Justice Committee

Police and Fire Reform (Scotland) Bill

Written submission from Scottish Women’s Aid

Foreword

Scottish Women’s Aid (“SWA”) is the lead organisation in Scotland working towards the prevention of domestic abuse. Established in 1973, we play a vital role campaigning and lobbying for effective responses to domestic abuse.

We provide advice, information, training and publications to our members and non-members.

Our members are local Women’s Aid groups which provide specialist services, including safe refuge accommodation, information and support to women, children and young people with experience of domestic abuse.

An important aspect of our work is ensuring that women, children and young people with experience of domestic abuse get the services they need, both from local Women’s Aid groups and from the agencies they are likely to contact.

Introduction

SWA welcomes the opportunity to comment on the reforms within this Bill to police services in Scotland. The establishment of a Single Scottish Police Force (“SSPF”) will substantially impact upon the way police services are delivered in Scotland, and, our interest is how the police response to women, children and young people experiencing domestic abuse will be maintained and improved across the new Single Force.

For SWA and our local Women’s Aid groups, the most important outcomes arising from the establishment of a SSPF will be consistency of police response and approach to domestic abuse across Scotland, coupled with better accountability and meaningful consultation and participation in forming that approach. Women, children and young people experiencing domestic abuse need consistency through delivery of the same high quality response, regardless as to whether that response comes from Wick or from Edinburgh.

We note that the Bill is intended to increase local transparency, accountability and wider links with local authorities, strengthen the connection between services and communities and provide a clearer purpose for policing, focused on prevention and early intervention to improve outcomes.

However, in terms of local responses, while the Bill sets out governance arrangements and the framework for the new SSPF, there are is no clear sense of how the service and planning will be managed and delivered at an operational level. This is an important matter of relevance and concern, not just to SWA but also other partners, as was highlighted in the evidence given to the Scottish Parliament’s Local
Government and Regeneration Committee of the 8th February\(^1\) and 21st February 2012\(^2\), respectively.

SWA and our local Women’s Aid groups delivering direct services to women, children and young people across Scotland have established a close working relationship with ACPO(S), Scottish police forces and the Scottish Government in relation to the development of local and national strategy on policing domestic abuse and have worked with Scottish forces in taking this forward.

Considerable advances have been made in the police response to domestic abuse and any diminution of the response or the work being done with expert partners such as SWA and Women’s Aid groups will have a detrimental effect on the safety of women, children and young people experiencing domestic abuse and their confidence in the police.

It is, therefore, essential that any national and local arrangements, partnerships and working relationships which SWA and our local Women’s Aid groups currently have with ACPO(S) and Scottish police forces continue across to new SSPF, so that we may work with, and support, the SSPF, in whatever local configuration, in developing and strengthening its response to domestic abuse.

This underlines the necessity of clarity in how the new SSPF will operate at both local and national level and of having appropriate local arrangements in Local Command Areas in relation to domestic abuse;

- Existing local initiatives, joint working and protocols in place between local Women’s Aid groups, Violence against Women Multi-Agency Partnerships and police forces must be retained and re-shaped appropriately to formalise and encourage collaboration, liaison and regular contact between the Women’s Aid groups, the Partnerships and those officers within the 32, or otherwise, Local Command Areas.
- There must be consistent, Scotland-wide, standard policies, procedures and guidance in handling, tagging and responding to domestic abuse, for all police officers, from the local response of officers on the beat through to the strategic response from higher ranks, to ensure continuity.
- Of particular relevance is the “In Partnership, Challenging Domestic Abuse”\(^3\), a Joint Protocol between COPFS and ACPO(S) which outlines the procedures and practices that will be followed by the Scottish Police Service and the Crown Office and Procurator Fiscal Service in relation to the investigation and prosecution of domestic abuse in Scotland. The reforms are an opportunity to give this document a more formal status in terms of SSPF adherence to the procedures outlined therein.
- Nationally, a planned programme of general awareness- raising on the causes, effects, dynamics, and legal responses to domestic abuse should be available to all officers, along with Continual Professional Development “refresher” training for civilian staff and all police, similar to that instigated by

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\(^1\) http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6826&mode=pdf
Having a clear, Scotland-wide standard response and procedures in place supported by relevant national and local protocols and training and partnership working with local Women’s Aid groups, will improve the response and accountability of the SSPF and support it in attaining set goals in the delivery of service improvements, at both local and national levels across Scotland.

