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| Report to: | Executive Committee |
| Date of Meeting: | 5 October 2011 |
| Report by: | Executive Director (Finance and Corporate Resources) |

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| Subject: | Response to Consultation on Aspects of the Proposed National Fire and Rescue Service in Scotland |
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ consider a proposed response to the Scottish Government's Consultation on aspects of its proposed national Fire and Rescue Service in Scotland.

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s): -

- (1) that the submission, as detailed in Appendix 1, be approved as the Council's response to the Scottish Government's consultation on aspects of the proposed National Fire and Rescue Service in Scotland.

3. Background

3.1. On 11 February 2011, the Scottish Government announced the launch of a consultation on the future of the Fire and Rescue Service in Scotland. The Scottish Government instigated a fundamental review of the roles and responsibilities in relation to the Scottish Fire and Rescue Service in 2008/2009. This culminated in a public consultation on the draft Fire and Rescue Framework for Scotland which raised concerns over the organisation, accountability and delivery of the Scottish Fire and Rescue Service.

3.2. In its response, the Council argued for a reduced number of regional Fire and Rescue Services and against a single national service. On 8 September 2011, the Scottish Government announced that it had decided to take forward the option of a single national Fire and Rescue Service. It is now consulting on aspects of how this will be organised and its functions.

3.3. The consultation document identifies questions in a number of areas in relation to a single national service that they wish to hear views on. These include areas like a new purpose, functions, accountability and governance, finance, workforce issues and some specific service issues.

3.4. Appendix 1 gives, for each of the questions, a proposed response from the Council.

3.5. The Scottish Government has also published the Outline Business Case for reform of Fire and Rescue services in Scotland.

- 3.6 This states that a single national service, could deliver net efficiencies by Year 5 of £25.1 million (£3.2 million more than a regional service and £18.2 million more than an 8 service model). The transition costs by Year 5 are estimated at £25.4m (£200,000 less than under the regional model and £23.6 million more than the 8 service model). These estimates are net of asset sales.
- 3.7 The annual recurring savings by Year 5 under the single service are £29.1 million per year, £7.2 million more than under the regional model and £22.2 million more than under the 8 services model.
- 3.8 The Total Net Present Value of the savings over 15 years of a single service model is estimated at £293 million - £78 million more than under a regional service model and £218 million more than under an 8 service model.
- 3.9 The single national service was also seen as being the most likely of the options to deliver improved service outcomes, ability to respond quickly to future challenges, improve national resilience and interoperability and to simplify the delivery landscape.
- 3.10 The single national service was also identified as having the greatest risks attached to it, primarily as it involved the greatest change. All three options would require an appropriate and carefully designed risk management strategy to be put in place.
- 3.11 The developers of the Outline Business Case have identified significant opportunities for alternative sourcing models for the delivery of some services – especially in relation to support services. For example the outsourcing of solutions for individual functions through strategic partnerships with a private sector partner, commercial joint ventures or the whole or partial sale of some functions to the private sector.
- 3.12 A key risk that has been identified in the Outline Business Case is maintaining stakeholder buy in throughout the change programme. They believe that consistent and on-going stakeholder engagement and buy-in will be a key element in success or failure of the reform and will have to be carefully managed.
- 3.13 In the consultation paper, the Scottish Government also raised the issue of local 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.
- 3.14 It has decided not to put this on a statutory basis. Instead it is proposing 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.

4. Main Issues Around a Scottish Fire and Rescue Service

- 4.1. The main areas of interest to the Council are around the accountability and governance of the proposed national service and the financing of the service.
- 4.2 In respect of the structure of the National Service, this involved Scottish Ministers, a new National Board of the Scottish Fire and Rescue Service (the size of this board has yet to be determined however these will be some local government involvement), a role for councils and a Senior Fire Officer for each Council area in Scotland.

