range of partnerships which the police lead or are actively involved in. Some of these, such as the Strategic Coordinating Groups, which bring together partners to prepare for and respond to emergencies, and Safety Camera Partnerships, which aim to reduce the number of people killed or injured on our roads, are aligned with the eight force structure. Others, such as Community Safety Partnerships, Alcohol and Drug Partnerships and Adult Protection Committees, are mainly aligned with Council and community planning structures. The police are also required to work with organisations

such as Community Justice Authorities, which cover more than one Council area to, for example, ensure the effective management of sex offenders.

- 2.6. The following diagram sets out the principal governance and delivery structures at present.

Police - Current Structure



Scottish Government proposals

- 2.7. The Scottish Government proposes that the existing eight forces, SPSA and SCDEA should be brought together as a single police service governed by a single Scottish Police Authority and led by a Chief Constable. This service would also encompass the national activities currently undertaken through collaborative agreements, and the Safety Camera Partnerships. It would be for the new service to determine, with relevant partners, how work currently undertaken through collaborative agreements and how partnership working on safety cameras would be delivered.
- 2.8. The police service will continue to play a major role in the work of Strategic Coordinating Groups (SCGs) – which bring together responders (including the police, fire and rescue, health and local government) to plan for, and respond to, emergencies in accordance with the provisions of the Civil Contingencies Act 2004. Reform of the police and fire and rescue services creates the opportunity to consider the current structure of SCGs (which is based on the existing 8 force boundaries) in order to determine whether those boundaries will continue to support the most effective regional emergency planning and response arrangements. We will consult separately with SCGs, SCG member organisations, and other stakeholders on this issue, as the proposals on police and fire reform are developed in more detail. Changes to the coverage of SCGs can be made by order under the Civil Contingencies Act 2004, should they be considered necessary.
- 2.9. In order to adhere to best practice and maintain public confidence in the criminal justice system, the structure will reflect the need for a few police support functions to be independent from the Chief Constable in terms of their operation and accountability. This includes forensic services and the management of related information on the Scottish DNA Database and fingerprint database. In Scotland we currently have a ‘crime scene to court’ Forensic Service which has, since 2007, been part of the Scottish Police Services Authority and independent from police forces. It is proposed that services such as this will, in future, report to and be directly accountable to the Scottish Police Authority, not the Chief Constable of the Scottish police service. It will be important for the membership of the Scottish Police Authority to include individuals who have the credentials to provide effective oversight of these services and we expect external scrutiny bodies will also ensure these services are provided to the highest standards and are independent of the Chief Constable.
- 2.10. We would welcome views on these proposals, including whether there are any other partnership arrangements, collaboration agreements, or corporate issues which will need to be taken account of as we reform the structure of the police service in Scotland.

Question 3: What are your views on our proposals for integrating existing bodies into a single service or on how and when partnership arrangements should adapt to align with this new structure?

2.11. The following diagram sets out the principal governance and delivery structures under a single service.

Post Reform Policing Structure

Scottish Parliament

Scottish Ministers

Scottish Police Authority

Chief Constable

Local Commanders (x32)

Local Councils (x32)

3. NEW ARRANGEMENTS FOR GOVERNANCE AND ACCOUNTABILITY

- 3.1. This chapter sets out our proposals for the clear and effective governance and accountability of the Scottish police service. The proposals support local policing and partnership working by giving many more local elected members than at present a formal role in policing in their area and by designating a Local Commander, with significant delegated authority, for each council area. The proposals also maintain the critical independence of the Lord Advocate in directing and controlling criminal investigations and, through the establishment of the Scottish Police Authority, ensure a clear separation between Ministers and the Chief Constable.

Current Arrangements

- 3.2. Police Authorities and Joint Boards are currently responsible for overseeing the work of the Chief Constable and holding him or her to account for the policing of the force area. The responsibilities of the Authorities and Joint Boards include appointing chief officers, controlling the budget for the force, securing Best Value and monitoring performance.
- 3.3. Mirroring the regional councils that were established in 1975 but abolished in 1996, there are six Joint Boards (Northern, Grampian, Central, Tayside, Strathclyde and Lothian and Borders) and two unitary Police Authorities (Dumfries and Galloway, and Fife). Each of the 6 Joint Boards cover between 3 and 12 local authority areas with membership made up of Councillors from each of the constituent local council areas. The number of members on the Boards varies widely. For example, Northern Joint Police Board has 24 members from 4 Councils: 2 from Orkney and Shetland, 4 from Western Isles and 16 from Highland. Meanwhile, Strathclyde has 34 members from the 12 constituent local authorities: 2 each from Argyll & Bute, East Ayrshire, East Dunbartonshire, East Renfrewshire, Inverclyde, North Ayrshire, Renfrewshire, South Ayrshire and West Dunbartonshire; 8 from Glasgow City Council; and 4 each from North Lanarkshire and South Lanarkshire. In total, therefore, only 12% of Councillors in Scotland (146 out of 1,222) have a formal direct role in the governance of policing.
- 3.4. There are many other levels of less formal engagement through police officers' discussions with individuals and communities, local councillors, local councils and other public services and community and voluntary groups.
- 3.5. In addition, there is no consistency in the governance or accountability arrangements for national policing functions. These functions are exercised through a mix of lead Force, collaborative agreements, the Scottish Crime and Drug Enforcement Agency's relationship to the SPSA, and other less formal arrangements.

Scottish Government proposals

- 3.6. The Government agrees with evidence from Her Majesty's Inspectorate of Constabulary Scotland and Audit Scotland which indicates that existing national

and local arrangements for the governance and accountability of policing could be significantly improved. Our proposals for governance and accountability do this by providing clearly defined roles and responsibilities for:

- Scottish Ministers;
- A Scottish Police Authority;
- The Chief Constable of the Scottish police service;
- Local Councils – through many more local elected members; and
- Designated Local Commanders for each local council area.

3.7. We also propose to provide the Scottish Parliament with more opportunities to consider and scrutinise the Scottish Police Authority and service.

Scottish Ministers

3.8. Scottish Ministers will:

- appoint the Chair and members of the Authority, in accordance with the Public Appointments Commissioner for Scotland Code of Practice;
- set a budget, approved by Parliament, for the Scottish Police Authority;
- set high-level strategic objectives, for example delivering effective local policing and tackling serious and organised crime, for the Authority;
- approve the authority's strategic plan – the Scottish Policing Plan;
- approve Chief Officer appointments made by the Scottish Police Authority.

3.9. The Lord Advocate will continue to have sole responsibility for the independent direction and control of criminal investigations. Furthermore, to ensure appropriate separation between Scottish Ministers and the Chief Constable, a new statutory body, the Scottish Police Authority, will be established to govern the Scottish police service and hold the Chief Constable to account. The Scottish Government will not be able to give instructions to the Chief Constable of the Scottish police service.

3.10. We propose that, as with other public bodies and authorities, Ministers would have a power of direction in relation to the Scottish Police Authority. Such powers are rarely used and we envisage that this power would only be used as a last resort, including when necessary to give effect to the will of Parliament. Ministers would be accountable to the Parliament for their use of the power, and it could not be used to interfere with the Chief Constable's responsibility for controlling and directing police officers. Nor could it interfere with the authority of the Lord Advocate and Procurator's Fiscal in terms of directing the investigation and reporting of crime. This will be made clear in legislation.

Scottish Police Authority

3.11. The Scottish Police Authority will govern the service and hold the Chief Constable to account. Its other key responsibilities will be to:

- produce and publish a national strategic plan – the Scottish Policing Plan – which, among other things, would take account of the strategic objectives set by Scottish Ministers;
- approve an annual delivery plan and associated budget;
- hold the Chief Constable to account for performance against the Plan;
- appoint and, when necessary, dismiss the Chief Constable and chief officers;
- publish an annual report and accounts;
- monitor and scrutinise complaints; and
- oversee the forensic service and the management of related information.

3.12. The Scottish Police Authority’s responsibilities would not be confined to national issues. The Authority would also be responsible for ensuring that local policing objectives were being delivered and that local policing was effective. An important part of this would be assessing the performance of local policing and its contribution to local outcomes. The Authority will also ensure that the views of officers and staff and their representative bodies are considered.

3.13. To ensure its effectiveness in working together as a unit we propose that the Authority has no more than 11 members. It will also be essential to ensure that the Authority has the right skills, experience, and expertise to collectively govern the service and hold the Chief Constable to account.

3.14. Members of the Authority would be appointed by the Scottish Ministers through a formal public appointment process which complies with the Public Appointments Commissioner for Scotland's Code of Practice. Ministers would ensure that these appointments included individuals with experience of and knowledge of local government and local policing. Alternatively, Ministers could appoint a number of serving councillors, nominated by COSLA, to represent the collective voice of local government on the authority. We would welcome views on these two approaches, and on other aspects of the composition of the Authority.

Question 4: What are your views on the composition of the Scottish Police Authority and the specific skills, experience and expertise required for it to perform its roles effectively?

Question 5: Do you think a number of appointments to the Authority should be reserved for serving councillors nominated by COSLA? Or that Ministers should simply ensure that the individuals appointed to the Authority include those with experience and knowledge of local government?

Chief Constable

3.15. The Chief Constable will:

- lead and manage the service;
- be accountable for the actions and performance of the service;

- produce and publish an annual delivery plan and associated budget for delivery of the Scottish Policing Plan;
 - publish performance information against the annual plan;
 - designate a Local Commander for each local council area; and
 - be responsible for delivering local and national outcomes, the efficient use of resources and for securing Best Value.
- 3.16. The Chief Constable will also have a duty to participate in community planning and will be required to ensure effective local policing and the delivery of Local Policing Plans.
- 3.17. The Lord Advocate and Procurators Fiscal will continue to have responsibility for the direction of criminal investigations and the Chief Constable would continue to be accountable to the Lord Advocate in these matters. The Crown Office and Procurator Fiscal Service would continue to be responsible for overseeing the investigation of crime, sudden or suspicious deaths and allegations of criminal conduct by police officers.

