Introduction

1. COSLA, the Convention of Scottish Local Authorities, is the representative voice of Scottish Local Government. We welcome the opportunity to provide written evidence to the Justice Committee on the Police and Fire (Reform) Scotland Bill. Evidence has also been provided to the Local Government and Regeneration, and Finance, Committees, and this evidence should be read alongside that provided for them.

2. COSLA’s position has been informed by the work of a cross-party Task Group, our Community Safety, and Community Well-being and Safety Executive Groups, and agreed by COSLA Leaders.

3. COSLA would welcome the opportunity to provide the Committee with oral evidence or any further written evidence that it would find helpful to inform its conclusions.

4. For ease of reference, the following submission broadly follows the structure of the Bill.

Overall Position

5. COSLA is fully committed to working with the Scottish Parliament, the Scottish Government and other stakeholders to ensure that the best possible police and fire services are developed and implemented for our local communities. COSLA Leaders have previously agreed policy positions specifically in relation to Police and Fire Reform as well as wider Public Sector Reform. These positions were clearly reflected in the COSLA submissions to both Scottish Government consultation exercises on police and fire reform, and were reflected to Scottish Government Ministers and civil servants as the Bill was being developed.

6. The theme of our response is the need to continue the principle of policing by consent, while retaining meaningful local democratic accountability in future arrangements, but also agreeing that there must be strong national accountability. The reform of police and fire must not be seen as distinct from broader reform of public services and the ongoing development and enhancement of community planning and single outcome agreements.
The Scottish Police Authority (SPA)/The Scottish Fire and Rescue Service (SFRS)

7. As a practical suggestion, COSLA suggests that the Bill is revised at Stage 2 so that there is consistency on the face of the Bill in terms of how the SPA and SFRS are to be formed, their membership, etc.

National Board

8. At national board level, there must be structures to maintain the operational independence of the Police and Fire Services from Ministers, as well as foster a meaningful and sustainable relationship between local committees and the national boards.

9. Strong Local Government representation on each of the national boards is of fundamental importance to COSLA to ensure there are the diverse skills, experience and expertise required to perform their roles effectively, represent the geographical diversity of Scotland and to meaningfully link the national to the local and vice versa.

10. For both police and fire, COSLA wants to see a Board of larger than 11, of at least 15 members, with a set, majority of elected members. Of these we would argue that at least eight be serving elected members, appointed by COSLA, but having received the appropriate security clearance. This reflects the history of both police and fire, which have always been locally democratically run since their establishment. Even with a single police or fire service, the vast majority of crime, and any particular fire, will take place in a local community – local and national are inextricably linked. A larger Board with a majority of elected members would retain that strong link to local accountability while also allowing the geographical diversity of Scotland to be reflected.

11. COSLA recognises the hesitation that Ministers and Scottish Government officials have here. But given the seniority and experience of those likely to be nominated, plus the security checking and fact that once appointed they will be obliged to act in the Board’s best interests, COSLA believes that there is nothing to be concerned about here.

12. We have concerns that if the SPA and SFRS are as busy in time terms as suggested to us by civil servants, then eleven is not a large number should there be a couple of illnesses and couple of board members with other unavoidable appointments, and problems with a quorum could arise.

13. Also, more members of the Board would allow a bigger pool from which to select the core of necessary sub-committees. In the Bill there is the possibility of co-opting members to sub-committees, but if as suggested they have no vote even though functions may have been delegated to those sub-committees, then there has to be a question as to why potential volunteers would want to be involved. Or, if we assume that those co-opted are brought in for their specialist expertise, it would seem counter-intuitive then to give them no real input into decision-making.
14. Further, we believe that strong local elected member representation on the national Boards, albeit of course acting in the interests of the Board on which they would be sitting, would send a real message of the partnership that will be required between national and local accountability to ensure the best possible service for all our communities.

15. There is no detail as to how the new Boards will conduct their business but we would assume as a minimum, as with existing Police and Fire Boards, that they will meet in public.

**Borrowing, Reserves and VAT**

16. We support the fact that the SPA and SFRS will be able to borrow money (albeit only with Ministerial approval), and note that, unlike now, they will not be able to hold reserves. We are disappointed at the financial implications of these single services both being subject to VAT. We understand that Scottish Government officials are in discussion with HMRC in relation to a dispensation and are confident that this will be achieved, but as yet we have seen no evidence of this. Indeed, as many others have said, SPSA has never fully resolved this problem. This is a sizeable sum annually being transferred from one arm of Government to another and we urge the Parliament to seek resolution of this matter. Failure to do so will require the Government to find the money – likely over £20m - and thus have a knock on effect either on the police or other public sector budgets.

17. COSLA’s position is that, rather than forming a NDPB which is subject to VAT and has various financial limitations on it, there are other alternatives, one of which, for example, could be a single shared Local Government service, which would have allowed more financial flexibility such as the holding of reserves and exemption from VAT.

