Introduction

1. The creation of a single police service in Scotland will be one of the most significant changes in the Scottish public sector since devolution. In my submission I concentrate on the proposed arrangements for governance and accountability. In my opinion, the Scottish Parliament should have a much greater role in providing democratic oversight of the new national force than is currently proposed. It is also important to ensure there are proper arrangements for governance and control during the transition process.

Governance and accountability

2. Two principles have underpinned how policing works in Scotland. The first is the tripartite model of governance, where responsibility for policing is shared between the chief constable, Scottish Ministers and locally elected councillors. Secondly, there is the principle of policing by consent. In other words the police must have the support of the public to work effectively.

3. Public trust in policing, as in any other public service, is hard won over a long period. From my work as Auditor General it has become clear to me that effective democratic accountability, good governance and independent audit and inspection are necessary for building confidence in public services and ensuring they are delivered efficiently and effectively.

4. The police service has a unique role in maintaining and upholding the law and ensuring public safety, and has the power to remove an individual's liberty. It is therefore of vital importance to ensure there are effective arrangements for the democratic oversight of the police service in Scotland.

5. The creation of a single Scottish police service as a central government body will change the democratic tripartite framework under which policing has traditionally operated. In my view it is therefore essential that the legislation establishes a formal mechanism to give the Scottish Parliament, as the democratic forum covering the whole of Scotland, a major role in ensuring there is open, participative and transparent oversight of policing in Scotland.

6. With the creation of a national police service, we cannot risk losing the long-established important connection between the police and the people of Scotland whom they serve and protect. It is of the first importance that there is open public debate on, for example, the strategic police plan and the performance of the Scottish Police Authority, HMICS and the new Police Investigations and Review Commissioner. The operational independence of the chief constable must be preserved and protected, but the police service must also be open to democratic scrutiny.
7. The Scottish Parliament is designed to operate in a way which promotes and enhances the democratic process. Parliamentary debates and committee meetings are open to the public; they are televised and official reports of the proceedings are produced. Everything is on record. This is why the legislation must, in my view, be amended to set in statute a clearly defined role for Parliament in the oversight of the new national police service.

8. It is for the Scottish Parliament to determine the most appropriate mechanism to achieve this oversight. There are various possibilities which I would invite the Committee to consider.

- A new mandatory committee of the Scottish Parliament could be established with a clearly defined responsibility for the oversight of policing matters in Scotland. Mandatory committees, such as the Public Audit Committee or the Standards Procedures and Public Appointments Committee, operate under rules agreed by Parliament (Standing Orders). They must not be concerned with policy but have a clear role which, in the case of the Public Audit Committee, involves holding the Scottish Government to account;
- Additional responsibilities could be given to the current Justice Committee of the Parliament. However the Justice Committee has a key role in the consideration of policy matters relating to the whole justice sector and the scrutiny of proposed legislation. Experience has shown that this committee has a heavy workload; indeed, in the first Parliament there were two justice committees;
- A parliamentary commission for policing in Scotland might be created. There are some parallels here with the Scottish Commission for Public Audit, which was put in place by Parliament to safeguard the independence of the audit function. The Commission has proved to be an effective accountability arrangement which preserves the independence of the office of the Auditor General while ensuring public scrutiny of the efficiency and effectiveness of Audit Scotland.

**Proposed arrangements for the SPA board**

9. I support the proposal in the Bill that all members of the SPA board will be appointed through the public appointments process. It is very important to recognise the distinction between a board which has a governance function with responsibility for scrutinising performance and holding management to account and a board which is representative and operates in an advisory capacity. The board of SPA will have to ensure the highest standards of governance and management in relation to policing in Scotland, and must be structured in such a way that enables it to fulfil this function effectively.

10. My report to Parliament in October 2010 on the Scottish Police Services Authority (SPSA) found that the composition of SPSA board (which was structured to reflect the local governance arrangements for policing) created tensions in the competing roles and duties of some of its members.¹

¹ *The Scottish Police Services Authority, Audit Scotland, October 2010*
11. The policy memorandum recognises the importance of board members having the skills and expertise relevant to the functions of the authority. Members of the SPA must have the appropriate skills and experience to enable them to fulfil their role effectively in relation to all areas of policing, including specialist and sensitive operational areas. My report of October 2010 to Parliament on the role of boards found that the successful operation of a board depends on the skills and expertise the members and on how well they work together.2

12. SPA board members will also require access to independent expert advice on policing and related matters. For example, the Northern Ireland Policing Board directly employs about 50 staff to ensure there is effective oversight of the Northern Ireland Police Service. The Police Service of Scotland will be the second biggest police force in the UK and it should have the resources and expertise available to enable it to fulfil its role.