Commentary on the Bill

We note that the numerous sections concerned with the making of regulations and plans state that the body responsible for these, be it Scottish Ministers, the Scottish Police Authority, Local Area Commander or local authorities, must consult various persons and bodies specifically referred to and “other such persons as they consider appropriate.”

This “catch all” is too vague and discretionary to inspire confidence that public consultation and engagement on important matters in the Bill will actually happen. Furthermore, there are several important sections where there is no obligation placed on them to consult with any party whatsoever.

In the spirit of transparent and accountable decision-making which the Bill is seeking to promote, it is only right that the public and partner organizations should be consulted whenever important decisions which impact on them are being made, either locally or nationally. We have therefore made particular reference to those relevant sections which, we consider, should explicitly state that public consultation will be undertaken and that the draft documents will be publicly published for public scrutiny.

Section 1 - Scottish Police Authority (“the Authority”)

In terms of the Authority membership, we would reiterate the comments made in our response to the earlier consultation paper that "The members of the Scottish Police Authority must be able to reflect local experiences and also have experience and skills in relation to determining strategy on responses by the police to victims and witnesses.”

In terms of the overall independence, accountability and decision-making powers of the Authority, we would question how this will be maintained if Ministers are to have a power of direction over the Authority, regardless of how little this power would be used in practice.

We would also comment that there is no mechanism within the Bill to allow a local authority to have engagement with this national body.

Section 5 - Directions

This section provides that the Authority must comply with any direction (general or specific) given by the Scottish Ministers. The section should explicitly state that
Scottish Ministers must publish any such direction(s) for public scrutiny and comment.

**Section 17 - Chief Constable**

There is no indication of how it is intended that the Chief Constable be directly accountable to communities and partner organisations and we would want to see this process clearly set out in the statute.

**Section 33 - Strategic police priorities**

This is an important section since it grants Scottish Ministers power to determine strategic priorities for the Authority and instructs Ministers how they should consult on these as part of the determination process.

Firstly, the section must explicitly state that public consultation will be undertaken by Ministers and the draft documents will be publicly published for public scrutiny.

It is concerning that this section does not place an obligation on Scottish Ministers to have regard to any comments received during their consultation exercise, the obligation on simply being “to consult.” To address this omission, the section must include wording stating that Ministers must “invite comment on the draft priorities within such reasonable period as Ministers may specify, and have regard to any comments received within that period.”

**Section 34 - Strategic Police Plan**

This section places an obligation on the Authority to prepare a strategic police plan, which will be reviewed every three years, and to consult when preparing this plan.

Therefore, it is, once again, concerning that such an important section does not provide explicitly for public consultation on the content of this plan.

In relation to the initial strategic plan, and any amended/replacement plan produced as a result of their obligatory tri-annual review, subsection 4 must state that the Authority will undertake public consultation and that the draft documents publicly published for public scrutiny.

Similarly subsection 6(a) must state that the final, approved strategic plan will be similarly publicly published for public scrutiny.

**Section 35 - Annual Police Plan**

In addition to the overall strategic plan, the Authority must produce an annual police plan. Subsection 3 of section 35 must state that the annual plan will be published for public scrutiny and comment.
**Section 38 - Best Value**  
**Section 39 - Best value: further provisions**

These clauses refer to the Authority and Chief Constable’s duty to make arrangements in relation to determining “best value” in the cost and quality of SSPF services. Under subsection 39(a) they must have regard to guidance issued by Scottish Ministers and subsection 39(3) obliges Scottish Ministers to consult before issuing this guidance.

Referring to our comments above, section 39(3) must explicitly state that public consultation will be undertaken by Scottish Ministers on this guidance and the draft documents publicly published for public scrutiny.

**Section 40 - The Scottish Police Authority’s annual report**

Subsection 40(5) must state that the draft document will be publicly published for public scrutiny.