- 4.3 **Scottish Government Ministers** would be responsible for setting strategic priorities, objectives and local scrutiny arrangements for the Scottish Fire and Rescue Service, it would assume its total budget and overarching performance management framework, appointing responsibility for members to the Board and reviewing and approving the Scottish Fire and Rescue Service's risk-based National Strategic Plan. 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.
- 4.4 The **Board** would be responsible for managing the annual budget and delivering a programme of major transformational change, producing the national strategy, appointing the new Chief Fire Officer and ratifying Principal Fire Officer appointments and monitoring performance. 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.
- 4.5 The Board's members would be appointed by Ministers through a formal public appointment process – and it believes that they will need to have the right skills, experience, and expertise to collectively govern the service and hold the Chief Officer to account. It is also committed to the Board having members with experience of and knowledge of local government and local fire and rescue services. They would either be Cosla nominations or those with knowledge of local government and local fire and rescue services chosen by Ministers.
- 4.6 In relation to the appointment of individuals with knowledge of local government to the Board, the proposed response states that the Council believes that, with such radical change to an important local service it is important that public confidence is retained and, in this context, it is important that people believe that local views can be reflected in the setting and delivering of national priorities. It believes that having all members of the Board being seen as appointed by Ministers might leave the independence of the Board potentially open to question and challenge. In this respect it is considered that reserving places for nominated Councillors, with Cosla, continuing to reflect the geographical and socio-economic diversity of Scotland, would help ensure that any such fears over its independence could be mitigated. There is also the issue that, with the pace, scale and pressure of change in public services likely to be increasing, the need to ensure that members have experience and knowledge of local government now and how it is developing rather than from someone whose experience and knowledge of local government might be less immediate.
- 4.7 In respect of **Councils**, each Council would have the right to formally comment on the Local Plan and monitor and scrutinise performance against this plan, 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. They would also be able to request 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 as well as monitor and scrutinise complaints.

- 4.8 In the proposed response to this consultation, it is proposed that the rights of councils explicitly include a right to ***Jointly develop, agree and deliver the Local Fire and Rescue Plan within the context of national priorities*** rather than just be consulted so they are better able to shape local priorities to meet local needs and better scrutinise local performance'. It also questions the role of the Council in monitoring and scrutinising complaints.
- 4.9 The Council has some concerns over the idea that the Council will have the right to monitor and scrutinise complaints. It believes that, other than in the usual way that councillors can act on behalf of their constituents, there is little role for Councils per se to be actively involved in this activity.
- 4.10 There will be no legislation to say how these rights are to be implemented, it will be up to each council to decide, whether to create a new Committee or have an existing committee perform these functions or to collaborate with other Councils to exercise these rights, and whether to invite people other than Councillors to serve on these committees. However, there is an expectation that the Chair/Convenor of the local mechanism would provide effective leadership of the relationship between the Council and the Scottish Fire and Rescue service and ensure other services work effectively with the Fire and Rescue service to secure delivery of local outcomes. This in turn encourages setting up a specific committee to take the role or even the full Council taking the responsibility
- 4.11 Locally, the principal relationship would be between the local Council and Community Planning Partners and a **Local Senior Officer**, designated by the Chief Fire Officer. The responsibilities of the Local Senior Officer will be to prepare, for the agreement of the Council, a Local Fire and Rescue plan. By mutual agreement this local plan could be integrated in the wider plans of the Community Planning Partnership or the SOA. The Local Senior Officer will be responsible for publishing performance information against the plan, act as the lead officer in Community Planning Partnerships as well as being the first point of contact for local councillors and local partners. They will also ensure local needs are reflected in integrated risk management planning, consulting local partners as required and will provide reports to and answer questions from the Council on performance against the Plan and other fire and rescue issues. Following on from its proposed right in paragraph 4.7, the Council's proposed response also includes a revised responsibility for the Local Senior Officer – to ***Jointly develop and deliver an agreed Local Fire and Rescue Plan with the local council, within the context of national priorities.***
- 4.12 In respect of the **financing of the new single service**, the proposal is to bring together the existing 4 funding streams for Fire and Rescue services, including the *General Revenue Grant* which accounts for the majority of funding (excluding pensions) through the block grant provided by the Scottish Government as part of the annual local government finance settlement, into a single grant 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).
- 4.13 The Council currently pays £13.011m to Strathclyde Fire and Rescue as its core precept for 2011/12. It is anticipated that the financial consequence to the Council under a single National Service would not exceed the amount paid currently to Strathclyde Fire and Rescue.

4.14 As a national service, the new body may not be able to claim back VAT as can be done under the present structure. Clarification of the VAT status of a single national service would be helpful. It is not considered appropriate for additional funding to be sought from the Council to meet any new VAT liabilities which are derived from a decision made by the Scottish Government.

5. Employee Implications

5.1. There are no employee implications.

6. Financial Implications

6.1. There are no financial implications unless the Scottish Government insists that the Council meets its share of any new VAT liabilities that flow from the decision by the Scottish Government to create a single, national force.

7. Other Implications

7.1. There are no other implications arising from the recommendations contained in the report in respect of risk or sustainability.

8. Equality Impact Assessment and Consultation Arrangements

8.1 This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy and, therefore, no impact assessment is required.

8.2. There was also no requirement to undertake any consultation in terms of the information contained in this report.

Paul Manning

Executive Director (Finance and Corporate Resources)

19 September 2011

Link(s) to Council Values/Improvement Themes/Objectives

- Partnership working, community leadership and engagement; and
- Working with and respecting others.

