

Report

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

Subject:	Response to Consultation on Aspects of the Proposed National Police Service for 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 Police 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 its proposed National Police Service in Scotland.

3. Background

3.1. On 11 February 2011, the Scottish Government announced the launch of a consultation on the future of policing in Scotland. This followed on from preparatory work undertaken under the auspices of the Scottish Policing Board. The Board had considered plans to implement efficiencies to meet the challenge of spending reductions in the years ahead to improve information on policing costs and to consider and agree options for structural reform.

3.2. In its response, the Council argued for a reduced number of Police 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 Police Service. It is now consulting on aspects of how this will be organised and which functions it will undertake.

3.3. The consultation document identifies questions in a number of areas in relation to a single national Police Service that they wish to hear views on. These cover areas such as 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 Policing Services in Scotland.

- 3.6 It identified net efficiencies by Year 5 of £151m under the single force option. This is £19 million more than under a regional force model and £33 million more than under an 8 force model. Around half the financial savings identified under the single force come from staff savings and a further 18% from officers.
- 3.7 In relation to transition costs, these are estimated at £161m by Year 5 under the single model, £16mn more than under the regional force model and £29mn more than under the 8 forces one. The higher transition costs are due to the costs of more voluntary redundancies, the cost of the ICT convergence, and greater programme management costs associated with creating a single service.
- 3.8 This analysis indicates that the greatest potential to generate savings totalling £106 million per year is delivered by the single force model. The Total Net Present Value of the savings over 15 years is estimated at £1.364bn which is £171 million more than under a regional force model and £307 million more than under an 8 force model.
- 3.9 The Scottish Government also believes that a single service is the best way to protect and improve local community policing by ending the duplication of support services and increasing the ability of deploying specialist resources across Scotland. With a new local committee and with a local senior officer responsible and accountable for services in the area, the links with local communities will be strengthened. This will result in a more local, more integrated and more democratically and transparently accountable service. A single national Police Service will also increase the capacity of the police to tackle national threats such as terrorism, complex fraud, internet crime, people trafficking and serious organised crime.
- 3.10 The Business Case also states that opportunities will arise under a single force for more outsourcing of functions, particularly the area of support services.

4. Main issues around a National Scottish Police 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 Scottish Policing Authority (with a maximum of 11 members) and with some local government involvement), a role for Councils and a Local Commander for each Council area in Scotland.
- 4.3 **Scottish Government Ministers** would be responsible for appointing the Chair and members of the Authority, in accordance with the Public Appointments Commissioner for Scotland's Code of Practice and setting a budget, approved by Parliament, for the Scottish Police Authority. They would also set high-level strategic objectives, for example delivering effective local policing and tackling serious and organised crime for the Authority. They would approve the Authority's strategic plan (the Scottish Policing Plan) as well as approving Chief Officer appointments made by the Scottish Police Authority. Ministers would also have a power of direction in relation to the Scottish Police Authority but this 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 Fiscal in terms of directing the investigation and reporting of crime.