**Ministerial Direction**

18. Finally on the opening Chapters for Police and Fire, COSLA seeks to clarify the wording of 5(1) and 5(2), which appears to be contradictory in that the former says the SPA “must comply with any direction……by Ministers”, whereas the latter suggests that a direction “may not be given” on operational matters. Each is a statement in its own right and it is difficult to determine which might actually take precedence. We note that this is a new duty and that ACPOS, among others, has questioned the need for it.

19. Further, assuming there is to be a duty and there is an exception for “operational” matters, there is no definition of what that might constitute.

**Police Service**

20. Para 13 seems to suggest the possibility of performance related pay or bonuses, which is surprising given the current economic climate and apparent public opinion.
21. In terms of the Chief Constable’s accountability and where that lies, and local police planning, we have covered that below in our section on local arrangements and accountability.

22. COSLA welcomes the policing principles. In terms of Ministers setting strategic priorities relating to the “policing of Scotland”, we support that but we seek clarification on how that might avoid relating to operational matters. Similarly, the SPA must prepare a strategic police plan, and we question how we avoid that relating to operational matters.

23. At 33(3)(b) COSLA, as the representative voice of Local Government would seek replacement of the wording to say “the Convention of Scottish Local Authorities, and”. 33(3)(c) then covers, among others, any relevant local government professional bodies.

24. We welcome the involvement of local authorities in preparing the strategic police plan.

**Best Value and Community Planning**

25. COSLA has an agreed position that the Duty of Best Value and Community Planning should be extended to all in the public sector. The Bill provides for the new bodies to secure Best Value. Given COSLA’s stated position and an indication from the Minister for Local Government that he intends reviewing community planning arrangements, we will want to ensure that the Bill reflects a duty to participate meaningfully in community planning at a local level and achieves what is intended. The pathfinders’ exercise may provide some early indications of how this relationship might work in practice.

26. Ideally we would have preferred if it was formally the Chief Constable to whom the duty to participate in community planning applied locally, rather than the Local Commander, particularly as earlier in the Bill it is clear that s/he can delegate powers to other officers. The Local Commander is accountable to the Chief Constable and so the formal duty should lie there.

27. For Fire, we would like far more explicit reference to the duty for the Chief Fire Officer, or if we accept the Bill as it stands for Police, the Local Senior Officer, to participate in community planning. We believe that this is essential to maintain the excellent community safety outcomes recently achieved across Scotland through joint working.

**Local Arrangements**

28. The future local arrangements, including the development of local plans and associated budgets for Police and Fire and Rescue, is of fundamental importance to COSLA both in terms of the rights and duties of councils and in how these services link to wider community planning arrangements and single outcome agreements. The role and powers of the new local arrangements must be clearly defined to ensure that they have real impact, and can deliver effective and sustainable local accountability.
Setting Local Priorities

29. We welcome the appointment of a Local Commander/Senior Fire Officer for each council area and the clarification in Scottish Government civil servants’ evidence to the Local Government and Regeneration Committee that the rank of the Local Commander will be worked out between the individual council and the relevant service. Further, we welcome the clarity of the Bill that a Local Commander must involve the local authority in the setting of priorities. Particularly, we are delighted to see the Government’s acknowledgement in the Bill that councils will have the right to approve a local police plan, and we would assume that this includes all local activity.

30. It is unclear from the Bill, however, what arbitration process exists in the very unlikely event that local negotiations do not suffice and agreement cannot be reached.

Local Budgets

31. For COSLA, true local accountability requires a local budget being set and forming part of the arrangement. We believe decision making and financial responsibility cannot be separated. If local accountability and subsidiarity are really to be enhanced, budgets must be aligned to where the decisions are being taken. Each local plan should be costed and resourced so that progress can be reported on. It would form a basis on which additional local expenditure by councils could be set against. An alternative would be to establish a scheme of delegation to the Local Chief Officers so that they have powers to hold budgets, direct these and officers under their command, and enter into agreement with the local committees. Either would achieve the same end, although the latter would be preferable if the Christie Commission recommendation on “Forging a new concordat between the Scottish Government and Local Government to develop joined-up services, backed by funding arrangements requiring integrated provision” is to be acted on.

32. COSLA would like to see changes to the Bill to achieve this alignment of plans and resources. For example, councils already directly fund an additional 600 – 800 police officers (who are part of the current force of over 17,234 officers), and we need to be sure in future that the resources we are allocating to Community Safety are in fact still delivering the desired additionality. A budget would make this process transparent.