Local Council

- 3.18. At present, only around 1 in 8 local elected members are involved in Police Authorities and the regional Joint Boards. The Scottish Government wants to see many more local elected members playing a direct and formal role in policing in their area so that they can better shape local priorities to meet local needs and better scrutinise the performance of the police in achieving local outcomes. And we want to ensure that local policing priorities reflect the wider locally agreed priorities for each area, usually determined through Community Planning Partnerships.
- 3.19. We will do this by creating a strong formal relationship between the Council and the Local Commander (see below) focused around the joint development and delivery of a Local Policing Plan. The Plan would provide transparency on available resources and, in the context of the Scottish Policing Plan, give the Council a central role in shaping the priorities and objectives to which these resources should be directed.
- 3.20. Each Council would have the right to:
- formally comment on the Local Policing Plan;
 - monitor and scrutinise performance against the Local Policing Plan and bring forward proposals for how performance could be improved and particular issues addressed by the police, the Council and other agencies;
 - seek reports, answers and explanations from the Local Commander about the Plan and other policing issues and, where necessary, raise issues with the Chief Constable and Scottish police authority; and
 - monitor and scrutinise complaints.
- 3.21. These rights could be exercised in a number of ways. For example, the Council may wish to use an existing Committee or establish a new Committee covering police or both police and fire and rescue. It may wish to exercise these rights in

conjunction with another Council or Councils. Or it may wish to invite people other than councillors to participate. It is our view that local councils individually are best placed to determine the most appropriate local mechanism in each case for exercising these rights and formalising their relationship between the Council and the Local Commander. We do not therefore intend to require through legislation a single means of doing this. However the Council chooses to exercise these rights, we would expect the Chair/Convenor of the local mechanism to provide effective leadership of the relationship between the Council and the police and to ensure other services work effectively with the police to secure delivery of local outcomes.

Local Commander

- 3.22. Under a single Scottish police service, as now, the vast majority of policing will continue to be delivered locally. As set out above, our proposals for reform will enable local authorities to shape local priorities and objectives and to scrutinise delivery and performance. The designation of a Local Commander for each local council area will be central to this.
- 3.23. The Local Commander will have significant delegated authority for policing in the local authority area and for working with and across the Council and other partners to improve outcomes for individuals, families and communities.
- 3.24. The Local Commander, whose rank could vary depending on their span of control, will be responsible for developing and delivering a Local Policing Plan which would set objectives and priorities for policing in the area in the context of local priorities, such as those set out in the Single Outcome Agreement, and the Scottish Policing Plan.
- 3.25. The responsibilities of the Local Commander will be to :
- prepare, for the agreement of the Council, the Local Policing Plan. By mutual agreement, the local plan could be integrated with the wider plans of the community planning partnership or the Single Outcome Agreement;
 - publish the Plan and performance information against it;
 - be lead officer, on behalf of the Chief Constable, for the police's role in community planning, and first point of senior contact for local councillors and local partners;
 - allocate local resources and seek resources from the Chief Constable to deliver the Local Policing Plan; and
 - provide reports to and answer questions from the Council on performance against the plan and other issues bearing on the safety and well-being of local communities.

Scottish Parliament

- 3.26. The current statutory framework for policing in Scotland pre-dates the establishment of the Scottish Parliament and, with the exception of the SPSA and SCDEA, there is no formal role for the Parliament in the governance of

policing. We are proposing that the Scottish Policing Plan would be laid before Parliament. This will give Parliament the opportunity to consider how it might wish to further scrutinise the Plan, for example through the Justice Committee taking evidence from the Chair or members of the Scottish Police Authority and/or the Chief Constable and other chief officers, as well as local councils and community representatives.

Question 6: What are your views on the roles and responsibilities for governance and accountability set out above?

4. FUNDING

Current Arrangements

4.1. Police funding stands at £1.4 billion in 2011-12, £235 million higher than in 2006-07: an increase of 16% in cash terms. Police forces are currently funded by the Scottish Government and local authorities. The requirement on local authorities to match central government funding to a formula was removed four years ago, though in practice most local authorities have continued to match central government funding in a ratio of 49 percent from local government to 51 percent from central government. Funding is also provided by the Scottish Government for national policing services provided by the SPSA and SCDEA and for other national resources, including police ICT, and national priorities, including counter terrorism.

4.2. Police funding is currently comprised of seven main elements:

Police Grant - Ministers set the level of police grant (and funding for police officer pensions) in the annual Police Grant Order.

Police Loan Charge funding - This additional grant is paid by the Scottish Government at the rate of 51 per cent of the loan charge costs for any loans taken out by police authorities and joint police boards prior to 1 April 2004. The Scottish Government pays 51 per cent of the actual costs incurred in each year.

Police Officer Pensions - Police officer pensions costs were removed from the Local Government Settlement from 2010-11 and are paid directly to the eight police authorities and joint boards. The Scottish Government pays actual police officer pension costs.

Local Authority contribution - The local authority share of police funding is included within the General Revenue Grant paid directly to the 32 local authorities. The local authorities within a joint police board (and the two unitary authorities, Fife and Dumfries and Galloway) decide whether to match Police Grant funding for the police authority/joint board on a 51%/49% ratio or to provide more or less than 49%.

Police Central Government (PCG) Budget - This funds the SPSA, SCDEA, national police initiatives such as counter terrorism and Scottish contributions for UK wide ICT and telecoms systems such as Airwave Radio and the Police National Computer. It is administered directly by the Scottish Government.

Funding for 1000 additional police officers - This Scottish Government funding is paid directly from PCG to the eight police authorities and joint boards.

Capital funding – Capital funding is provided by local authorities from the general capital grant allocations within the overall local government settlement.

Scottish Government proposals

4.3. The Scottish Government proposes that all of the funding currently provided for policing through the variety of different routes set out above should be consolidated into a single funding stream which the Scottish Government will provide to the Scottish Police Authority. The following specific roles are proposed:

Scottish Parliament

4.4. The Scottish Parliament will:

- agree funding for the Scottish Police Authority through the annual Budget Bill process;
- receive and consider the audited accounts of the Scottish Police Authority; and
- hold the Scottish Police Authority accountable for its own expenditure and the effective scrutiny of the Chief Constable's expenditure.

Scottish Ministers

- Set the budget for the Scottish Police Authority through the annual Budget Bill process with Parliament.

Scottish Police Authority

- allocate resources to the Chief Constable to support the delivery of the Scottish Policing Plan and Local Policing Plans;
- scrutinise the use of funding by the Chief Constable by reviewing performance against plans; and
- prepare annual accounts and submit them to Parliament.

Chief Constable

- allocate resources for the delivery of the Scottish Policing Plan and Local Policing Plans;
- be accountable to the Scottish Police Authority for the use of funding allocated by the Authority; and
- be accountable for the proper management of public funds and for ensuring that these resources are used efficiently, effectively and economically and for securing Best Value.

Question 7: What are your views on the proposed new funding and financial accountability arrangements set out above?

5. SCRUTINISING THE SCOTTISH POLICE SERVICE – AUDIT, INSPECTION AND COMPLAINTS

- 5.1. The move to a single Scottish police service provides the opportunity for best practice from across existing forces to be embedded across the service and for consistently high standards of policing right across Scotland. By challenging performance and holding the Chief Constable to account the Scottish Police Authority will play a crucial role in making this happen. As set out in the chapter on governance and accountability, the Authority will, for example, hold the Chief Constable to account for performance against the Scottish Policing Plan; appoint and, when necessary, dismiss the Chief Constable and other Chief officers; and approve the delivery plan and budget for the service.
- 5.2. As well as this scrutiny by the Scottish Police Authority, we are proposing to establish an external scrutiny body to help support and drive continuous improvement and to ensure public confidence in the impartiality and independence of the police and the use of their powers.
- 5.3. This section puts forward a number of options for the effective external scrutiny of the Scottish police service.

INSPECTION AND AUDIT

Current Arrangements

- 5.4. Inspection of the eight existing forces and their associated Authorities or Joint Boards is currently undertaken by Her Majesty's Inspectorate of Constabulary for Scotland (HMICS). The Accounts Commission is responsible for the best value audit of Police Authorities and Joint Boards. In practice, HMICS and Audit Scotland, on behalf of the Accounts Commission, undertake Joint Best Value Audit Inspections of police forces and Police Authorities and Joint Boards.

Scottish Government proposals

- 5.5. Inspection of the Scottish Police Service will continue to be undertaken by HMICS. Audit responsibilities for the Scottish Police Authority and the service will transfer from the Accounts Commission to the Auditor General.
- 5.6. It is also proposed that the relationship between HMICS and the Scottish Parliament is put on a more structured footing than at present by requiring HMICS to lodge its inspection reports with Parliament. HMICS would also be required to present its reports to the Scottish police authority.
- 5.7. In respect of audit and inspection, no other changes to the powers and functions of HMICS or the Auditor General are proposed.

Question 8: What are your views on our proposals for inspection and audit?

SCRUTINY OF INDIVIDUAL CASES

Current arrangements

5.8. The scrutiny of individual cases can take a number of forms:

Complaints

- 5.9. Complaints against the police and police staff range from complaints about quality of service to complaints about the conduct, behaviour and actions of officers. A single complaint may contain more than one allegation. In 2009-10 Scotland's eight forces received 4,574 complaints covering 7,689 allegations. There were also 45 complaints about Police Authorities and Joint Boards.
- 5.10. The vast majority of complaints are currently handled through the complaints handling and line management functions within each force, with oversight from the relevant Police Authority or Joint Board. The Police Authority or Joint Board also has a direct responsibility for dealing with complaints about chief officers.
- 5.11. If a complainant is dissatisfied with the response, the complaint can be reviewed by the independent Police Complaints Commissioner for Scotland (PCCS). The Commissioner can consider how a policing body has handled a complaint about an individual police officer or staff member, as well as how complaints about the quality of service given by a police force, police authority or police agency have been handled. PCCS can only consider non-criminal complaints. Following its review, the PCCS can recommend that the Police Authority or Joint Board carries out further investigation and provides a further response to the person who made the complaint; reconsiders the entire complaint, sometimes under the direct or indirect supervision of the Commissioner; and/or makes changes to its practices and procedures to prevent the same problem arising again. The PCCS reviewed 174 complaints in 2010-11.
- 5.12. Complaints about how the PCCS has dealt with a complaint handling review can be referred to the Scottish Public Services Ombudsman (SPSO).
- 5.13. In 2010 the Scottish Government sought views from stakeholders on the possible transfer of the functions of the PCCS to the SPSO². Some respondents to the consultation argued that it was essential to maintain a separate body to review non criminal police complaints. Others that transferring responsibility to the SPSO would, in line with the Sinclair and Crerar Reviews, simplify and improve complaints handling for the public by reducing the number of public complaints handling bodies and enabling the SPSO to consider complaints which involve the police and other agencies. .