**Section 41 – Accounts**

There is no duty on the Authority in this section to provide their accounts to anyone other than Scottish Ministers and the Scottish Parliament. Therefore, the section must state that that the statement of accounts will be publicly published for public scrutiny.

**Section 43 - Examination of Police Service by Auditor General**

This clause gives the Auditor General discretion as to whether to publish the results of any examination carried out by them into both “the economy, efficiency and effectiveness of the Police Service” and the “best value” arrangements made by the Chief Constable under section 38(2).

In the interests of transparency and accountability, this section must place an obligation on the Auditor General to publicly publish the results of any examination for public scrutiny.

**Section 46 - Local authority role in policing**  
**Section 48 - Local police plan**

We have emphasised above the importance of national and local arrangements, partnerships and working relationships in making the new SSPF.

However, as we discuss below, the Bill does not allow for communities and partner organizations to have a role in developing of local policing, nor does it acknowledge that there must be a relationship and framework for consultation between the local authority, Local Area Commander and the community. In this regard, we would echo the comments of those witnesses who gave evidence to the Local Government and Regeneration Committee on 21st February 2012, as referred to above.
During the session on 21st February, Chief Constable Kevin Smith, (Association of Chief Police Officers in Scotland) in his evidence at pages 647 and 658, stated, *inter alia*, “There are a number of issues. The national board will be a very important part of the new structure. The one thing that has been missing from the discussion so far and is missing from the bill is the part that the citizen plays in it. There is no reference to the connectivity between the national authority and the citizen, nor is there any direct reflection in the bill of the relationship with the citizen and the local authority. To ensure that the process is democratic, there must be some form of compulsion on the police authority to have a consultation process with the citizen so that it is informed by what the people of Scotland think….There absolutely must be a link between the local and the national; the bill is currently silent on that and must clearly define the link. It must also set out the requirement for consultation with citizens, to ensure that citizens’ voices are heard.”

Further, on page 651, in response to a question from David Torrance MSP as to how “... will the bill affect community engagement and community planning partnerships? Will it restrict such engagement? How are we going to engage with the public who, after all, will be the first to complain to us? They are certainly the most concerned about the issue”, Councillor Iain Whyte of the Scottish Police Authorities Conveners Forum, stated “This is a very difficult area and the bill does not give us much of a clue about how any of the local arrangements will be taken forward and—critically—gives us no clue about how the Scottish police authority will deal with the public. There has to be a direct relationship in that respect... “.

Our comments on the individual sections impacting on these matters are as follows:

**Section 46 - Local authority role in policing**

The section requires that the Local Area Commander “involve the local authority in the setting of priorities and objectives for the policing of its area...” and further provides that “(2) A local authority may monitor and provide feedback to the local commander on the policing of its area, and (in particular) may provide to the local commander— (a) its views on any matter concerning or connected to the policing of its area, and (b) any recommendations for the improvement of the policing of its area that it thinks fit.”

While a local authority is given a number of rights in relation to how priorities and objectives for local policing are set, including the right to formally monitor and provide feedback and recommendations on policing of its area, there is neither an equivalent right for the local community and partner organisations to be involved, nor any obligation on the local authority and Local Area Commander to engage with the community and relevant partners and to develop a process to facilitate this.

There is no obligation at all on the local authority to consult, publicly or otherwise, and involve partners in setting priorities and objectives for policing. In shaping priorities and objectives in the Local Police Plans, local authorities must be obliged to consult and involve partner organisations, such as Women’s Aid groups and the local Violence against Women Multi-Agency Partnerships, and not simply the Community Planning Partnerships alone, as the earlier consultation proposed.
Previous consultation papers made reference to Local Policing Plans setting objectives and priorities for policing in the area in the context of local priorities, such as those set out in the Single Outcome Agreement (“SOA”) and the Scottish Policing Plan. This is predicated on the assumption that each local authority has fully developed their SOA to include action to address domestic abuse and violence against women, a situation which does not exist. We have attached, as part of our written evidence, a link to *Scottish Women’s Aid Analysis of Single Outcome Agreements*[^4], a report we prepared identifying priorities and outcomes in the SOA. From our analysis it is not clear how the implementation of national policy at a local level is monitored and evaluated or how local authorities and their Community Planning Partners can be held to account.