Local Committees

33. In terms of “local committee” arrangements COSLA accepts and supports the need for reasonable local flexibility, and we support strongly the work ongoing across Scotland with pathfinders. However, the feedback from that will not be available until later in the year, particularly given the Local Government Elections will create a break period of possibly a couple of months. By that time, it will be too late to amend the Bill. We believe that there would be an advantage for the legislation to more clearly frame the role of the local committee arrangements and particularly to identify how a local committee would have their concerns heard by members of the National Board.
34. By reducing the degree of variation in their form and remit it may make it easier for the Chief Fire Officer/Chief Constable to manage relations with individual local authorities and to ensure a consistent level of scrutiny across the country. There must be the ability to scrutinise all local activities and this must complement national scrutiny.

35. COSLA members have been asked about the additional burdens of establishing these. Initial estimates suggest that there would be a requirement of something in the order of £3-4m to have administrative roles in place with some policy and analytical capacity. The policy and analytical capacity is likely to be a significant factor to assist elected members to improve the level of scrutiny carried out locally on what exists already.

Local Accountability

36. Further, Council Leaders are keen to maximise their role in holding chief officers to account. When last discussed, Leaders made clear the need for legislation to define the relationship between the Chief Constable/Chief Fire Officer and local authorities to ensure any agreement is workable, including the right to receive a response, in a similar way as is currently available with existing Chief Constables. We are arguing that a number of key issues on which a local committee would have the right to receive a response should be defined, eg resource allocation.

37. Without these guarantees set out in statute, potentially the local committee could simply become information sharing meetings dependent on the data that the Local Commander is prepared to provide. And key local issues are unlikely to be given any thorough consideration by national boards (even if they were to have Local Government representation). We cannot end up with structures that end up facing the same types of criticism on accountability that we have recently seen from Audit Scotland on Boards.

Appointment of Chief Constable/Chief Fire Officer

38. Acknowledging the benefits of having both services up and running on 1 April 2013, COSLA has suggested an alternative means by which initial appointments might be made, speeding up the process, particularly for the Chief Constable, and allowing management teams to be in place well before the proposed start date.

39. Ideally, we would have liked to see the full recruitment process, interview panel and appointment made independently, by the national boards. However the commitment to the start date does not seem to allow for this. Even allowing for the recruitment of the Chair to sit on the interview panel limits the time the Chief Constable will have to recruit his command team and shape his/her service to 3 or 4 months at best. Further, this will be an attractive, comparatively well paid post and is likely to attract a range of candidates from outwith Scotland who, if successful, might require a notice period after appointment before they could take up the job.

40. COSLA suggests ideally that a means be found to fast track at least the appointment of the Chair, but if at all possible other Board members also, to allow an
earlier appointment of chief officers to take place than December 2012/January 2013.

41. Alternatively, there may be a workable proposal based around the current eight Conveners, or a group of senior elected members from COSLA, and the HMIC making up a pool from which an interview panel would be drawn. This would provide three key advantages:
   (i) speed up the process, giving the Chief Constable as much time as possible to shape the new service;
   (ii) retain the separation from Ministers; and
   (iii) bring the required breadth of skills and experience and democratic accountability, desired in the Bill for membership of the SPA and required to appoint a Chief Constable.

42. There seems no reason why amendments could not be brought forward at Stage 2 of the Bill to allow such an appointments process or similar for the first Chief Constable. After this, it would revert to the process detailed in the Bill for future appointments.

43. The alternative in the Bill is an appointment made essentially by civil servants and/or local government officials or similar, together with a newly appointed Chair.

44. According to a presentation to the Scottish Policing Board, adverts for the Chief Constable will be issued on 7 May 2012. Current Police Regulation requires a minimum 3 week advertisement period for senior officer posts. But this could be extended, albeit in our view not necessary given that most of those interested in the post will already be looking out for it, to five weeks. This would allow for the consideration of applications and short-listing to take place in late June and interviews to take place in late July 2012. Depending on the amount of notice required the Chief Constable would be in post between early August and October 2012. Compared to the current proposed method of recruitment this option could provide the new Chief Constable with potentially an additional 5 months in post. This would still mean the interview process itself taking place after parliamentary consideration was complete.

45. COSLA would support a parallel process for the appointment of the new Chief Fire Officer.

46. As said above, our preferred option is for the fast-tracking of the public appointments process to get the SPA and SFRS in place. But, if our alternative option is supported, COSLA officers would be happy to work with Scottish Government officials to develop the thinking around this option further, including any Bill amendments that were required.

**Independent Custody Visiting**

47. Sections 90 and 91 introduce the purpose and arrangements for Independent Custody Visiting. While fully supportive of this becoming a statutory obligation in Scotland, there is no detail available as to how a small, centralised Authority will undertake the practical recruitment, training, management and co-ordination of
Custody Visiting as currently exists across Scotland. The earlier consultation indicated a willingness to build upon ‘existing skills and experience’ and further information is currently awaited as to how this will be facilitated in practice in the future and what the financial implications might be, particularly for local authorities should its implementation be delayed.