² <http://www.scotland.gov.uk/Topics/Justice/public-safety/Police/19354/FutureofPoliceComplaints>

Criminal allegations against officers and police staff

- 5.14. Criminal allegations against officers and police staff are investigated by the police under the control and direction of the Lord Advocate, through the Crown Office and Procurator Fiscal Service (COPFS). The Lord Advocate also has the power to instigate a criminal investigation without prior referral from the police.
- 5.15. All such criminal allegations are referred to COPFS (in the first instance to Area Procurators Fiscal) by the Deputy Chief Constable. COPFS then determines whether a criminal investigation is appropriate and whether that investigation is conducted by an officer from the 'home' force or, in a very small number of cases, such as those where a firearm is used by the police or which involve the death of a person as a result of police action, by an officer from a different force. COPFS advise that about 3 or 4 of these sensitive, detailed and potentially lengthy investigations requiring the use of an external police force are conducted each year.
- 5.16. Over the period 2008-11, there was an average of 991 cases involving criminal allegations against police officers referred to COPFS each year. All these cases were considered by Area Procurators Fiscal who examined the evidence and consulted with police investigators and, where appropriate, required that further investigations were conducted. On average 75 of these cases per year were then referred to independent Crown Counsel, with an average of 17 of these cases resulting in prosecution.

Serious incidents and reviews of investigations

- 5.17. There are a range of incidents, such as deaths in custody, serious and fatal road accidents involving police vehicles and serious crimes where the police may be at fault, where it is useful and necessary for the actions of the police to be reviewed or investigated. At present, this is usually done by a different force at the request of the force concerned. This also applies where there is significant doubt about the robustness or conduct of an investigation and it is deemed to be in the public interest to review an investigation.

Scottish Government proposals: Options

- 5.18. The Scottish Police Authority will have an important role in holding the police service to account. This includes monitoring and scrutinising complaints and ensuring that the service learns from and acts on them to improve performance and maintain public confidence. It also includes dealing with and, where necessary, investigating, complaints about chief officers.
- 5.19. A single police service will have the benefit of making the handling of complaints and criminal allegations more consistent and embedding best practice in professional standards across Scotland. Whilst some of the existing principles and practice can continue, some changes are necessary for the handling of a small number of specific cases. Options for how to do this are set out below.

Non-criminal Complaints

- 5.20. Under a Scottish police service, non criminal complaints against police officers and staff will be handled through the complaints handling and line management functions of the service, overseen by the Scottish Police Authority.
- 5.21. As at present, there will be further recourse to an independent body if the complainant is dissatisfied with the response received, either from the service or the authority.

Criminal Allegations, Serious Incidents and Reviews of Investigations

- 5.22. As at present, it is proposed that less serious criminal allegations will continue to be handled within the Scottish police service under the independent direction and control of COPFS. The critical issue arising from the creation of the Scottish police service is how the relatively small number of cases currently investigated or reviewed by a different force will be handled.
- 5.23. The Scottish Government believes that an independent body should undertake this function and the investigation of allegations of misconduct by chief officers referred to it by the Scottish Police Authority. Two options for this are set out below.

Option 1a

- 5.24. The creation of a new independent body, whose functions would include the existing responsibilities of the PCCS, and, in addition, powers to investigate complaints and allegations of misconduct by Chief Officers and review serious incidents and investigations (where it is in the public interest to have an independent review). The new body may also be used to investigate serious criminal allegations against police officers and staff where the Lord Advocate agrees this is appropriate, with such investigations being conducted under the direction and control of the Lord Advocate.

Option 1b

- 5.25. As option 1a above but the current PCCS functions would be transferred to the SPSO.

Option 2a

- 5.26. The creation of a new independent body to undertake the functions set out in Option 1 and incorporating the existing inspection and advisory functions of HMICS.

Option 2b

- 5.27. As option 2a above but the current PCCS functions would be transferred to the SPSO.

- 5.28. Both options provide an external and independent capacity to consider and investigate the most serious cases which should help maintain public confidence. Option 2a would create a single body for all aspects of external scrutiny of the Scottish Police Authority and Scottish police service apart from those undertaken by the Auditor General.
- 5.29. Whichever option is ultimately chosen the Lord Advocate, through COPFS, will continue to control and direct all investigations into criminal allegations against officers and police staff and will also retain the power to instigate a criminal investigation without prior referral from the police.
- 5.30. The Scottish Government welcomes views on the options set out above.

Question 9: What are your views on our proposals and options for handling complaints, criminal allegations, serious incidents and reviews of investigations?

Independent Custody Visiting

Current Arrangements

- 5.31. Independent custody visiting was introduced into Scotland in 1999. Under this scheme volunteers attend police stations to check on the treatment of people held in custody and the conditions in which they are held. Currently, Police Authorities and Joint Boards have responsibility for organising and overseeing the delivery of independent custody visiting, in consultation with chief constables. Each police board appoints an administrator to manage the scheme and, across Scotland, they manage 160 volunteers. There is a national co-ordinator and each scheme is a member of the UK Independent Custody Visiting Association.

Scottish Government Proposals

- 5.32. The UK ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)³ in March 2009. It is an international human rights treaty which sets out the measures which should be in place to monitor the treatment of and conditions of detainees. It created a Sub-Committee for the Prevention of Torture (SPT) which has issued preliminary guidance on implementation of OPCAT. While OPCAT does not dictate the structure of provision, the SPT has set out key criteria that should be met, most importantly that the scheme should be independent and impartial, with its mandate and powers set out in statute. Independent custody visiting schemes are statutory in England & Wales and Northern Ireland.
- 5.33. The Scottish Government proposes to place the arrangements for independent custody visiting in Scotland on a statutory footing, ensuring that independent

³ OPCAT: <http://www2.ohchr.org/english/law/cat-one.htm>

custody visiting in Scotland is fully OPCAT compliant in line with the rest of the UK. Duties would be placed on the new Scottish Police Authority include:

- ensuring that independent custody visiting schemes are in place and comply with Scottish Government guidance;
- arranging publication of statistics and findings from custody visiting schemes; and
- reviewing the arrangements for independent custody visiting as and when necessary and acting to address any issues.

5.34. The legislation would also set out relevant duties, obligations and arrangements in relation to the service provided. As is the case currently, custody visitors would be independent of the police service and the criminal justice system.

5.35. It is intended that this proposal builds as much as possible on the existing skills and expertise across the custody visiting network.

Question 10: What are your views on our proposals for Independent Custody Visiting?

6. WORKFORCE ARRANGEMENTS

- 6.1. By reforming our police service we aim to create a sustainable police service, protecting and improving frontline services and outcomes for Scotland's communities, against the backdrop of financial challenges. We have no plans to make fundamental changes to the status, or terms and conditions of service of officers or support staff as part of reform. The Scottish Government recognises the success of the reform programme will depend on the staff who will be transforming the service. Once the new police service is operational, terms and conditions for police officers will be negotiated between the Scottish Police Authority, the Chief Constable and the Scottish Government and the staff associations using the established Police Negotiating Board structures and, for police staff, between the Scottish Police Authority and its employees.

Current Arrangements

- 6.2. Every police officer in Scotland holds the office of constable, irrespective of rank. Constables are holders of a public office and are under the direction and control of the Chief Constable. As a result, officers' terms and conditions of service are governed through regulations. The current regulations relating to the appointment and terms and conditions of service for all police officers are set out in the Police (Scotland) Regulations 2004. The regulations for police officer pensions are set out in the Police Pensions Regulations 1987 (PPS) and the Police Pensions (Scotland) 2007 (NPPS). Any changes to these, including pay and pension, are made following consultation with the Police Negotiating Board (PNB) and the Police Authority.
- 6.3. Police officers below the rank of Assistant Chief Constable are appointed by the Chief Constable. Deputy Chief Constables and Assistant Chief Constables are appointed by the police authority after consultation with the Chief Constable, who, following a recent Police Advisory Board for Scotland (PABS) agreement, now sits as a member of the selection panel, and subject to the approval of Ministers. The Chief Constable is appointed by the Police Authority, subject to the approval of Ministers.
- 6.4. Police staff are employed by the Police Authority or Joint Board to work with the police in carrying out their duties. Police staff provide a range of valuable roles from administrative support to crime analysis. Their terms and conditions are agreed by the Police Authority or Joint Board, after negotiation through the police staff council.

Transitional Arrangements

- 6.5. The Scottish Government proposes that all police officers and police staff who are in post immediately before the new police service is established should transfer to the new service on the day of establishment and should retain their terms and conditions of service on transfer. This is in line with Government policy that staff transferring within the public sector should do so as far as possible without any detriment.

- 6.6. Under current regulations, the Chief Constable can require an officer to serve anywhere within the police force area. In a single service, the equivalent of the police force area would be the entire country. The creation of a single police service creates more professional and career opportunities for police officers to serve in a variety of roles across Scotland. And one of the advantages of the single service is the greater flexibility it will provide to deploy police officers and police assets wherever they are needed. However, the Scottish Government does not intend that the reform should bring hardship to individual officers and therefore proposes that at the time the new Scottish police service is established existing officers will retain their current terms and conditions of service under the 2004 Regulations including Regulation 21 which provides safeguards for officers who are statutorily transferred. In the first instance it will be for the leadership of the new service to decide their approach for new officers, negotiating with the staff side through PNB if they want to embed any changes in the Police Regulations.
- 6.7. Similar arrangements will apply to police staff, who will retain their terms and conditions at the point of transfer. It will be for the leadership of the new service to negotiate any changes should it consider them necessary.

Chief Constable Appointment

- 6.8. In line with current arrangements, we propose that the Chief Constable should be appointed by the Scottish Police Authority, subject to the approval of Scottish Ministers, following a fair and open competition. This would include the appointment of the first Chief Constable.

Other Chief Officer Appointments

- 6.9. We propose that appointments to posts at Deputy Chief Constable and Assistant Chief Constable will be made by the Scottish Police Authority, subject to the approval of the Scottish Ministers, following a fair and open competition. The Chief Constable would be a member of the selection panel.

New Police Officers

- 6.10. New police officers will be appointed by the Chief Constable and paid by the Scottish Police Authority, again in line with current arrangements. Changes to pay and terms and conditions will continue to be negotiated through the Police Negotiating Board and implemented through changes to regulations, approved by Parliament. The Scottish Police Authority will also need to appoint staff to assist it in carrying out its scrutiny function, as well as providing forensic services, including the management of the DNA database. These staff would not be under the direction and control of the Chief Constable.

New Police Staff

- 6.11. New police staff will be appointed by the Scottish Police Authority. The Scottish Police Authority will establish the terms and conditions which will apply for new police staff, and also decide whether to harmonise the terms and conditions of

service for police staff previously employed by each of the eight existing Authorities and Joint Boards following negotiations with the trade unions.

Pensions: Police Officers and Police Staff

6.12. We will ensure that police reform does not result in any detriment for members in respect of their pension scheme entitlements and we will put in place legislative and administrative arrangements to ensure that police officers remain eligible for the Police Pension Scheme and Police staff remains eligible to be members of the Local Government Pension Scheme (Scotland). There may, of course, be other changes as a result of wider public sector pension reform but negotiations on this will be separate from the reform of the police service.