Giving more local elected members extended powers in relation to deciding policing priorities must not lead to any diminished commitment to address domestic abuse against women, children and young people. We would hope that this closer alignment between police and local authorities will develop closer working relationships between them, SWA, local Violence against Women Partnerships and local Women’s Aid groups in terms of developing local policing policy and local authority responses to domestic abuse.

Consequently, there is a need to establish consistency across Scotland on how local authorities develop local police services and Plans, to avoid a piecemeal approach resulting in little or no consultation and accountability in some areas, and to inspire public confidence, transparency of process and reflect the views of communities and practitioners.

A suitable framework for accountability and consultation must be enshrined in this Bill through an obligation on the local authority to both consult with the public and partners and to determine how it will achieve this.

We would also comment that there is no mechanism for the local authority to have engagement with the Chief Constable, in addition to their engagement with the Local Commander for their local authority area, and this must also be written into the Bill.

**Section 48 - Local police plan**

The section requires the Local Area Commander to prepare a Local Police Plan, submit it to the local authority for approval and to consult such persons as they “consider appropriate” when preparing the plan.

Again, while a local authority has a number of rights in relation to how this local police plan (or plans) is drawn up, including the right to formally comment, there is no equivalent right for partners and the local community to comment, no obligation on the local authority and local commander to publish local plans for public comment and no commitment to developing a process for consultation and the lodging of comments and objections.

The earlier consultation document stated that the Local Area Commander’s duty

would be to “provide reports to, and answer questions from the Council on performance against the plan and other issues bearing on the safety and well-being of local communities”. Given the wide impact of local policing plans, this reporting and accountability function must be extended beyond local authorities alone, to encompass not only partner organisations, such as Women’s Aid and the Violence Against Women Multi-Agency Partnerships, but also the public as service users.

We would reiterate our comments on section 46 above on the matter of consultation, in that to achieve public confidence, transparency of process and the views of communities and practitioners, section 48 must both place an obligation on the Local Area Commander to both undertake consultation with partners and the public in the preparation of a local plan and to publicly publish such a plan for public scrutiny.

Section - 61 Complaints handling

The section states that “(2) The Authority and the chief constable must seek the views of others as to what those arrangements should be.” It must further explicitly state that public consultation will be undertaken and the draft documents publicly published for public scrutiny.

Section 67 - Investigations, etc

This section seeks to amend section 41 of the Police, Public Order and Criminal Justice (Scotland) Act 2006, a section which makes provision on the conduct of investigations undertaken by the Police Investigations and Review Commissioner (“the Commissioner”).

Specifically, it gives powers to Scottish Ministers to make regulations as to how the Commissioner will conduct investigations. These regulations will govern, inter alia, the circumstances in which the Commissioner must, must not or need not carry out an investigation; may discontinue an investigation; the form and procedure of an investigation; and may impose restrictions on the extent of any investigation.

Again, stating that Scottish Ministers may consult “such other such persons as they consider appropriate” is not enough to allow for public consultation and the section must explicitly state that public consultation will be undertaken by Ministers when making regulations and that the draft documents will be publicly published for public scrutiny.

The section must explicitly state that any report prepared by the HMICS under this section will be published for public scrutiny.

This section allows the Authority to authorise the Chief Constable to make arrangements to provide and charge for police services. In granting this authorisation, the Authority must comply with any code about charging for police services issued by the Scottish Ministers.

The section does not set out the process that will be undertaken by Ministers in drawing up these codes. Therefore, it must make explicit reference to the
consultation process that Scottish Ministers will undertake, including publishing the
code for public comment.

SWA welcomes the opportunity to comment on these important reforms to policing in
Scotland and we look forward to working further with the Scottish Government,
police and local authorities in taking these reforms forward.

We are happy to provide the Committee with any further information they may
require in relation to our submission.

Scottish Women’s Aid
2 March 2012