**Matter Not Covered By Bill**

**Riotous Assembly**

48. Under the 1824 Act police authorities have the responsibility to compensate the public and businesses for damage caused by riot. While this has not been a common problem in the recent past, the disturbances of 2011 and the need for councils to secure insurance cover for high profile events mean that this is a continuing and real burden for some authorities. As the current policing role is transferring to the new national service so should the liability for policing riotous assemblies.

49. COSLA has approached the Scottish Government over this to resolve the matter, particularly as councils have no practical or theoretical ways of actively mitigating the risk.

50. COSLA would like to see this matter addressed in this piece of primary legislation, or a formal agreement being reached with the Scottish Government that this is included among all of the liabilities that will transfer from local authorities to the SPA.

**Lay Diversity Advisers**

51. Lothian and Borders Police Board (and potentially others) has a Lay Diversity Advisers Scheme. The Advisers are volunteers and are independent of the Force but work closely with officers to provide advice on equalities matters and scrutinise a variety of diverse police activities. The breadth of skills used by lay advisers have informed and helped to shape police policies and procedures, as well as continuing to contribute to the scrutiny of hate crimes. They have a developing role in critical incidents. It is not clear how such a scheme might continue in a national structure. The new Authority should consider the benefits of the scheme in a national context. If it is felt that such a scheme might be of value in all or some parts of Scotland, the Authority should consider how the advisers should be appointed so as to make clear that they are independent of the Force. Having councils run the appointment process would confirm that independence. These appointment functions would have resource implications for the councils involved.

**Conclusion**

52. COSLA supports a Bill that protects and improves local services, keeps our communities safer with more equitable access to specialist support and national capacity when and where it is needed across Scotland. We want to see the connection strengthened between services and the communities they serve, enabling closer integration with community planning partners and delivering greater
local democratic scrutiny and engagement, and achieving better outcomes for communities. We acknowledge that the Bill is intended to achieve this and it is on that basis that we make the above comments and suggestions as to how the Bill might be further improved.

COSLA
28 February 2012
Annexe A

COSLA Submission to Local Government and Regeneration Committee

Background

COSLA has been invited to provide a submission to the Scottish Parliament’s Local Government and Regeneration Committee on the Bill reforming Police and Fire and Rescue Services in Scotland. This submission concentrates on the proposed local policing and fire arrangements.

This submission is based on the policy memorandum and the broad intention of the Bill rather than the detailed provisions. COSLA’s position has been informed by the work of a cross-party Task Group, our Community Safety, and Community Wellbeing and Safety Executive Groups, and by COSLA Leaders.

The COSLA position repeats some of the concerns expressed in response to the earlier consultations. While we concentrate on the outstanding matters, the previous ones (while wholly or partly resolved) are briefly repeated to provide the overall thrust of Local Government’s position. There are also a number of points that so far remain unresolved. COSLA staff continue to be in active dialogue with Scottish Government officials and hope that further progress can be made prior to stage two. In the response, the term ‘Board’ ‘Local Chief Officer’ and similar, apply equally to both the proposed Fire or Police arrangements, unless specifically indicated otherwise.

National Board Arrangements

Role of local elected members

For COSLA, councillor representation on the National Boards is fundamental to ensure there are the diverse skills, experience and expertise required for the two national boards to perform their roles effectively. As long as the new local arrangements retain responsibility for ensuring the delivery of local police and fire outcomes, it is a prerequisite that there should be strong representation from local authorities through membership of locally elected members on the two national boards. It is difficult for members to feel anything else would be as meaningful in directly linking national and local accountability given the desired outcome of continuing, and improving, local fire and police services in the context of local community safety. Councillors, through community planning have a strong background in strategic planning across a range of public services.

Strong representation at the national level would help maintain a meaningful and influential Local Government interest in the top levels of the new structures. This would help ensure the success of the local governance and accountability arrangements. It would also maintain relations between the local committees and the national Board and between local elected members and the Chief Constable and Chief Fire Officer.
From press coverage there appears to be an assumption that the maximum number to be appointed as serving councillors would be 4 – although there is no indication as to whether this might be added to the face of the Bill. COSLA believes that we should directly nominate the local authority members to the board in a way that explicitly recognises the cross party and geographical nature of local government's representative voice (whatever the number of places being made available) without going through the OCPAS process, but still with relevant security clearance being undertaken.

COSLA recognises the hesitation that the Minister and Scottish Government officials have here. But given the seniority and experience of those likely to be nominated, plus the security checking and fact that once appointed they will be obliged to act in the Board's best interests, COSLA believes that there is nothing to be concerned about here.