Police Negotiating Board

6.13. The Police Negotiating Board (PNB) is currently responsible for negotiating pay and terms of conditions of service for police officers. We recognise that the current consensus within Scottish policing is that Scotland should remain within the UK wide negotiating structure and we are not therefore proposing any changes to these arrangements. We will however want to work with the Independent Chair of the PNB to ensure it continues to operate effectively in Scotland and meets the needs of Scottish policing. We will, of course, also need to take account of the implications for Scotland of any recommendations arising from Part 2 of the Winsor Review into the future of PNB.

Question 11: What are your views regarding our proposals for officers and staff transferring to the new Scottish police service? Are there any other workforce issues we should be considering?

Question 12: Are there any other issues we should consider in creating the Scottish police service?

PART B - FIRE AND RESCUE

7. A MODERN PURPOSE FOR FIRE AND RESCUE

- 7.1. Our fire and rescue services are performing well with a sustained reduction in fire deaths of almost 50% over the period from 1999-2000 to 2009-10. We want to build on that success, and ensure Scottish fire and rescue continues to be dynamic, effective and trusted, making communities safer and stronger, and improving people's lives.
- 7.2. This section sets out our intention to express a modern purpose for fire and rescue in 21st century Scotland. The purpose will reflect the broad role which the service plays in serving communities across Scotland: including community safety initiatives; supporting local business; and partnership working with health, education, police and local authorities.

Current Arrangements

- 7.3. The Fire (Scotland) Act 2005 and the Fire (Additional Function) (Scotland) Order 2005 set out the specific functions of each Fire and Rescue Authority or Joint Board. Those functions are as follows:
- promoting fire safety;
 - fire fighting;
 - responding to road traffic accidents;
 - enforcing fire safety legislation in non-domestic premises;
 - responding to chemical, biological, radiological or nuclear incidents;
 - providing urban search and rescue capability;
 - responding to serious flooding; and
 - responding to serious transport incidents.
- 7.4. In addition, section 13 of the Act gives Fire and Rescue Authorities and Joint Boards the power to respond to any other eventualities likely to cause death, injury or illness, or harm to the environment (including buildings).
- 7.5. There are additional duties in other pieces of legislation such as the Civil Contingencies Act 2004 and the Local Government in Scotland Act 2003. These duties will remain in force, although updated to take account of a single fire and rescue service.
- 7.6. Section 40 of the 2005 Act requires Scottish Ministers to prepare a Fire and Rescue Framework for Scotland, setting out priorities, objectives and guidance to Fire and Rescue Authorities and Joint Boards in the carrying out of their functions. The most recent Framework was published in 2005.

Scottish Government proposals

- 7.7. The Scottish Government is not proposing to change the functions of the fire and rescue service. However, in line with the Christie Commission

recommendations that the reform of Police and Fire should lead to the achievement of better outcomes for the people and communities of Scotland, we are proposing the creation of a new purpose for the fire and rescue service that reflects the realities of its activities in the 21st century and the Scottish Government's vision for a reformed service, focussing on improving the safety and wellbeing of individuals, families and communities. This might be along the lines of:

Purpose and Functions of the Scottish Fire and Rescue Service:

To improve the safety and wellbeing of the people of Scotland, by working with others in the public, private, voluntary and community sectors, focusing on prevention (reducing the risk of and changing people's perception and behaviour towards fire), protection (mitigating the effects of fire) and response (to incidents), in particular by:

- **Promoting fire safety;**
- **Fire fighting;**
- **Working with partners to plan for and respond to emergencies;**
- **Responding to road traffic accidents;**
- **Enforcing fire safety legislation in relevant premises;**
- **Responding to chemical biological, radiological, or nuclear incidents;**
- **Providing urban search and rescue capability;**
- **Responding to serious flooding; and**
- **Responding to serious transport incidents.**

7.8. This would reflect the existing statutory functions, but would place these within a context of improving outcomes, promoting community engagement, prevention and partnership working. A new purpose could be created through the reform legislation, but we are proposing to embed a purpose in a revised Fire Framework. The Framework operates under section 40 of the Fire (Scotland) Act 2005, with a legislative requirement for the Framework - containing the priorities, objectives and guidance – to be kept under review. Adherence to the Framework is governed by section 41 of the 2005 Act.

7.9. Underneath this purpose, the existing legislative functions would remain. The functions were reviewed as recently as 2005 and remain fit for purpose.

7.10. The February consultation paper also explored the prospect of fire stations coming together in community resilience hubs, working with local communities beyond the traditional community fire safety role of the fire and rescue services and supporting community safety across a wider range of emergencies. Respondents confirmed some fire and rescue services already provide community resilience functions.

7.11. The exact nature of the hubs varies across Scotland depending upon local circumstance and need. As such, we are not proposing to make this a legislative function. As with other functions we propose that integrated risk management planning be used to identify areas where provision is currently

provided, and to identify need in the future. This would support flexible use of resources and align these services with local community planning to promote local service integration and partnership working.

Question 13: What are your views on how we might strengthen the proposed purpose? Should the purpose be set out in the Fire Framework, or in some other way?

Question 14: What are your views on our plans to retain existing functions for the Scottish Fire and Rescue Service?

8. STRUCTURE OF A SINGLE SCOTTISH FIRE AND RESCUE SERVICE

- 8.1. This section sets out the framework for a single fire and rescue service which would deliver services to all of Scotland's communities. These proposals will reduce complexity and duplication and deliver a more streamlined service which prioritises the retention of services in communities over the maintenance of an outdated and inefficient structure.
- 8.2. The Scottish Government proposes the creation of a single Scottish Fire and Rescue Service. This will be a body created by legislation, comprising a Board, a Chief Officer and staff. The detailed arrangements for its operation will rightfully be for the new Scottish Fire and Rescue Service Board and its Chief Officer to determine. However, the following chapters set out broadly how we envisage national governance, local scrutiny, workforce arrangements and funding will operate and seek your views on these.

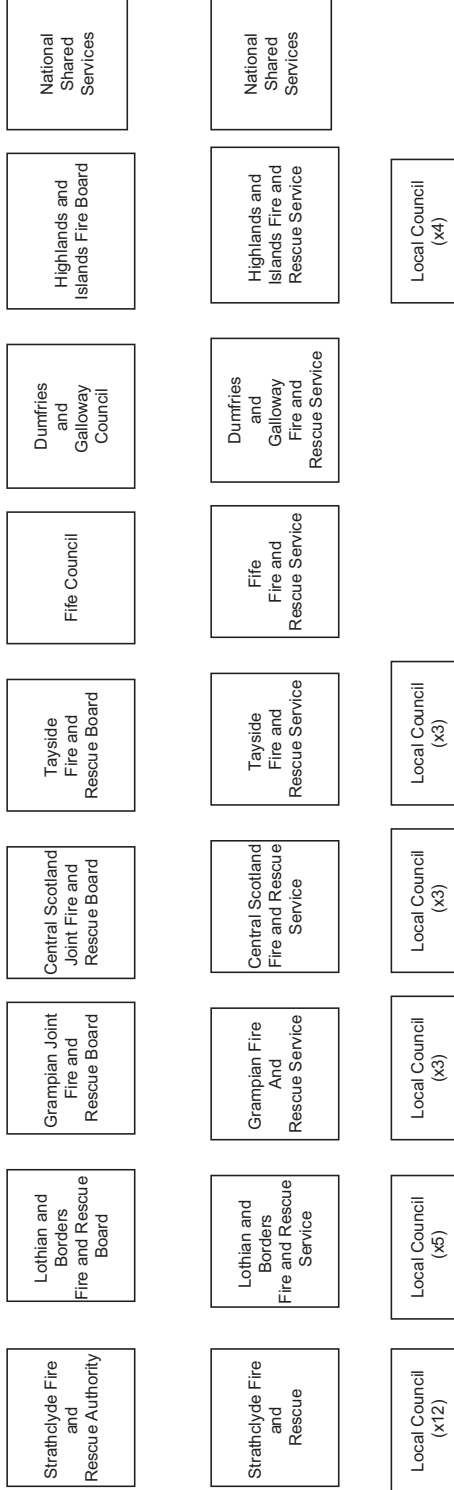
Current arrangements

- 8.3. The existing structure of the fire and rescue service in Scotland dates from 1975 when regional councils were established. Currently, the Fire (Scotland) Act 2005 establishes local authorities as the Fire and Rescue Authority (FRA) for their area. Scottish Ministers have the power to combine the areas of two or more fire authorities into joint fire and rescue boards in the interests of greater economy, efficiency and effectiveness.
- 8.4. Scotland has two unitary Fire and Rescue Authorities: Fife and Dumfries and Galloway and six Joint Fire and Rescue Boards. Each has a set of duties (such as appointing a Chief Officer) and responsibilities (such as making provision for fire-fighting and responding to road traffic accidents). Similar to policing, the fire and rescue service has inherited an organisational structure based upon a widely variable scale of operation. For example, the largest fire and rescue service, Strathclyde, responded to 52% of all fires in Scotland, whilst Dumfries and Galloway responded to 2% and Highlands and Islands 4%.
- 8.5. The following diagram sets out the principal governance and delivery structures at present.

Fire and Rescue Services - Current Structure

Scottish Parliament

Scottish Ministers



Scottish Government proposals

8.6. We propose to establish a single Fire and Rescue Service for Scotland overseen by a single Board. This would reduce complexity and duplication and deliver a more streamlined service with prioritises outcomes over the maintenance of outdated and inefficient structures. This would bring together services currently provided by the eight services, as well as services currently provided by the Scottish Government. Those services are as follows:

Scottish Fire Service College

8.7. The Scottish Fire Service College currently provides the majority of initial firefighter training for all Scottish services, as well as subsequent specialist training, provides e-learning courses and maintains and oversees the training and development system for all individual firefighters. In addition, all 8 services have their own local training arrangements. The College budget is around £6.4 million per year. Scottish Government proposes that the College and its assets will be transferred from Scottish Government to the new Scottish fire and rescue service. Under a single service, there would be significant scope for rationalisation of training.

Firelink Communications System

8.8. Our fire and rescue services rely on a high quality and resilient communications system in order to mobilise and manage incidents. The Firelink is a new single digital wide-area radio communication system for the fire and rescue services (FRSs) in Scotland which interfaces with the other blue light services. It is provided under contract by Airwave Solutions Ltd and is managed by the Scottish Government. Under our proposals, management of the contract could be transferred to the new single service. Managing the development of a replacement system, following expiry of the current contract, should remain with the Scottish Government given that, for reasons of interoperability, any system would have to continue to operate across all three blue light services.