Previous References

- Executive Committee, 11 May 2011

List of Background Papers

- A Consultation on the Future of the Scottish Fire and Rescue Service
- A Consultation on Scottish Government Proposals for a Fire and Rescue Service
- Outline Business Case for Reform of Scottish Fire and Rescue service

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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APPENDIX 1:

Proposed response by South Lanarkshire Council

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?

The Council's view is that the proposed Purpose should be more along the lines of that proposed for the Police and that, as currently outlined, it tries to capture too much. It believes that the Purpose should be enshrined in legislation and could be more like the following:-

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

The Council believes that issues of the functions it will use to deliver its Purpose, where the focus should be and how they are delivered would be more appropriately defined and contained in the Fire and Rescue Framework and that this should be a 'living' rather than a 'fossilised' document which allows new and emerging functions to be incorporated and support the development of new skills and service provision.

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

The Council is content with the plans to retain the existing functions of the service and welcomes the decision not to proceed with legislating to make fire stations come together to create Community Resilience Hubs. It welcomes the use of the Integrated Risk Management Planning function to identify current provision and future need and for this to be carried out in the context of the community planning process.

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

The Council is content with the proposals as outlined in the paper in relation to asset transfer to the new national service – including assurances that funding is available to meet the ongoing maintenance and replacement of these assets.

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?

The Council notes that, unlike with the Scottish Police Authority, the paper does not set a limit on the size of the Board.

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?

The Council believes that with such radical change to an important local service it is important that public confidence is retained and that, in this context, it is important that people believe that local views can be reflected in the setting and delivering of national priorities. It believes that having all members of the Board being seen as appointed by Ministers might leave the independence of the Board potentially open to question and challenge. In this respect, it believes that reserving places for nominated councillors, with

Cosla continuing to reflect the geographical and socio-economic diversity of Scotland, would help ensure that any such fears over its independence could be mitigated.

With the pace, scale and pressure of change in public services likely to be increasing, there is a need to ensure that members have experience and knowledge of local government now and how it is developing rather than from someone whose experience and knowledge of local government might be less immediate.

What are your views on the roles and responsibilities for governance and accountability?

The Council acknowledges the attempt to produce clear and transparent governance and accountability into a national structure. It does have some concerns in relation to the role and responsibilities outlined for local councils and the Local Senior Officer. It believes that it would be helpful to indicate the level of officer that would be expected to fulfil this important role.

It notes that in 9.14 the paper states that more local elected members will play '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.' In 9.17, it also states that councils will be able to 'shape local priorities and objectives'.

However, in identifying the rights of the Council, the role of councils seems to be weakened to the right only to 'formally comment on the Local Fire and Rescue Plan – this does not seem to reflect the sentiments expressed in 9.14 and 9.17. The Council does not believe that the ability only to comment and monitor and scrutinise performance, with a 'right to appeal' to a higher authority about any concerns will actually deliver stronger local accountability and could weaken and sour relationships. What if the Council voted that it has no confidence in the Local Senior Officer for example?

The Council believes that the statements expressed in paragraph 9.14 in relation to shaping local priorities to meet local need should be made explicit in the rights of local councils. It believes that how the fire and rescue service operates locally is crucial to making a success of the changes. It believes that resource deployment and target setting, whilst nesting within the national framework and focus, must be agreed at a local level.

The Council believes that councils should have the right to:-

- *Jointly develop, agree and deliver the Local Fire and Rescue Plan within the context of national priorities.*

The Council has some concerns over the idea that the Council will have the right to monitor and scrutinise complaints. It believes that, other than in the usual way that councillors can act on behalf of their constituents, there is little role for councils per se to be actively involved in this activity.

In relation to the options as to how a Council might implement these rights, it would like to point out the option of the Full Council exercising these rights as well as through a separate committee structure is another possibility.

In relation to the responsibilities of the Local Senior Officer the Council believes that this should include:-

- *Jointly develop and deliver an agreed Local Fire and Rescue Plan with the local council, within the context of national priorities.*

What are your views on the proposed new funding and financial accountability arrangements?

The Council currently pays £13.011m to Strathclyde Fire and Rescue as its core precept for 2011/12. It is anticipated that the financial consequence to the Council under a single national service would not exceed the amount paid currently to Strathclyde Fire and Rescue.

In terms of Value Added Tax, clarification is required as to the VAT status of the new body. The Council believes that, should a VAT liability flow from the decision made by the Scottish Government to create a single national service, that it should not be expected to meet any of this additional cost.