**COSLA continues to want to see either the majority or all of the Boards being elected local government members.** If this doesn't gain support from the Committee, **COSLA would want to nominate directly, or at least commend applications, to a set number of places on the Board.**

We support that the Boards will be able to borrow money (albeit only with Ministerial approval), and note that, unlike now, they will not be able to hold reserves. We are also disappointed at the financial implications of these single services both being subject to VAT. We understand that Scottish Government officials are in discussion with HMRC in relation to a dispensation and are confident that this will be achieved, but as yet we have seen no evidence of this. This is a sizeable sum annually being transferred from one arm of Government to another and we urge the Parliament to seek resolution of this matter. Failure to do so will require the Government to find the money – likely over £20m - and thus have a knock on effect either on the police or other public sector budgets.

COSLA's position was that, rather than forming a NDPB which is subject to VAT and has various financial limitations on it, there were other alternatives, one of which could have been a single shared Local Government service, which would have allowed more financial flexibility.

**Size of Board**

The magnitude of other tasks and roles currently undertaken by current police authorities to ensure effective, necessary day to day 'business' has been highlighted, as a reason for having the right numbers and skills available to the board. Examples, though not exhaustive, were: Police Appeals Tribunals; monitoring of ill-health retiral and injury awards; police staff appeals; approval of legal expenses for police officers in certain instances; Best Value, Audit and other specific oversight groups for budgetary control etc; Equality Schemes and other such duties; Climate Change duties as a public body plus monitoring arrangements of the force; what are the actual monitoring arrangements now going to be for national policing functions; Authority training; and, the monitoring of Health and Safety responsibilities specifically assigned to police authorities.
The proposal is that the two boards would have between 7 to 11 members. The Bill doesn’t state what the sub-committee arrangements will be to meet the responsibilities highlighted above. Given the small number of members, it has been a suggested that a series of sub-committees be established with non-voting co-opted members to advise. However the small board numbers will also make it difficult to ensure a reasonable balance of geographical spread, gender, skills and expertise, and that the effectiveness of the arbitrarily small board could be easily compromised with three or four people being unable to attend.

*Our members have said that a better size would be in the order of 15 with at least 8 being councillors, appointed by COSLA.* This would allow a larger quorum to be set to reduce the chances of what could be a very small number of people making significant decisions over Scottish policing. This is closer to the number that could be appointed to the reformed National Library (14), and would help re-enforce the traditional tripartite approach to policing in Scotland, and assure the public that the boards and services were able to exercise their independence and accountability with a separation from Ministers.

**The Chief Constable and Chief Fire Officer**

As the Committee know it is proposed that there be different service specific approaches. To emphasise the independence of the Chief Constable from influence of Ministers, the Bill will require the Scottish Police Authority Chairperson be involved in appointing the first Chief Constable and the SPA more generally thereafter. The Chief Constable will need then to be approved by Ministers. However, given the lesser political sensitivity over the appointment of Chief Fire Officer, the intention is for Ministers to appoint him or her directly.

There is considerable pressure with the April 2013 provisional start date for the two new services to make progress to recruitment as quickly as possible, so that both Chief Officers can start recruiting their senior teams, and develop their initial strategic proposals to the SFRS and SPA. COSLA’s members are very concerned that the tight timeframes involved, combined with the proposed appointment processes will undermine accountability at a time when increased accountability is given as a reason for reform. Members were keen that shadow arrangements were in place quickly following the Bill’s enactment.

*COSLA suggests ideally that a means be found to fast track at least the appointment of the Chairman, but if at all possible other Board members also, to allow an earlier appointment of chief officers to take place than December 2012/January 2013. As an alternative suggestion, there may be a workable proposal based around using experienced current Board members in the selection of the chief officers. In recent discussion COSLA’s Community Safety Spokesperson has suggested to the Scottish Government that the appointment process could be brought forward if the existing Board Chairs of both Police and Fire & Rescue Services were used as a pool from which to interview applicants once the Bill has gained assent allowing the new Chief Officers to be in place possibly by early September.*
Strategic Priorities and Plan, consultation, laying before Parliament etc

The Police Priorities will be set by the Cabinet Secretary after consultation with interested parties, including COSLA and member authorities. For the SFRS it seems likely that the minister will set the priorities and objectives directly. With both services the Strategic Plans will be set by the Board / Authority after consultation with local authorities and COSLA (amongst others). The 3 year plans, once approved by ministers, will be laid before Parliament who will be able to take a view on these and annual reports, questioning both the Board / Authority and their employees as necessary.

*COSLA has welcomed some of the clarity achieved here since the initial proposals were put forward. The next significant issue will be the timeframe over which the first draft local plans will be prepared and by who, and the extent to which they tie in with community planning arrangements.*

Local Arrangements

Local Committees

During the consultation process COSLA made clear its position that Councils should be in the driving seat over the monitoring of the local plan and overviewing its delivery. COSLA was concerned about the status of its members councils in the process of drafting the plan. The ambiguity in the consultation document over whether Councils were simply being consulted or something more has been removed. Members welcome this being firmed up with such plans requiring to have the approval of the council.