Specialist resources

8.9. The Scottish Government has provided specialist resources to augment the FRS's response to a major national threat, notably a chemical, biological, radiological or nuclear incident. These assets are currently distributed across all 8 services with the Scottish Government retaining ownership and financing their maintenance. These assets would be transferred to the single service.

Question 15: What are your views on our proposals to transfer Scottish Government assets to the new body?
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Scottish Government Proposals

8.10. We plan to bring forward legislation to provide a new structure for the delivery of fire and rescue services in Scotland within a single service. These proposals will ensure that we:

- protect and improve local outcomes in communities in the context of financial cuts, by enabling financial savings to be made from sharing support services;
- keep communities safer by providing more equitable access across Scotland to specialist support and expertise, based on risk;
- strengthen the connection to communities by ensuring that local services work effectively in partnership to deliver locally determined priorities, and by creating a new direct relationship with all 32 local authorities rather than the current 8 Fire and Rescue Authorities, with stronger engagement with local councillors;
- provide clearer national governance for national issues and national delivery.

8.11. We will achieve this by:

- enhancing national governance by clarifying the respective roles of the Scottish Ministers, the Scottish Parliament, and the fire and rescue service, with the Chief Officer being accountable to the Board of the new statutory Scottish fire and rescue service, not to Ministers. Ministers would not be involved in operational matters;
- widening democratic engagement through the involvement of significantly more local authority councillors. At present only 12% (146 out of 1,222) of local councillors have a formal direct role in the governance arrangements. In some cases that equates to only 2 Councillors from the smaller local authorities having a role in a Joint Board. In future, individual local authorities would have a direct engagement with shaping the priorities, challenging and scrutinising performance of these services, involving far more local councillors; and
- strengthening the link with local communities, by legislating to provide a local senior officer for each local authority area, responsible and accountable for services in that area. These arrangements will also align far better with community planning arrangements, whilst retaining the flexibility to allow pan-local authority solutions where desired.

8.12. Decisions on the internal operational structures of the new service will be a matter for it. The Scottish Government will work in partnership with the fire and rescue service to support the development of the new operational structure during the transition and early period of the single Service.

8.13. The following diagram sets out the principal governance and delivery structures under a single service.

Post reform landscape

**Post Reform Fire and Rescue
Structure**

Scottish Parliament

Scottish Ministers

Scottish Fire and Rescue Service

Chief Officer

Local Senior Officer (x32)

Local Councils (x32)

9. NEW ARRANGEMENTS FOR GOVERNANCE AND ACCOUNTABILITY

9.1. This chapter sets out our proposals for the clear and effective governance and accountability of the Scottish Fire and Rescue Service. The proposals support local services and partnership working by giving many more local elected members than at present a formal role in fire and rescue in their area, and by designating a Local Senior Officer, with significant delegated authority, for that area.

Current Arrangements

9.2. At present, Fire and Rescue Authorities (FRA) and Joint Boards are formally accountable for fire and rescue provision in their area. The six Joint Boards operate at the regional level, and there are two single authorities – Dumfries and Galloway and Fife. The FRAs and Joint Boards are responsible for overseeing the work of the chief officers and holding them to account for services in their area. The six Joint Boards cover between 3 and 12 local authority areas and are made up of representatives from their constituent local authority areas. The number of members on the Boards varies widely.

Scottish Government Proposals

9.3. Below we have set out proposals for how a single fire and rescue service would be governed and held to account. Under this model, each tier of governance would have clearly defined roles and responsibilities.

9.4. The following outlines propose key roles and responsibilities of:

- Scottish Ministers;
- The Board of the Scottish Fire and Rescue Service;
- The Chief Officer;
- Local Councils; and
- Local Senior Officer.

9.5. The potential role for the Scottish Parliament, with more opportunities for the Parliament to consider and scrutinise the Scottish Fire and Rescue Service, is also considered below.

Scottish Ministers

9.6. At a national level Scottish Ministers would be responsible for :

- using the Fire Framework to set the strategic priorities, objectives and local scrutiny arrangements for the Scottish Fire and Rescue Service;
- setting the total budget for the Scottish Fire and Rescue Service;
- setting the overarching performance management framework;
- reviewing and approving the Scottish Fire and Rescue Service's risk-based national strategic plan;

- appointing members to the Scottish Fire and Rescue Service Board in line with the principles of the Public Appointments Commissioner for Scotland's Code of Practice; and
- approving the Scottish Fire and Rescue Service Board's Chief Officer appointment.

9.7. Ministers will retain their existing powers to intervene by order, where they consider the new Service is failing to act in accordance with the Fire Framework, or more generally in relation to public safety and requirements concerning equipment and services. These responsibilities will be set out in legislation. Such powers are rarely used, and we envisage that the powers would only be used as a last resort. They could not be used to interfere with the Chief Officer's responsibility for controlling and directing firefighters.

The Board of the Scottish Fire and Rescue Service

9.8. To ensure appropriate separation between the Scottish Ministers and the operational role of the Chief Officer, a statutory body – the Scottish Fire and Rescue Service - will be established, to provide strong and independent governance of the service and hold the Chief Officer to account. The Scottish Fire and Rescue Service will be responsible for managing the annual budget and delivering a programme of major transformational change. The Scottish Fire and Rescue Service will have a Board whose main roles will be to:

- maintain the efficient and effective performance of the services;
- produce and publish a risk based national strategic plan which would, among other things, take account of the strategic objectives set by Ministers in the Fire Framework;
- approve an annual delivery plan and budget;
- hold the Chief Officer to account for performance against plan;
- appoint and dismiss the chief officer and ratify the Chief's appointments at principal officer level⁴;
- publish annual report and accounts; and
- monitor and scrutinise complaints.

9.9. The responsibilities of the Board would not be confined to 'national issues'. They would also be responsible for ensuring that the Scottish Fire and Rescue Service is effective at a local level and that local plans were being delivered. An important part of this would be assessing the performance of local services and their contribution to local outcomes. The Board will also ensure that the views of officers and staff and their representative bodies are considered.

9.10. It will be essential to ensure that the Scottish Fire and Rescue Service Board membership has the required range and mix of skills, experience and expertise to deliver its responsibilities. Members of the Board would be appointed by the Scottish Ministers through a formal public appointment process which complies with the Public Appointments Commissioner for Scotland's Code of Practice. Ministers would ensure that these appointments included individuals with

⁴ Defined as Brigade Manager in the "Gold Book" rolemap

experience of and knowledge of local government and local fire and rescue services. Alternatively, Ministers could appoint a number of serving councillors, nominated by COSLA, to represent the collective voice of local government on the Board. We would welcome views on these two approaches, and on other aspects of the composition of the Board.

Question 16: What are your views on the composition of the Board of the Scottish Fire and Rescue Service and the specific skills, experience and expertise required for it to perform its roles effectively?

Question 17: Do you think a number of appointments to the Board should be reserved for serving councillors nominated by COSLA? Or that Ministers should simply ensure that the individuals appointed to the Board include those with experience and knowledge of local government?

Chief Officer

9.11. The role of the Chief Officer will be to:

- lead and manage the Service;
- produce and publish an annual plan and budget for delivery of the Service's strategic plan based upon integrated risk management planning;
- publish performance information against the annual plan;
- appoint a senior management team, to be ratified by the Board;
- designate a senior local officer for each local authority area;
- accountable for performance of service;
- be responsible for health and safety; and
- be responsible for delivering local and national outcomes, for the efficient and effective use of resources, and for securing Best Value.

9.12. The Chief Officer will also have a duty to participate in community planning and will be required to ensure effective local fire and rescue services and the delivery of local plans.

9.13. The Chief Officer will be an employee of the Scottish Fire and Rescue Service, appointed by the Board with the consent of Scottish Ministers.

Local Councils

9.14. At present, only around 1 in 8 local elected members are involved in Fire and Rescue Authorities and the regional Joint Boards. The Scottish Government wants to see many more local elected members playing a direct and formal role in fire and rescue in their area so that they can better shape local priorities to meet local needs and better scrutinise local performance. Our proposals would enhance the role of the local councils and their ability to influence fire and rescue services within their local area. The local council would have the right to:

- formally comment on the local plan;

- monitor and scrutinise performance against the local plan; and bring forward proposals for how performance could be improved and particular issues addressed by the Scottish Fire and Rescue Service, the Council and other agencies; and
- seek reports, answers and explanations from the Local Senior Officer about the Plan and other fire and rescue issues and, where necessary, raise issues with the Chief Officer and Scottish Fire and Rescue Service Board.
- monitor and scrutinise complaints.

9.15. Locally, the principal relationship would be between the local council and community planning partners and a Local Senior Officer, designated by the Chief Officer.

9.16. These rights could be exercised in a number of ways. For example, the Council may wish to use an existing Committee or establish a new Committee covering fire and rescue or both police and fire and rescue. It may wish to exercise these rights in conjunction with another Council or Councils. Or it may wish to invite people other than councillors to participate. It is our view that local authorities individually are best placed to determine their most appropriate local mechanism for exercising these rights and formalising their relationship between the Council and the Local Senior Officer. We do not therefore intend to require through legislation a single means of doing this. However the Council chooses to exercise these rights, we would expect the Chair/Convenor of the local mechanism to provide effective leadership of the relationship between the Council and the Scottish Fire and Rescue Service, and to ensure that other services work effectively with the Service to secure delivery of local outcomes.

Local Senior Officer

9.17. Under a single Scottish Fire and Rescue Service, as now, the vast majority of services will continue to be delivered locally. As set out above, our proposals for reform will enable local authorities to shape local priorities and objectives and to scrutinise delivery and performance. The designation of a Local Senior Officer for each local council area will be central to this.

9.18. The Local Senior Officer will have significant delegated authority in the local council area and will be responsible for developing and delivering a Local Plan, which would set objectives and priorities for fire and rescue in the area in the context of local priorities, such as those set out in the Single Outcome Agreement (SOA), and the Scottish Fire and Rescue Service National Plan.

The local senior officer will be responsible for:

- preparing, for the agreement of the Council, a local fire and rescue plan. By mutual agreement, the local plan could be integrated in the wider plans of the community planning partnership or the SOA;
- publishing performance information against the plan;
- acting as lead officer in Community Planning Partnerships, and the first point of contact for local councillors and local partners;

- ensuring local needs are reflected in integrated risk management planning, consulting local partners as required; and
- provide reports to and answer questions from the Council on performance against the plan and other fire and rescue issues.

Scottish Parliament

9.19. The Fire Framework and any revision must be made and brought into effect by Scottish Statutory Instrument. Accordingly, the Parliament has a role in considering the Framework, which sets out the priorities and objectives for the fire and rescue service. This will give Parliament the opportunity to scrutinise the content of the Framework, for example through the Justice Committee taking evidence from the Chair or members of the Scottish Fire and Rescue Service and/ or the Chief Officer as well as local authorities and community representatives.