- 4.4 The **Scottish Police Authority** would be responsible for producing and publishing a National Strategic Plan, the Scottish Policing Plan which, among other things, would take account of the strategic objectives set by Scottish Ministers. It would also approve an Annual Delivery Plan and associated budget and would hold the Chief Constable to account for performance against the Plan as well as appointing and, when necessary, dismissing the Chief Constable and chief officers. It would also publish an Annual Report and Accounts, monitor and scrutinise complaints and oversee the forensic service and the management of related information. 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.
- 4.5 The Authority's members would be appointed by Ministers through a formal public appointment process, and it believes that potential authority members will need to have the right skills, experience and expertise to collectively govern the service and to hold the Chief Officer to account. It is also committed to the Authority having members with experience of and knowledge of local government and local policing. They would either be Cosla nominations or those with knowledge of local government and local policing chosen by Ministers.
- 4.6 In relation to the appointment of individuals with knowledge of local government to the Scottish Police Authority, in the Council's proposed response, it states that the Council believes in policing by consent and that this requires the public to have faith in the impartiality of the police and their freedom of operational action. In this context, it believes that, if Ministers were seen to be simply appointing all the individuals to the authority irrespective of whether they go through the public appointments process, would leave the independence of the Authority 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 defended. There is also the issue that 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 identifying members 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 Policing Plan including the ability to monitor and scrutinise performance against the Plan. In addition the Council would be able to bring forward proposals for how performance could be improved and how particular issues are addressed by the police, the Council and other agencies. They would also be able to request 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 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 Policing Plan within the context of national priorities*** rather than just be consulted in order that Councils are better able to shape local priorities to meet local needs and to 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 it 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 decide 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 will provide effective leadership in the relationship between the Council and the Scottish Policing Authority and to ensure other services work effectively with the Police service to secure delivery of local outcomes. This in turn encourages setting up a responsible committee to take up this 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 Commander**, designated by the Chief Constable and the Scottish Police Authority. The responsibilities of the Local Commander will be to prepare, for agreement by the Council, the Local Policing Plan. By mutual agreement, the Local Policing Plan could be integrated with the wider plans of the Community Planning Partnership or the Single Outcome Agreement. The Local Commander will be responsible for publishing the Plan and performance information against it and be the lead officer, on behalf of the Chief Constable, for the Police's role in community planning as well as acting as the first point of senior contact for local Councillors and local partners. The Local Commander will also allocate local resources and seek resources from the Chief Constable to deliver the Local Policing Plan, to provide reports to and answer questions from the Council on performance against the plan and any other issues bearing on the safety and well-being of local communities. 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.
- 4.12 Following on from its proposed right in paragraph 4.7, the Council's proposed response also includes a revised responsibility for the Local Commander – to ***Jointly develop and deliver an agreed Local Policing Plan with the local Council, within the context of national priorities.***
- 4.13 In respect of the **financing of the new single service**, the proposal is to bring together the existing 7 funding streams for police services – including the Local Authority contribution. The local authorities within a Joint Police Board (and the two unitary authorities - Fife and Dumfries and Galloway) currently 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%.
- 4.14 The Council currently pays £22.767m to Strathclyde Police as its core precept for 2011/12 -this excludes the Capital Grant payment of £1.148m. It is anticipated that the financial consequence to the Council would not exceed the amount paid currently to Strathclyde Police through this route.

- 4.15 The Council also agreed in April 2008 to support the recruitment of an additional 15 officers to augment community policing under an agreement with Strathclyde Police at a cost of £500,000 to the Council. This funding was drawn from the Council's own resources and its desire to support community policing in South Lanarkshire. Under the agreement, officers remained under the operational direction of the Chief Constable and could operate outwith South Lanarkshire if required for a specific purpose. With the change to a National Force, it is anticipated that this agreement would have to be reviewed as part of the joint development and agreement on the Local Policing Plan for South Lanarkshire.
- 4.16 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 the Council would not be expected to meet any of this additional cost.

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 significant 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 of 11 May 2011

List of Background Papers

- A Consultation on the Future of Policing in Scotland
- A Consultation on Scottish Government Proposals for Policing in Scotland
- Outline Business Case for Reform of Policing in Scotland

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 national guidance, or in some other way?

The Council believes that the proposed Purpose would be strengthened by an explicit acknowledgement of the purpose of enforcing the law in ways that are compatible with human rights. It suggests a revised Purpose along the following lines - *The purpose of policing is to improve the safety and well-being of individuals, families and communities in Scotland and to enforce the law in ways compatible with human rights legislation.* It believes that the Purpose should be put on a statutory basis.

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

The Council supports the proposal to maintain the existing legal duties of the police, but modernising the wording to make them clear and transparent, and welcomes the proposed modernisation of the oath.

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?

The Council's preferred option is not a national single force but it does see merit in considering changes to the structure of policing to deal with strategic issues that require national cohesion of effort – in areas like counter-terrorism, international fraud, people trafficking, serious organised crime – in ways that improve transparency and accountability, and hopes that the new structure will help deliver this.

In respect of the proposal to have certain support functions independent of the new national Chief Constable – forensic services, Scottish DNA database – with them being directly accountable to the Scottish Police Authority, the Council supports the proposal and wonders whether this should be expanded to also include the Scottish Police Training College.

The Council believes that the timing of change and its management is critical and believes that the changes should not be rushed to meet deadlines which do not consider fully the need to ensure that the current high performance levels are not compromised.

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?

The Council firmly believes on policing by consent. It does not believe that a maximum 11 person Scottish Police Authority will ever be able to have the capabilities within itself to provide oversight of both the services under the aegis of the Chief Constable and any services it has direct accountability for. However, with appropriate scrutiny from the Scottish Parliament, the Scottish Government, Councils and other external scrutiny bodies, it believes that it may not be necessary to have the authority made up of 'experts' in particular silos. It believes that the core function of the authority is to ensure public confidence and trust in the nature and delivery of Scottish policing.