Separately, in earlier responses, COSLA argued for a formal arrangement which places in statute a right of local authorities to hold to account local chief officers and their right to receive a response, in a similar way as currently available with the existing Chief Constables and Chief Fire Officers. Members are content that this now appears to be adequately covered in the wording of the Bill.

By reducing the degree of variation in their form and remit it may make it easier for the Scottish Chief Fire Officer/Chief Constable to manage relations with individual local authorities and to ensure a consistent level of scrutiny across the country.

*COSLA’s members would like to see as much detail as practical on the form the local ‘committee’ should take being on the face of the Bill, in part to provide a safeguard for local accountability to prevent it being reduced or removed through secondary legislation by a future government.*

Local Senior Officers

The Chief Constable and the SFRS will be required to have adequate arrangements in each local authority area, with a local commander/senior fire officer being designated for each local authority area, although the local lead officer may have responsibility for more than one area. They will be responsible for involving the local authority in determining the priorities and objectives for the services in the area.
The local Chief Officer will have the duties of participating in community planning of the current Chief Constables/Chief Fire Officers placed on them. They will also have the responsibility of preparing and submitting the local plan for agreement with the local authority. In both cases the local senior officers will be subject to the direction and control of the Chief Constable or the SFRS as appropriate in the carrying out of their duties.

*COSLA had been concerned that there was insufficient detail over where local elected members could go to if they had concerns about the delivery of the local services. This has largely been sorted out with clearer drafting in the Bill.*

**Local plans**

The local plans, to be revised at least every three years, are to set out the main priorities and objectives for the local area, state what the arrangements for the delivery of these will be, identify the measurable outcomes, and be tied in with other relevant outcomes from the community planning partnership. The format for the plans will be specified by the SFRS/SPA and these will require the plans to address the issues raised in the relevant national strategic plans. Modification to the plans will be subject to the agreement of the local authority.

*COSLA has previously stated that we believe decision making and financial responsibility cannot be separated. If local accountability and subsidiarity are really to be enhanced, budgets must be aligned to where the decisions are being taken. Each local plan should be costed and resourced so that progress can be reported on. It would form a basis on which additional local expenditure could be set against. An alternative would be to establish a scheme of delegation to the local chief officers so that they have powers to hold budgets, direct these and officers under their command, and enter into agreement with the local committees. Either would achieve the same end, although the latter would be preferable if the Christie Commission recommendation on “Forging a new concordat between the Scottish Government and Local Government to develop joined-up services, backed by funding arrangements requiring integrated provision” is to be acted on.*

*COSLA would like to see changes to the Bill to achieve this alignment of plans and resources. For example, councils already directly fund an additional 600 – 800 police officers (who are part of the current force of over 17,234 officers), and we need to be sure in future that the resources we are allocating to Community Safety are in fact still delivering the desired additionality. A budget would make this process transparent.*

**Regional arrangements**

At present there is little information about what the regional arrangements will be between local authority members and national board members or between the local chief officers and the Chief Fire Officer/Chief Constable. The Government maintains a position that much of this will be at the discretion of the new board/authority or the chief officers to arrive at.
While deferring operational decisions over territorial arrangements within the two services may seem reasonable, ideas will need to be developed to manage regionalised work such as Strategic Co-ordination Groups, Community Justice Authorities and Regional Transport Planning.

COSLA also raised the issue of how relatively junior local officers would hold their own against their more senior graded ‘peers’. This is something that may be resolved if the Government officials’ view that smaller population areas could be grouped together under more senior commanders/local senior fire officers is acted on.

Similarly it may be useful to arrive at some early idea for arrangements with members of the SFRS or the SPA acting as liaison members with given authorities/areas, to ensure a smooth flow on information and knowledge about regional matters.

It has been suggested that liaison responsibilities could be placed on members of the relevant boards to ensure that the awareness of local concerns is maintained at a local committee/board level, rather than solely being managed through the command structure.

*The Committee is asked to satisfy itself that such an approach will be actively considered in the new arrangements.*

**Other matters**

**Resourcing local authority arrangements**

As one of the intentions of the Bill is “to strengthen the connection between services and communities, by creating a new formal relationship with each of the 32 local authorities, involving many more local councillors and better integrating with community planning partnerships’ the Local authority Fire and Police committees have a serious workload. They will be expected to: formally comment upon the Local Plan; monitor, scrutinise performance and offer improvements; seek reports, answers and explanations regarding the local plan and raise issues with the Chief Constable, Authority and the SFRS as necessary.

COSLA members have been asked about the additional burdens of establishing these. Initial estimates suggest that there would be a requirement of something in the order of £3-4m to have simple administrative roles in place with some policy and analytical capacity. This is an area in need of attention given earlier concerns raised by Audit Scotland and the Scottish Parliament reports regarding instances of apparently ‘flawed’ police authority scrutiny, and lack of professional officer support.