Question 18: What are your views on the roles and responsibilities for governance and accountability set out above?

10. FUNDING

Current Arrangements

- 10.1. Expenditure on the fire and rescue service amounted to £372 million in 2010-11. This comprised £273 million in local government expenditure and £39 million in central government support for Firelink communications system, national learning and development and fire capital grant. A further £60 million supports the firefighter and new firefighter pension scheme costs.
- 10.2. Fire and rescue funding is currently comprised of the following 4 main elements:

General Revenue Grant

The majority of funding (excluding pensions) is provided through the block grant provided by the Scottish Government as part of the annual local government finance settlement.

Local Authority (Fire) Capital Grant

The Fire Capital Grant totalled £20.2 million in 2011-12. This was distributed by the Scottish Ministers between the 8 authorities on a formula and top-slice basis.

Fire Pensions

Firefighter pensions funding is paid directly from the Scottish Government via Fire and Rescue Authorities and Joint Boards

Shared Services Funding

This includes funding for the Fire College and for Firelink. Funds are administered centrally from the Scottish Government.

Scottish Government proposals

- 10.3. The Scottish Government proposes a new funding model for the fire and rescue service to reflect the new and stronger governance and accountability framework. Under this approach, Scottish Ministers will agree a funding settlement which will be paid directly to the Scottish Fire and Rescue Service, including revenue and capital (including what is currently the Fire Capital Grant and appropriate shared services funding). It will be for the Board of the Scottish Fire and Rescue Service and Chief Officer to agree the split of funding between national and local priorities and appropriate shared services, although the allocation of resources to each local designated officer will be transparent and central to the development of the local plan. The following roles are proposed:

Scottish Parliament

10.4. The role of Scottish Parliament will be to:

- agree funding for the Scottish Fire and Rescue Service through the annual Budget Bill process;
- receive and consider the audited accounts of the Scottish Fire and Rescue Service; and
- hold the Scottish Fire and Rescue Service accountable for its own expenditure and the effective scrutiny of the Chief Officer's expenditure.

Scottish Ministers

10.5. The role of Scottish Ministers will be to:

- set the budget for the Scottish Fire and Rescue Service agreed through the annual Budget Bill process with Parliament.

Board of the Scottish Fire and Rescue Service

10.6. The role of the Scottish Fire and Rescue Service's Board will be to:

- allocate resources to the Chief Officer to support the delivery of the national and local delivery plans;
- scrutinise the use of funding by the Chief Officer by reviewing activity, performance and outcomes against organisational objectives, ensure effective financial management and secure best value; and
- prepare annual accounts and submit them to Parliament.

Chief Officer

10.7. The role of Chief Officer will be to:

- allocate resources for the delivery of the national and local delivery plans;
- be accountable to the Scottish Fire and Rescue Service Board for the use of funding allocated by the Board; and
- be accountable for the proper management of public funds and for ensuring that these resources are used efficiently, effectively and economically, and for securing Best Value.

Local senior officer

10.8. The role of local senior officer will be to:

- ensure that local risks are fed into the national risk management plan to ensure that local resources reflect local risk;
- allocate local resources according to risk and national and local priorities; and

- be accountable to the Chief Officer for the use of allocated resources and for securing Best Value.

Question 19: What are your views on the proposed new funding and financial accountability arrangements set out above?

11. SCRUTINISING THE SCOTTISH FIRE AND RESCUE SERVICE – AUDIT, INSPECTION AND COMPLAINTS

Current Arrangements - Scrutiny and Inspection

- 11.1. Long-standing scrutiny arrangements have their origin in the appointment of Inspectors with scrutiny powers in the Fire Services Act 1947. The Chief Inspector of Fire Services for Scotland inspected Fire and Rescue Services (then Fire Brigades), and presented an annual report based upon the inspections.
- 11.2. In 2002 Professor Sir George Bain's report the "Independent Review of Fire Services" made wide recommendations for implementation of reform including roles, modernisation, management structures, pay and conditions. One of the outcomes of Bain was the cessation of routine scrutiny of the FRS in Great Britain.
- 11.3. At the time of Professor Crerar's review of external scrutiny in 2007, routine scrutiny of the FRS had therefore ceased. To reflect this cessation, the Fire Service Inspectorate in Scotland was re-engineered and rebranded in 2008 to become the Scottish Fire and Rescue Advisory Unit (SFRAU) with an enhanced advisory role.
- 11.4. The Accounts Commission has authority to audit fire and rescue services to ensure they are meeting their duty of Best Value and has also undertaken some audit work on FRS modernisation. This authority is discharged through Audit Scotland. Some of this scrutiny work was in collaboration with the Fire Service Inspectorate. Audit Scotland is clear that it does not have the competence to scrutinise operational activity or technical issues within the sector. The current relationship with SFRAU is one whereby the Chief Inspector is involved in the quality assurance of the audit reports and Audit Scotland staff can draw on the knowledge and expertise of SFRAU staff as part of the audit risk assessment and scoping process.
- 11.5. In 2008/09, to fill a perceived gap in FRS scrutiny, and with the agreement of the Scottish FRSSs, SFRAU led an external scrutiny review of each FRS in Scotland. The review was generally positive about the provision of service delivery. However weaknesses were evident in self-assessment, internal audit and review, and performance management.

The role and powers of SFRAU

- 11.6. SFRAU provides professional advice to Ministers. The Head of the Unit holds appointment as Chief Inspector of Fire and Rescue Authorities (CIFRA) as defined in Section 43 of the Fire (Scotland) Act 2005.
- 11.7. Section 43 provides for the appointment of a Chief Inspector, Inspectors and Assistant Inspectors. These post-holders are 'non-ministerial office holders within the Scottish Administration' and have an independent role. The Chief

Inspector is appointed by Her Majesty by Order in Council (the present incumbent also carries a Royal Warrant).

Current arrangements - Complaints

11.8. Each Service has its own complaints procedure. All aim to resolve a complaint as quickly as possible and at the lowest possible level. All have escalation routes should a complainant be dissatisfied with the original decision. Once the local processes have been exhausted, a complainant has the right to complain to the Scottish Public Services Ombudsman.

Scottish Government proposals

Scrutiny

11.9. As part of a move to a single fire and rescue service we propose that SFRAU is given an external scrutiny and audit role. An independent professional challenge will give Ministers reassurance of effective and efficient service delivery during a time of change and competing priorities and will provide for a proportionate and risk based examination of the Service. With a similar role to Her Majesty's Inspectorate of Constabulary for Scotland (HMICS) with respect to scrutiny, SFRAU will do this through inspections, themed or otherwise. Whilst Ministers can call on SFRAU to undertake formal inspections and other pieces of work, it would also be able to operate independently of Government, the Fire and Rescue Service and the Board.

11.10. In line with this, we envisage the following scrutiny arrangement for the new service:

- CIFRA will be charged with an independent, external scrutiny role of the new single fire and rescue service;
- CIFRA will remain independent in the operation of the scrutiny function;
- The Scottish Fire and Rescue Service will be subject to proportionate and risk-based external scrutiny with an appropriate level of regulation and scrutiny by CIFRA, using the resources available to SFRAU;
- a complementary scrutiny relationship between SFRAU, Audit Scotland, Scottish Fire and Rescue Service, Scottish Government and wider stakeholders to avoid duplication and promote joint working and co-operation;
- Develop a co-operative scrutiny relationship between SFRAU and HMICS (and other scrutiny bodies where appropriate) to avoid duplication and reduce burdens on those subject to scrutiny, which will be in line with the approach led by the Accounts Commission in relation to scrutiny following the Crerar Review; and
- existing scrutiny powers in the 2005 Act will be amended to allow for a more modern, proportionate and flexible approach to scrutiny.

Complaints

11.11. It is important that any fire and rescue complaints system follows the Scottish Public Services Ombudsman's principles and procedures for handling complaints.

11.12. There will be a legislative requirement on the Scottish Fire and Rescue Service to establish a procedure by which a person, or someone acting on a person's behalf, may make complaints. The Scottish Government will expect the Scottish Fire and Rescue Service to introduce an internal complaints process which meets these principles. The SPSO will retain responsibility for overseeing how complaints are handled, as at present. Where the Scottish Fire and Rescue Service believes a complaint would be better considered by an independent individual or body, the Service will approach SFRAU to identify and nominate an appropriate person or organisation to take this forward.

Question 20: What are your views on our proposals for inspection and audit?

Question 21: What are your views on our proposals for handling complaints?

12. WORKFORCE ARRANGEMENTS

12.1. By reforming our fire and rescue services we aim to create a sustainable fire and rescue service, protecting and improving frontline services and outcomes for Scotland's communities, against the backdrop of financial challenges. We have no plans to make fundamental changes to the status, or terms and conditions of service of fire-fighters or support staff. The Scottish Government recognises that the success of the reform programme will be in large part determined by the staff who will be transforming the service. Once the new fire and rescue service is operational, terms and conditions will be an issue to be negotiated between the Scottish fire and rescue service and its employees.

Current Arrangements

12.2. Fire officers are employees of the Fire and Rescue Authority or Joint Board under the control of the Chief Officer, and are governed by the national pay and conditions set by the relevant National Joint Council plus variations negotiated and agreed locally. The Chief Officer and Brigade Managers are appointed by the Fire and Rescue Authority or Joint Board and all officers below them are appointed by the Chief Officer. The relevant authority also employs support staff to assist the service.

Transitional Arrangements

12.3. The Scottish Government proposes that all firefighters, officers, control room and support staff (including those on secondment to other bodies) who are in post immediately before the new body is established should transfer to the new body on the day of establishment and should retain their terms and conditions of service on transfer. This is in line with Government policy that staff transferring within the public sector should do so as far as possible without any detriment to the individual.

12.4. Under current arrangements, the Chief Officer can require an officer to serve anywhere within the fire and rescue service area or, if agreed locally, a specific sub section of that area. In a single service model, the equivalent of the fire and rescue area would be the entire country. The creation of a single fire and rescue service creates more professional and career opportunities for fire-fighters to serve in a variety of roles across Scotland. One of the advantages of the single service is the greater flexibility it will provide to deploy officers and assets wherever they are needed. However the Scottish Government does not intend that reform should bring hardship to individual staff and therefore proposes that at the time the new Scottish fire and rescue service is established, existing officers and staff will retain their current terms and conditions of service with existing mobility arrangements transferring with them to the new service. It will be for the leadership of the new service to negotiate any changes should it consider them necessary.