Role of the Accountable Officer

13. Accountable officers are an essential part of the governance structure of all central government bodies. They are appointed by the Permanent Secretary and are personally answerable to Ministers and to the Scottish Parliament for both the propriety and regularity of an organisation’s finances and for the economical, efficient and effective use of the resources placed at their disposal. Their roles and responsibilities are laid out in the Scottish Public Finance Manual.

14. In my view, the structures proposed in the Bill will require two Accountable Officers for the SPA, one to be accountable for the expenditure under the control of the chief constable, and one for the expenditure under the direct control of the SPA (the forensics service and the SPA executive and support). Given the need to preserve the operational independence of the chief constable, it would not be appropriate for the Permanent Secretary as the most senior civil servant in the Scottish Government to appoint the chief constable as the Accountable Officer for the Police Service of Scotland (PSS). I would suggest that the legislation should clearly specify that the chief constable will be the Accountable Officer for the Police Service of Scotland.

Matters relating to democratic scrutiny

15. It is extremely important to ensure both national and local democratic scrutiny of policing in Scotland. My suggestion that there could be a new mandatory committee or a parliamentary commission on Scottish policing could provide a national dimension for democratic scrutiny, since the committee or commission would consist of MSPs. Parliament might wish to consider whether the committee or the commission might put in place arrangements for a dialogue with local councillors in order to reflect the important local dimension of policing. With a mandatory committee or a parliamentary commission, it would be easier to ensure (a) effective governance of policing by the SPA and (b) democratic scrutiny by representatives of civil society at both national and local levels.

2 Role of boards, Audit Scotland, September 2010
16. A vital element of local accountability will also be achieved by the provisions in the Bill for local policing plans to be considered by local authorities. In addition, the SPA board could establish its own mechanisms for engaging with local communities and elected councillors. A further support for local accountability will be provided by the Auditor General and HMICS who will be reviewing together whether the SPA is achieving Best Value, an essential element of which is effective community engagement.

17. I welcome the responsibilities to be given to the Auditor General in relation to auditing the economy, efficiency and effectiveness and reviewing Best Value in both the SPA and the PSS. I also welcome the proposed creation of a Police Investigations and Review Commissioner with independent powers to investigate relevant police matters in the public interest.

18. The Committee may wish to explore whether HMICS should be established as a corporate body, which would give the chief inspector the ability to employ staff to undertake inspection activities. Whatever arrangements are put in place for staffing the inspectorate, they must be designed to ensure public trust and confidence in the independence and impartiality of HMICS.

**Supporting the process of change**

19. While not directly relevant to the proposed legislation, I would like to conclude my evidence with reference to how the transition from the existing arrangements to a single police force should be managed.

20. It is essential that the Government, together with existing police forces and boards, ensures that (a) there are clear governance arrangements for decisions relating to the formation of the new service, with proper audit trails in place, and (b) there is minimum disruption to existing services during the transition phase.

21. My report on the Scottish Police Services Authority (SPSA) found that SPSA's early development was hampered by a lack of clarity on how it was to deliver its long term benefits. This was compounded by poor information about the services transferred, the resource requirements to deliver those services and leadership problems. Appendix 2 of that report lists some questions that the Scottish Government and public bodies should consider when planning shared services initiatives. Many of these questions are relevant to the formation of the SPA and Police Service of Scotland and I recommend that consideration is given to them.

22. The on-going oversight role of existing joint boards and committees will be important during the transition phase. These bodies must ensure that there is proper governance and control in relation to decisions on how resources are used over the following months. The Accounts Commission is recognising this in their findings on the on-going programme of Best Value audits on police currently being undertaken by Audit Scotland and HMICS.

23. It will be important to appoint the SPA convener, some members of the SPSA, and the chief constable as soon as possible after passage of the legislation, to provide clear leadership in planning for the new system and through the transition
process. The Government has announced that, subject to Parliamentary approval of the Police and Fire Reform (Scotland) Bill, the new police and fire services are expected to be established on April 1, 2013. This is a very tight timetable for such a significant change.

24. It will be essential that on the appointed day when the legislation takes effect, all the new bodies operate as one policing system in Scotland. This will require a clear strategic plan of action and a culture of openness, cooperation and mutual understanding.

Fire reform

25. The Bill also includes proposed legislation to create a single fire service for Scotland (SFRS). In my view, this is, relatively speaking, a more straightforward process. The remit of the service has already been clearly defined through the Fire (Scotland) Act 2005. The move to a single service can therefore be compared to the creation of other NDPBs.

26. I would, however, emphasise that the points I have made above in relation to the process of transition are equally valid for fire reform. In addition, I endorse the proposals in the Bill for the board of the SFRS to be appointed through the public appointments process and welcome the responsibilities given to the Auditor General in relation to auditing the economy, efficiency and effectiveness and reviewing Best Value in the new service.

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