COSLA are not clear where informed independent professional advice on policing and fire will come from to inform the local committees. This still needs to be dealt with. Amongst the options on the police side are the establishment of a national resource providing support locally or by gaining access to the resources of the SPA - with its Chief Executive having a duty to meet reasonable requests for support. There will be obvious additional on-costs in providing informed local arrangements.
The Committee is asked to satisfy itself that these matters are addressed either on the face of the Bill or managed through agreement with the Scottish Government.

Riotous Assembly

Under the 1824 Act police authorities have responsibility to compensate the public and businesses for damage caused by riot. While this has not been a common problem in the recent past, the disturbances of 2011 and the need for councils to secure insurance cover for high profile events mean that this is a continuing and real burden for some authorities. As the current policing role is transferring to the new national service so should the liability for policing riotous assemblies.

COSLA has approached the Scottish Government over this to resolve the matter, particularly as councils they have no practical or theoretical ways of actively mitigating the risk.

COSLA would like to see this matter addressed in this piece of primary legislation, or a formal agreement being reached with the Scottish Government that the new Police Authority would cover all the liabilities that remain with Scottish councils.

COSLA
14 February 2012
Annexe B

Police and Fire Reform (Scotland) Bill – Financial Memorandum
COSLA Submission to the Finance Committee

Background

COSLA welcomes the opportunity to provide a submission to the Finance Committee on the Police and Fire Reform (Scotland) Bill. The Committee should note that our submission focuses on the high level financial implications as a result of moving to a single Police and Fire service, rather than concentrating on the detailed questions as outlined by the Committee.

The Committee should also be aware that COSLA is also submitting evidence as part of the scrutiny of the Police and Fire Reform Bill to the Scottish Parliament’s Justice and Local Government and Regeneration Committee. These submissions provide the Parliamentary Committees with more detail around COSLA’s position on some of the wider areas associated with the Police and Fire Reform (Scotland) Bill, however we would be more than happy to share these submissions with the Finance Committee should members consider this helpful.

Financing Principles

COSLA would wish to ensure that in moving to a single Police and Fire Authority that there are essentially two overarching principles that are applied:

i. The first of these is to ensure that there is as smooth a transition process in transferring to a single Police and Fire authority as possible, and this involves appropriate engagement with all key stakeholders to work through this process.

ii. The second is to ensure that the single Police and Fire Authorities remain properly resourced to ensure that they can deliver the necessary services to support the safety and wellbeing of communities in Scotland.

Transition to a Single Police and Fire Service

As highlighted above, COSLA would wish to ensure that there is as smooth a transition process in transferring to single Police and Fire authorities as possible, and this involves appropriate engagement with all key stakeholders to work through this process. COSLA acknowledges that various groups have or are in the process of being set up by the Scottish Government to work through many of the issues which have been highlighted within this submission, and we will work with the Scottish Government to ensure that there is appropriate stakeholder representation and consideration of the issues which are necessary to ensure that the transition to a single Police and Fire service is delivered in as smooth a way as possible.

COSLA is currently in discussions with the Scottish Government and respective stakeholders through a wide range of working groups which have or are in the process of being set up to consider the issues associated with moving to a single
Police and Fire service. Particularly, throughout these discussions, COSLA would wish to ensure that there is appropriate consideration around:

i. The actual funding which will be required to deliver the single Police and Fire service and ensuring that this is at an appropriate level in order to provide the services required to support the local communities. This will include discussions around the current funding which is provided as part of the Local Government Finance settlement, both revenue and capital.

ii. The assets and liabilities that are currently held and used by the existing Police and Fire Boards and consideration around what will transfer as part of the new arrangements.

iii. Wider workforce issues associated with the creation of a new single Police and Fire service including transfer of staff and any wider pension’s implications. Given the risk around Police and Fire pensions is currently transferred and met by the Scottish Government, COSLA would wish reassurances that the current arrangements will remain when moving to a single Police and Fire service.

iv. Clear accountability for control of costs and delivery of savings during transition to the new National arrangements. Given the April 2013 provisional start date and the likely timescale for appointments to SFRS, SPA and Chief Officer posts, it will be extremely challenging to establish clear accountability for financial management for the financial year 2013-14.

**Properly Resourced Single Police and Fire Authority**

The Financial Memorandum which is being presented to Parliament includes a range of costs and anticipated savings arising from the move to the single Police and Fire service. Many of these costs have previously been included as part of the Outline Business Case for moving to a single Police and Fire Service. COSLA welcomes the Committee’s scrutiny of the costs to ensure that these are based on robust evidence and that any anticipated savings are realistic and can be realised particularly within the timescales identified.