Chief Officer Appointment

12.5. The Chief Officer will normally be appointed by the Scottish Fire and Rescue Service Board, subject to the approval of the Scottish Ministers, following a fair and open competition. The first Chief Officer of the new Service will be appointed by Scottish Ministers using the same fair and open competition that will exist for future appointments.

Other Principal Officer Appointments

12.6. We propose that Principal Officer⁵ appointments will be made by the Chief Officer and ratified by the Board of Scottish Fire and Rescue Service, following a fair and open competition.

New Staff

12.7. New staff, below Principal Officer level, will be appointed by the Scottish Fire and Rescue Service to ensure it remains sufficiently resourced and able to carry out its duties. The Scottish Fire and Rescue Service will establish the terms and conditions which will apply for new officers and staff, and also decide whether to harmonise the terms and conditions of service for support staff previously employed by each of the eight existing Fire and Rescue Authorities and Joint Boards.

Pay and Pensions

12.8. National pay and conditions for fire officers and support staff up to area manager level is set by the National Joint Council (NJC) Scheme of Conditions of Service (Grey Book). The 11 roles covered range from firefighter to area manager (and their control room equivalents). Additional elements of pay and allowances rest with the employer and are determined locally. Similar arrangements (Gold Book) are in place for brigade managers (“Principal Officers”). There are no plans to change these negotiation arrangements during transition to a single service.

12.9. Any changes to existing pay scales, for example to align with existing public sector pay frameworks, would require discussions with the trade unions.

12.10. We want to ensure that fire and rescue reform does not result in any detriment for members in respect of their pension scheme entitlements and we will put in place legislative and administrative arrangements to ensure that firefighters remain eligible for the New Firefighters Pension Scheme and control room staff and support staff remain eligible to continue in the Local Government Pension Scheme (Scotland). There may, of course, be other changes as a result of wider public sector pension reform but negotiations on this will be separate from discussions around the reform of the fire and rescue services.

⁵ Defined as Brigade Manager in the “Gold Book” rolemap.

Question 22: What are your views on the workforce proposals for staff transferring to the Scottish Fire and Rescue Service? Are there any other workforce issues we should be considering?

Employment of Police Constables in the Scottish Fire and Rescue Service

12.11. The Petitions Committee of the Scottish Parliament has asked Scottish Government to raise the issue of the prohibition on the employment of police constables as firefighters (section 51 of the Fire (Scotland) Act 2005) during this consultation exercise. When the 2005 Act was passed the view of Scottish Government was that constables should be prohibited from being employed as a firefighter. The justification behind the prohibition was that, should an off-duty constable be employed as a fire fighter, difficulties may arise at the scene of a fire or other emergency due to confusion over which employer has the primary claim on the constable's services.

12.12. On the basis of the evidence provided to date, Scottish Ministers remain of the view that the prohibition should continue. However, we will reconsider the position should clear evidence supporting a need for change be presented. With this in mind, we will consider next steps in light of any significant evidence submitted to the following consultation question.

Question 23: Please highlight evidence where the existing provisions in relation to the employment of police constables causes significant difficulties preventing fire and rescue services delivering their statutory duties. How would you differentiate between the correct duties a special constable/ fire officer should follow if they attend an incident where both a crime is being committed and an emergency situation requires urgent action?

13. FIRE SAFETY

13.1. The Scottish Government is also considering the implications of a single fire service structure on some of the existing provisions of the Fire (Scotland) Act. Views are invited on the following issues.

Fire Safety promotion

Current position

13.2. Section 8 of the Fire (Scotland) Act 2005 requires a Fire and Rescue Authority/Joint Board to provide for promoting fire safety in its area. This includes providing advice, information, publicity and encouragement to prevent fires and death/injury and to reduce losses. Carrying out this function may involve undertaking home fire safety visits, fitting smoke alarms, education in schools and communities, youth engagement and media, publicity and campaign work. The Scottish Government have responsibility for national fire safety promotion and in conjunction with the FRSSs, help facilitate the Services' response to their requirement to deliver Community Fire Safety. For example Scottish Government runs regular national Fire Safety Campaigns, such as Christmas media campaigns and the national campaign to improve fire safety in the home "Don't Give Fire a Home".

Scottish Government Proposals

13.3. We intend that the new Scottish Fire and Rescue Service will have obligations to promote fire safety at local and regional levels. We are also considering imposing a duty on the Scottish Fire and Rescue Service to adopt responsibility for promoting fire safety at national level.

Question 24: What are your views on the benefits and/or disadvantages regarding the obligations to promote fire safety at local, regional and national levels?

Crown premises

13.4. At present, the Chief Inspector of Fire and Rescue Authorities (CIFRA) is responsible for enforcing fire safety legislation in certain Crown premises by virtue of section 61(9)(b) of the Fire (Scotland) Act 2005. We are considering whether this CIFRA enforcement role should be passed to the Scottish Fire and Rescue Service.

Determination of disputes

13.5. Section 67(1) of the Fire (Scotland) Act 2005 contains provision for an independent arbitration process in cases where there is disagreement between a dutyholder ('a person with fire safety obligations') and the enforcing authority (including a Fire and rescue Authority where it has functions in terms of section 61(9)(c)) on technical fire safety issues. The dutyholder and the enforcing

authority can jointly refer the disputed matter to the Chief Inspector of Fire and Rescue Authorities for an independent determination.

- 13.6. We propose that the existing functions of the Fire and Rescue Authorities of enforcing fire safety legislation are imposed on the new Scottish Fire and Rescue Service. In relation to these functions we propose that the arbitration process should continue to apply, but that the requirement for a referral to be joint be removed. This would allow either party to independently request a determination without the approval of the other party, ensuring reasonable access for the dutyholder to the process.

Question 25: What are your views on our proposals to:

- **pass the Chief Inspector of Fire and Rescue Authorities enforcement role, under 61(9)(b) of the Fire (Scotland) Act 2005, to the Scottish Fire and Rescue Service; and**
- **allow duty holders and the enforcing authority to independently refer a disputed matter to the Chief Inspector of Fire and Rescue Authorities under sections 67(1) of the Fire (Scotland) Act 2005. What safeguards, if any, should be put in place to ensure arbitration is only requested in appropriate cases?**

Question 26: Are there any other issues we should consider in creating the Scottish Fire and Rescue Service?

14. EQUALITY IMPACT ASSESSMENT AND BUSINESS AND REGULATORY IMPACT ASSESSMENT

Equality Impact Assessment

14.1. We have developed a partial Equality Impact Assessment ("EQIA"), to consider impacts on equality from the reform of the Fire and Rescue Services and the Police. It follows the structure of the Scottish Government's EQIA tool. Part A considers the Fire and Rescue Service and Part B considers the Police.

14.2. The following are key themes which (amongst others) have been highlighted for consideration in the reform process, regarding how best to progress the equality agenda:

- the needs of people in equality groups will vary according to different geographic areas; therefore local engagement is key to identifying and addressing issues. Strong local engagement is necessary to reach vulnerable groups of people who may not have a prominent voice regionally or nationally;
- partnership and other close working with local organisations is vital to identifying and addressing the specific needs of people in equality groups, and delivering a quality service to address these needs;
- there is a need to mitigate potential detrimental impact that restructuring could have on the diversity of the workforce. For example, currently collected statistics indicate areas which could particularly affect female, ethnic minority and disabled staff. Reforms should consider how to increase the diversity of the workforce, bearing in mind work which has already been done in this respect; and
- reforms should aim to encourage a more joined-up approach to tackling service responses and workforce issues across all the equality strands, and allow police and fire and rescue services which currently display good practice in this area to lead the way in setting the agenda for Scotland.

Question 27: The partial EQIA can be found at <http://www.scotland.gov.uk/policereform> or <http://www.scotland.gov.uk/firereform>. Do you have any comments on the partial EQIA? Are there any other potential impacts to consider?

Business and Regulatory Impact Assessment

14.3. We are developing a Business and Regulatory Impact Assessment (BRIA) to consider any potential impacts of the proposed reform of the police and fire and rescue services. BRIAs are reviewed and updated at various points in the evolution of a policy.

Question 28: The partial BRIA can be found at <http://www.scotland.gov.uk/policereform> or <http://www.scotland.gov.uk/firereform>. Do you have any comments on the partial BRIA? Are there any other potential impacts to consider?

ANNEX A: RESPONDING TO THE CONSULTATION ON REFORMING POLICE AND FIRE AND RESCUE SERVICES IN SCOTLAND

Responding to this consultation paper

We are inviting written responses to this consultation paper by 02 November 2011. **Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:**

By email:

PoliceandFireReformConsultation@scotland.gsi.gov.uk

By post:

Paul Axford
Police and Fire Reform Division
Scottish Government
Floor 1WR
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

If you have any queries contact Olive Hill on 0131 244 3191.

Please note that it will not be possible to extend the deadline of 02 November 2011.

We would be grateful if you would use the consultation questionnaire provided or could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>.

The Scottish Government has an email alert system for consultations, <http://register.scotland.gov.uk>. This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). It complements, but in no way replaces SG distribution lists, and is designed to allow stakeholders to keep up to date with all SG consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** enclosed with this consultation paper as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library (See the attached Respondent Information Form). These will be made available to the public in the Scottish Government Library and on the Scottish Government consultation web pages. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help inform final decisions on the detailed arrangements for reform.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to Paul Axford at the above address.

ANNEX B: CONSULTATION QUESTIONS AND RESPONDENT INFORMATION FORM

PART A - POLICE

Question 1: What are your views on how we might strengthen the proposed purpose? Should the purpose be set out in national guidance, or in some other way?

Question 2: What are your views on our plans to retain existing functions in a modern form or on our proposals to modernise the oath?

Question 3: What are your views on our proposals for integrating existing bodies into a single service or on how and when partnership arrangements should adapt to align with this new structure?

Question 4: What are your views on the composition of the Scottish Police Authority and the specific skills, experience and expertise required for it to perform its roles effectively?

Question 5: Do you think a number of appointments to the Authority should be reserved for serving councillors nominated by COSLA? Or that Ministers should simply ensure that the individuals appointed to the Authority include those with experience and knowledge of local government?

Question 6: What are your views on the roles and responsibilities for governance and accountability set out above?

Question 7: What are your views on the proposed new funding and financial accountability arrangements set out above?

Question 8: What are your views on our proposals for inspection and audit?

Question 9: What are your views on our proposals and options for handling complaints, criminal allegations, serious incidents and reviews of investigations?

Question 10: What are your views on our proposals for Independent Custody Visiting?

Question 11: What are your views regarding our proposals for officers and staff transferring to the new Scottish police service? Are there any other workforce issues we should be considering?

Question 12: Are there any other issues we should consider in creating the Scottish police service?