The Council notes the comment in the Outline Business Case that the sale of assets will help deliver some of the efficiency savings that can be expected to come from any change but is concerned over whether, in practice, such asset sales will deliver significant savings, and also the timescales over which these can be realised.

The Council also believes that the Local Senior Officers should have two dedicated funds available to them. One of these should be focused on supporting early intervention and preventative spending initiatives accessed through the community planning process. It believes that this fund would help to ensure that the local fire and rescue service has resources available to aid the integration of services aimed at delivering better outcomes for individuals and communities and reducing future demands on public services.

The Local Senior Officer should have another smaller fund for supporting small scale local community safety initiatives related to supporting the priorities in the new Local Fire and Rescue Plan.

It would be helpful to formally express the role of the Local Senior Officer in relation to the proper management of the funds at their disposal

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

The Council is content with the view that the role of the Scottish Fire and Rescue Advisory Unit should be given an external scrutiny and audit role and deliver its functions through formal inspections – themed or otherwise. It is also important that it operates independently of the Scottish Government, the Board and the service.

The name of the unit needs to be changed to reflect its new functions as it believes that the term advisory unit is no longer appropriate. The present position, as expressed in the paper, where reference is separately made to the SFRAU and the Chief Inspector of Fire and Rescue Authorities is confusing and it is proposed that a single name to deal with inspection and audit should be chosen.

What are your views on our proposals for handling complaints?

The Council supports the approach outlined for handling complaints.

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?

The Council supports the proposals for immediate transfer of staff to the new service on the day of its establishment with retention of existing terms and conditions on transfer> However, there is a need to ensure that terms and conditions are harmonised as quickly as possible across a national service through negotiations.

The Council also notes that the Outline Business Case supporting the new service indicates that the outsourcing of some functions should be explored and believes that it is important that such proposals are fully investigated and any changes that follow are delivered through consultation.

It supports the proposals in the paper in respect of appointments to the new service.

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?

The Council is minded to suggest that the present prohibition on police constables being employed as fire fighters be ended. However, it recognises that currently a police officer is never 'off duty' and this would create challenges in combining the two functions. There is also the issue of officers perhaps attending events outwith their own operational area which may make them unable to attend a fire related call out. The Council is particularly concerned over the situation in rural areas in terms of recruitment of retained officers and believes that anything that reduces the pool of potential fire-fighters and so the sustainability of local services should be removed. In any incident where a crime is suspected, then the Council believes that the safety of individuals in such a situation takes precedence over determining whether a crime has been committed.

In relation to differentiating duties at an incident, the Council believes that the safety of individuals in an emergency situation takes precedence over whether a crime has been committed. Once the situation has been contained and the threat to life ended, then it would be appropriate for the police to intervene in the situation. Prior to this, their role should be a supportive one.

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

The Council recognises that national campaigns are a central part of the Community Safety Engagement process but would be concerned if the national level obligation to promote fire safety were to override the promotion of it at a local level. Such campaigns need to be coordinated and allow for local campaigns to be developed that reflect local issues. As stated earlier in the paper, the shaping of the service to meet local needs and demands is a key feature of the reform and it would be regrettable if a locally focused fire safety message aimed at tackling local situations was 'overridden' by a national effort that emphasised a risk not seen as having the same level of importance locally.

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?**

The Council supports the proposal for transferring the CIFRA enforcing role in certain Crown premises to the Scottish Fire and Rescue Service.

The Council supports the proposal to end the requirement for a referral to arbitration to have to be jointly agreed by the duty holder and the service. It wonders whether there may be a role for the Scottish Public Services Ombudsman to act as an initial arbiter before the formal arbitration panel is convened.

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

To achieve the scale of savings outlined in the Outline Business Case, the Council is concerned that it may require significant changes to the structure of the service. Care must be taken to avoid a reduction in frontline capacity. Another issue that could have a detrimental impact on operational capacity would be if a focus on the number of uniformed officers resulted in savings being sought from support staff and officers being used to perform these functions.

It notes that the coming together of the present structure will be challenging, with different staffing arrangements, resource provision, attendance times, specialist vehicle provision, etc. and would seek assurances that in any move to a single service, the focus remains on the Purpose and does not lead to the focus being on the least expensive option or the lowest common denominator.

Do you have any comments on the partial Equality Impact Assessment? Are there any other potential impacts to consider?

The Council has no comment to make on the partial Equality Impact Assessment.

Do you have any comments on the partial Business and Regulatory Impact Assessment? Are there any other potential impacts to consider?

The Council has no comment to make on the partial Business and Regulatory Impact Assessment.