In general terms, COSLA believes that the estimated costs and savings set out in the Financial Memorandum are not supported by robust evidence. For example, there are particular concerns regarding the reasonableness and accuracy of the following key estimates:

- The Fire and Rescue Outline Business Case includes estimated savings of £8m pa through “risk assessing and applying consistent crewing practice which could involve some redistribution. This includes reviewing risk-based thresholds for crewing appliances.” The timing and level of savings assumed in this area is not supported by evidence. This is likely to be a highly sensitive political matter and delivery of this saving should be considered as high risk both in terms of achievement of estimated savings and maintenance of service outcomes.
- Voluntary Redundancy (VR) costs for Police Staff are estimated at £81m over 5 years including £73m over the 3 years from 2013-14. This estimate implies a voluntary reduction in Police Staff numbers of around 2,000 FTE (30%) over a three-year period. No robust evidence is available to support this estimate and the timing and level of costs does not seem plausible. In addition the estimated VR costs for Police (£81m) are 20 times greater than the estimate of £4m which is included for VR within the Fire & Rescue Service – a ratio of around 5:1 for Police costs relative to Fire and Rescue costs would be expected given relative staffing and budget levels.

Financial Implications arising from the proposed model of Governance

COSLA has previously expressed wider concerns around the proposed NDPB model of governance and the impact on overall national and local accountability; however there are also a number of financial implications in moving to this model which we would wish to highlight to the Committee, and these are outlined in more detail within the paragraphs below.

Members of the Committee will be aware that under the current structures for Police and Fire, the forces are able (under section 33 of the Value Added Tax Act 1994) to recover VAT costs incurred. The Financial Memorandum which has been presented to Parliament recognises that the proposed service delivery model will mean that forces will no longer be able to recover VAT and as such there will be an additional cost to both Police and Fire services, and ultimately from overall public finances. We do have concerns around the need for this additional cost to be incurred, particularly given the scale of the financial impact on the available public finances. We recognise that the Scottish Government is in discussions with HM Treasury and HMRC to ascertain whether there can be any exemptions to this and this is welcomed. Nevertheless there remain some concerns from professional associations around the estimated additional costs which would be incurred, with indications suggesting that this could be significantly more than the current estimated costs. Given the significance of this additional recurring cost, we urge the Committee to seek resolution of this matter. The Committee is asked to scrutinise the robustness of the current estimated costs, the potential service implications of this additional expenditure, and the likelihood that HM Treasury and HMRC will grant exemptions to the SPS and the SFRS.

In addition to the VAT implications, the proposed governance structure will not allow the new single Police and Fire Services to be able to hold reserves. The holding of reserves is regarded as good financial management practice as they provide a contingency to cushion against the impact of unexpected events or emergencies. Given the nature of the services which Police and Fire deliver, expenditure within an emergency service can often be volatile, and reserves are often utilised to smooth the impact of such events including: above budgeted pay awards or inflationary pressures, protracted emergency or major incidents or other exceptional circumstances. Given this flexibility would no longer exist; the Committee may wish to seek reassurance from the Scottish Government how it intends to deal with any such fluctuations or major incidents from within their overall resources.
Resourcing Local Authority Arrangements

In addition, the Committee will be aware that one of the intentions of the Bill is ‘to strengthen the connection between services and communities, by creating a new formal relationship with each of the 32 local authorities, involving many more local councillors and better integrating with community planning partnerships’. There still remains uncertainty around the wider establishment and arrangements of these Committees, however given there is likely to still remain a role for local authority Fire and Police Committees, there needs to be consideration around the financial cost to local authorities in delivering this local arrangements, particularly given the funding to deliver the single Police and Fire service will be removed from the Local Government settlement.

The Financial Memorandum provides some initial estimates in the order of £3-4m which has been provided by COSLA around the anticipated cost to local authorities in establishing and administering these Committees. This may be an area which the Committee may wish to consider in more detail to ensure that there is an appropriate level of remuneration provided to Councils to meet these on-going costs required to deliver the appropriate local scrutiny, particularly given earlier concerns which have been raised by Audit Scotland and indeed previous Scottish Parliamentary reports regarding appropriate scrutiny.

In addition, there still remains uncertainty as to where any informed independent professional advice on policing and fire will come from to inform the local committees. There are a number of options which are currently being considered including examples for police to establish a national resource providing support locally or by gaining access to the resources of the SPA. Clearly there may be additional on-costs in providing informed local arrangements which has not been separately identified within the Financial Memorandum, and again this may be an area which the Committee may wish to explore in more detail in order to tease out any anticipated cost.

Conclusion

COSLA has highlighted a number of areas which they hope that the Committee will consider as part of its scrutiny process of the Police and Fire Reform (Scotland) Bill. We are however more than happy to provide the Committee with any further clarification around any of these issues which are outlined within this submission.

COSLA
14 February 2012