PART B – FIRE AND RESCUE

Question 13: What are your views on how we might strengthen the proposed purpose? Should the purpose be set out in the Fire Framework, or in some other way?

Question 14: What are your views on our plans to retain existing functions for the Scottish Fire and Rescue Service?

Question 15: What are your views on our proposals to transfer Scottish Government assets to the new body?

Question 16: What are your views on the composition of the Board of the Scottish Fire and Rescue Service and the specific skills, experience and expertise required for it to perform its roles effectively?

Question 17: Do you think a number of appointments to the Board should be reserved for serving councillors nominated by COSLA? Or that Ministers should simply ensure that the individuals appointed to the Board include those with experience and knowledge of local government?

Question 18: What are your views on the roles and responsibilities for governance and accountability set out above?

Question 19: What are your views on the proposed new funding and financial accountability arrangements set out above?

Question 20: What are your views on our proposals for inspection and audit?

Question 21: What are your views on our proposals for handling complaints?

Question 22: What are your views on the workforce proposals for staff transferring to the Scottish Fire and Rescue Service? Are there any other workforce issues we should be considering?

Question 23: Please highlight evidence where the existing provisions in relation to the employment of police constables causes significant difficulties preventing fire and rescue services delivering their statutory duties. How would you differentiate between the correct duties a special constable/fire officer should follow if they attend an incident where both a crime is being committed and an emergency situation requires urgent action?

Question 24: What are your views on the benefits and/or disadvantages regarding the obligations to promote fire safety at local, regional and national levels?

Question 25: What are your views on our proposals to:

- pass the Chief Inspector of Fire and Rescue Authorities enforcement role, under 61(9)(b) of the Fire (Scotland) Act 2005, to the Scottish fire and rescue service; and
- allow duty holders and the enforcing authority to independently refer a disputed matter to the Chief Inspector of Fire and Rescue Authorities under sections 67(1) of the Fire (Scotland) Act 2005. What safeguards, if any, should be put in place to ensure arbitration is only requested in appropriate cases?

Question 26: Are there any other issues we should consider in creating the Scottish Fire and Rescue Service?

Question 27: The partial EQIA can be found at <http://www.scotland.gov.uk/policereform> or <http://www.scotland.gov.uk/firereform>. Do you have any comments on the partial EQIA? Are there any other potential impacts to consider?

Question 28: The partial BRIA can be found at <http://www.scotland.gov.uk/policereform> or <http://www.scotland.gov.uk/firereform>. Do you have any comments on the partial BRIA? Are there any other potential impacts to consider?

Keeping Scotland Safe and Strong: A Consultation on Reforming Police and Fire and Rescue Services in Scotland



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

Surname

Forename

2. Postal Address

Postcode	Phone	Email
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3. Permissions - I am responding as...

Individual	/	Group/Organisation
<input type="checkbox"/>		<input type="checkbox"/>
<i>Please tick as appropriate</i>		

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis
Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate Yes No

ANNEX C - LIST OF CONSULTEES

AA

Aberlour Child Care Trust
Action for Children Scotland
Age Scotland
Antisocial Behaviour Lawyers Forum
Antisocial Behaviour Officers' Forum
APEX Scotland Association
Asian Fire Services Association
Association of Chief Officers of Voluntary Organisations
Association of Chief Police Officers in Scotland
Association of Directors of Education
Association of Directors of Social Work
Association of Principal Fire Officers
Association of Scottish Neighbourhood Watches
Association of Scottish Police Superintendents
Audit Scotland
Barnardos
British Airport Authority
British Red Cross
British Security Industry Association
British Transport Police
Capability Scotland
CEMVO Scotland
Central Scotland Police
Centre for Regional Economic and Social Research
Chartered Institute of Personnel and Development
Chartered Institute of Public Finance and Accountancy
Chief Fire Officers
Chief Fire Officers Association England
Chief Fire Officers Association Scotland
Child Exploitation and Online Protection Centre
Children 1st.
Christian Police Association
Clerks to the Board
Community Councils
Community Planning Partnerships
Community Safety Partnerships
Confederation of British Industry
Convention of Scottish Local Authorities (COSLA)
Council for Ethnic Minority Infrastructure in Scotland
Crimestoppers Scotland
Crown Office
D&G Constabulary
Department for Communities and Local Government
Director of Judicial Studies
Drug and Alcohol Partnerships
Engender
Equality & Human Rights Commission

Equality Network
Faculty of Advocates
Federation of Small Businesses in Scotland
Fife Constabulary
Fire Board Convenors
Fire Brigades Union Scotland
Fire Officers Association
Forestry Commission Scotland
Gay Police Association
GMB Union
Grampian Police
Health and Safety Executive
Help The Aged in Scotland
Historic Scotland
HM Chief Inspector of Fire Services, England and Wales
HM Chief Inspector of Fire Services, Scotland
HMICS
HMRC
Home Office
Improvement Service
Inclusion Scotland
Institution of Fire Engineers Scottish Branch
Judicial Studies Committee
Justice Committee
L&B Police
Law Society of Scotland
Licensing Boards
Local Authorities
Maritime and Coastguard Agency
Scottish Ambulance Service
Scottish Federation for Course Angling
Scottish MEPs
St. John Ambulance
Maritime and Coastguard Agency
Ministry of Defence Police
Ministry of Justice
Mountain Rescue Committee of Scotland
Muslim Police Association
National Assembly of Wales
National Fraud Authority
National Fraud Intelligence Bureau
Network Rail Scotland
NHS Health Boards
Northern Constabulary
Northern Ireland Office
Northern Ireland Executive
Police Authorities and Joint Boards
Police Complaints Commissioner for Scotland
Political Parties
Principal Clerk of Session & Judiciary

RAC
Royal Air Force
Royal National Lifeboat Institution
Royal Society for the Prevention of Accidents (Scotland) Road Safety Department
Rural Gateway
SACRO
Scotland Office
Scottish Association of Community Councils
Scottish Business Crime Centre
Scottish Centre for Crime and Justice Research
Scottish Chambers of Commerce
Scottish Chief Police Officers' Staff Association
Scottish Children's Reporter Administration
Scottish Civic Forum
Scottish Commissioner for Children and Young People
Scottish Community Foundation
Scottish Community Safety Network
Scottish Community Wardens Network
Scottish Consortium on Crime and Criminal Justice
Scottish Contact for Development and Industry
Scottish Council on Deafness
Scottish Council for Voluntary Organisations
Scottish Court Service
Scottish Crime and Drug Enforcement Agency
Scottish Disability Equality Forum
Scottish Environment Protection Agency
Scottish Fire and Rescue Advisory Unit
Scottish Fire Convenors Forum
Scottish Interfaith Council
Scottish Legal Aid Board
Scottish National Heritage
Scottish Police Federation
Scottish Police Muslim Association
Scottish Police Services Authority
Scottish Prison Service
Scottish Security Association
Scottish Women's Convention
Scottish Youth Parliament
SCPOSA
Security Industry Authority
Sellafield Ltd (was British Nuclear Fuels)
SEMPER Scotland
Serious Organised Crime Agency
Sheriff Clerk
Sheriff Principals
Society of Solicitor Advocates
Special NHS Boards
SPF
Stonewall Scotland
Strategic Co-ordinating Groups

Strathclyde Police
Tayside Police
Unison
UNITE
Victim Support Scotland
Violence Reduction Unit
Voluntary Action Scotland
Wales Office
Welsh Assembly Government
Welsh Office
Women's Aid
YouthLink Scotland

ANNEX D – SECTION 17 OF THE POLICE (SCOTLAND) ACT 1967**17 General functions and jurisdiction of constables.**

- (1) Subject to the provisions of this Act, it shall be the duty of the constables of a police force—
- (a) to guard, patrol and watch so as—
 - (i) to prevent the commission of offences,
 - (ii) to preserve order, and
 - (iii) to protect life and property;
 - (b) where an offence has been committed (whether within or outwith the police area for which the police force is maintained) to take all such lawful measures, and make such reports to the appropriate prosecutor, as may be necessary for the purpose of bringing the offender with all due speed to justice;
 - (c) to serve and execute when required any warrant, citation or deliverance issued, or process duly endorsed, by a Lord Commissioner of Justiciary, sheriff, or justice of the peace, being a warrant, citation, deliverance or process relating to any criminal proceeding;
 - (d) to attend any court of law for the purpose of giving evidence;

and without prejudice to the operation of section 135(3) and (4) of the Criminal Procedure (Scotland) Act 1995 (bringing of apprehended person before court on first lawful day after arrest) it shall be the duty of any constable in carrying out his duties under paragraph (b) of this subsection to take every precaution to ensure that any person charged with an offence is not unreasonably and unnecessarily detained in custody.

- (2) The performance by a constable of his functions under this or any other enactment or under any rule of law shall be subject to the direction of the appropriate chief constable.
- (3) In directing the constables of a police force in the performance of their functions the appropriate chief constable shall comply with all lawful instructions (whether general or special) which he may receive—
- (a) [REPEALED]
 - (b) from the sheriff principal having jurisdiction in the place:

Provided that in relation to the investigation of offences the chief constable shall comply with such lawful instructions as he may receive from the appropriate prosecutor.

In this subsection sheriff principal does not include a sheriff.

- (4) Any constable of a police force shall have all the powers and privileges of a constable throughout Scotland and (without prejudice to section 1(2) of this Act) the adjacent United Kingdom waters.
- (4A) A member of the British Transport Police Force who is for the time being required by virtue of section 11 or 12 of this Act to serve with a police force shall—
- (a) have all the powers and privileges of a constable of that police force, and
 - (b) be subject to the direction of the chief constable of that force.

- (5) The foregoing provisions of this section shall not apply to any constable of a police force who is for the time being suspended from duty in accordance with any regulations made under Part II of this Act.
- (6) [REPEALED]
- (7) In this section “appropriate chief constable”, in relation to any constable, means—
 - (a) if the constable is for the time being serving, in pursuance of the provisions of this Act relating to the mutual aid of police forces or to collaboration agreements or of section 98 of the Police Act 1996 (cross-border aid of one police force by another), with a police force other than that in which he holds his appointment, the chief constable of the first-mentioned force, or, if he is serving with the British Transport Police Force, the Chief Constable of that Force, and
 - (b) in any other case, the chief constable of the police force in which the constable holds his appointment.
- (7A) In this section—
 - “powers” includes powers under any enactment, whenever passed or made;
 - “United Kingdom waters” means the sea and other waters within the seaward limits of the territorial sea;
 - and this section, so far as it relates to powers under any enactment, makes them exercisable throughout those waters whether or not the enactment applies to those waters apart from this provision.
- (8) This section shall be without prejudice to any other enactment conferring powers on a constable for particular purposes.



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