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?

As stated earlier, the Council believes in policing by consent and that this requires the public to have faith in the impartiality of the police and their freedom of operational action. In this context, it believes that if Ministers were seen to be simply appointing the individuals to the authority, no matter whether they go through the public appointments process, would leave the independence of the authority 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 defended. 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 agrees with the Lord Advocate that the operational independence for the police must be rooted in law and respected by the public and politicians.

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 Commander.

It notes that in 3.19 the paper states 'the Council and Local Commander will have a relationship focused around the joint development and delivery of a Local Policing Plan' and that Councils will have 'a central role in shaping the priorities and objectives to which these resources should be directed.'

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 Policing Plan – there is nothing in these rights that reflect the sentiments contained in paragraph 3.19 *'joint development and delivery'* or having a *'central role in shaping the priorities and objectives of the Local Plan.'* 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 had no confidence in a Local Commander for example? The Council believes that making the rights expressed in paragraph 3.19 explicit in the way that the police will operate locally is crucial to making a success of the changes. The Council also notes that, in 3.25, the Local Commander has to prepare, *'for the agreement of the Council, the Local Policing Plan'* Local authorities which would suggest a role for the Council greater than just commenting on it.

The Council believes that should have the right to:-

- *Jointly develop, agree and deliver the Local Policing 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 Commander, it believes that this should include:-

- *Jointly develop and deliver an agreed Local Policing 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 £22.767m to Strathclyde Police as its core precept for 2011/12 this excludes the Capital Grant payment of £1.148m. It is anticipated that the financial consequence to the Council would not exceed the amount paid currently to Strathclyde Police.

The Council also agreed in April 2008 to support the recruitment of an additional 15 officers to augment community policing under an agreement with Strathclyde Police at a cost of £500,000 to the Council. This funding was drawn from the Council's own resources and desire to support community policing in South Lanarkshire. Under the agreement, officers remained under the operational direction of the Chief Constable and could operate outwith South Lanarkshire if required for a specific purpose. With the change to a national force, it is anticipated that this agreement would have to be reviewed as part of the joint development and agreement to a Local Policing Plan for South Lanarkshire.

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, the Council should not be expected to meet any of this additional cost.

The Council also believes that the local police commanders 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 police have resources available to aid the integration of services aimed at delivering better outcomes for individuals and communities and reducing future demands on public services.

It also believes that the local police commanders should have another smaller fund for supporting small scale local community safety initiatives related to supporting the priorities in the new Local Police Plan.

It believes that it would be helpful to formally express the role of the Local Commanders in relation to the proper management of the funds at their disposal.

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

The only comment that the Council would wish to make is that it might be helpful to spell out the role of the Local Commander in relation to financial accountability.

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

The Council agrees with the view of the Lord Advocate that the thorough and independent investigation of police crime allegations and that the national Police Service must ensure that the Professional Standards Unit model continues to operate effectively – as the thorough and independent investigation of the police is an important part of the rule of law.

The Council believes that Option 2(a), i.e. the creation of a new independent body to (1) investigate complaints and allegations of misconduct by Chief Officers (2) to review serious complaints and investigations (3) to investigate serious criminal allegations against police officers where the Lord Advocate agrees that this is appropriate. Those investigations should come under the direction and control of the Lord Advocate, as this is most appropriate and that the current Police Complaints Commissioner for Scotland's functions be transferred to the Scottish Public Services Ombudsman. It believes that this is the best option to retain public confidence that the police are subject to robust inspection and continues the process of implementing the Crerar Review recommendations.

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

The Council is content with the proposals for placing Independent Custody Visiting as outlined in the consultation paper on a statutory basis. It believes that it is right that it remains fully compliant with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and that they remain independent of the police service and the criminal justice system.

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?

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. It also believes that it should be acknowledged that, to meet the challenges facing the new service, these terms and conditions can be expected to change and that any change would be subject to negotiation.

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.

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

To achieve the scale of savings outlined in the Business Plan, the Council is concerned that, if no changes are made to the position of police officers other than changes to the structure of establishment this will see increased pressure on civilian staffing. The Council believes that it is important that any commitment to retaining police officer levels is such that it retains these officers in a frontline capacity and does not lead to officers being removed from frontline duties to perform functions that civilian staff used to perform. The commitment must not be only to a headline number but also to operational capacity.

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 & 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.