Introduction

1. Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

2. Amnesty International welcomes the opportunity to submit written evidence for the Justice Committee’s consideration of the Police and Fire Reform (Scotland) Bill 2012. Our response will focus on proposals for a single Scottish police force.

3. The Scottish Government’s proposals to create a single Scottish police force raise a number of issues relating to human rights which we have raised in earlier consultations. Reform is an opportunity to improve transparency and accountability in policing and ensure that the Scottish police force adheres to the highest international human rights standards.

Policing and Human Rights

4. Scottish policing has a long and proud history of policing by consent and taking a community-centred approach. Any change in the organisation and structures of a new Scottish police force should retain this approach, imbedded within a human rights framework.

5. The nature and extent of police powers make them the front line of defence in protecting our human rights on a daily basis, whether protecting the right to life and freedom from harm, defending the right to property, or prohibiting discrimination.

6. In upholding the Scottish Government’s duty to protect the human rights of people in Scotland, police have legitimate powers to take action which might limit the rights of others, most notably in depriving people of their liberty and in the state-sanctioned use of force. However, any actions which affect the rights of individuals must be in accordance with the law, strictly necessary and a proportionate means of achieving a legitimate aim. The Universal Declaration of Human Rights states that “Everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and general welfare in a democratic society.”

7. Scottish police forces are also bound by the Human Rights Act to respect the European Convention on Human Rights including, the prohibition on torture, inhuman and degrading treatment, the right to liberty and security, the right to a fair trial and the right to family and private life.
8. This unique position must come with a commensurate level of scrutiny and accountability with clearly defined international standards being adhered to.

9. The UN Standards of Policing Code of Conduct (1979)\(^1\) states that 'every law enforcement agency should be representative of, and responsive and accountable to, the community as a whole', establishing a clear and fundamental standard of the nature of human-rights based policing, and the relationship police should have with the communities they serve and the political system within which they function.

10. The Independent Review of Scottish Policing (2009)\(^2\) identified gaps in the current accountability mechanisms of Scottish policing at local, regional, and national levels and the new Scottish police force in the future must ensure that these concerns are fully addressed and that clear constructs are in place to allow transparent scrutiny of police policy and robust engagement with communities and stakeholders to ensure accountability in decision making processes.

**Policing, Accountability and Human Rights**

11. Amnesty International welcomes the Scottish Government's proposals in the Police and Fire Reform (Scotland) Bill to provide more clarity, transparency and accountability. We welcome proposals for clearly defined roles for Scottish Ministers, a Scottish Police Authority, the Chief Constable of the Scottish police service, local councils and designated Local Commanders for each Local Authority area. We welcome the proposal to 'provide the Scottish Parliament with more opportunities to consider and scrutinise the Scottish Police Authority and service.' We also welcome the proposal to ensure independent custody visiting in Scotland is fully OPCAT compliant.

12. However, this reform of policing provides an opportunity to create the most robust structures for transparency and accountability of any police force in the world, learning from international examples.

13. As a result of recommendations made by the Patten Commission on Policing in Northern Ireland in 1999, the Police Service of Northern Ireland (PSNI) now has some of the most robust human rights based policies and structures of any police force in the world.\(^3\) Emphasising that human rights are central to the fundamental purpose of policing, the report, A New Beginning for Policing in Northern Ireland, recommended measures including the appointment of an independent human rights advisor to the force, training for all new and existing officers in human rights, and the introduction of mechanisms to promote transparency and democratic accountability within the local community.\(^4\)

\(^1\) [http://www2.ohchr.org/english/law/codeofconduct.htm](http://www2.ohchr.org/english/law/codeofconduct.htm)

\(^2\) [http://www.scotland.gov.uk/Publications/2009/01/23133505/0](http://www.scotland.gov.uk/Publications/2009/01/23133505/0)


In our response to the Scottish Government’s consultation on a single police force, Amnesty International urged the Scottish Government to adopt a similar approach. We are disappointed that our recommendations on this and on other areas to bolster human rights in the single police force proposals at consultation stage did not make it on to the Bill. We hope that the Justice Committee will consider the importance of human rights in 21st century policing in Scotland in the Bill. We believe that the following issues should be included in the new police structure in Scotland to ensure accountability for human rights performance.

- **A Modern Purpose for Policing**
  Given the importance of a Scottish police force to upholding human rights, the new purpose should include a reference to protecting fundamental human rights which can be introduced in section 32 of the Bill.

- **The Oath**
  Amnesty International also believes the duty of police constables to protect human rights should be reflected in the new oath. For example, the Northern Irish oath is:
  
  “I hereby do solemnly and sincerely and truly declare and affirm that I will faithfully discharge the duties of the office of constable, and that in so doing I will act with fairness, integrity, diligence and impartiality, uphold fundamental human rights and accord equal respect to all individuals and to their traditions and beliefs.”

- **Code of Ethics**
  The Scottish Police Service Code of Ethical Practice already lists integrity, transparency, accountability, responsibility and impartiality as principles which all members of the Scottish Police Service observe and support. Although it is clear that these principles go some way to support human rights objectives, human rights should be explicit within this Code of Ethical Practice, to ensure their centrality to the Scottish Police Service.

  A positive example of this is the Police Service of Northern Ireland Code of Ethics (2008), which states that “public confidence in the Police Service is closely related to the attitude and behaviour of officers towards members of the public, in particular their respect for the human rights and fundamental freedoms of individuals as enshrined in the European Convention of Human Rights”.5

- **Training**
  Training for both new recruits and experienced personnel should contain clear reference to human rights standards.

- **Personnel Appraisals**
  Awareness of human rights should be set down as an important element in appraisals of personnel.

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• **Independent Advisor**  
An independent Human Rights Advisor should be appointed to monitor compliance with the Human Rights Act (1998) and publish these findings on an annual basis. The Northern Ireland Policing Board examines the following factors in their report on compliance with the Human Rights Act and could be taken as a positive model for a Scottish compliance report.

1. “Police Service of Northern Ireland (PSNI) Programme of Action
2. Adequacy and effectiveness of PSNI human rights training
3. Compliance of PSNI policies with the Human Rights Act 1998
5. Adherence by PSNI officers to the Code of Ethics
6. Complaints, discipline and civil actions raising human rights issues
7. Public order
8. The Use of Force
9. Covert Policing
10. Victims’ Rights
11. The treatment of suspects
12. Human rights awareness among PSNI officers”

• **Human Rights Committee**  
A permanent Human Rights and Professional Standards Committee should be established, with responsibility for reviewing complaints and disciplinary matters and monitoring the use of force on an on-going basis.

Shabnum Mustapha  
Director, Amnesty International Scotland  
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6 [http://www.nipolicingboard.org.uk/index/publications/human-rights-publications/content-previous_hr_publications.htm](http://www.nipolicingboard.org.uk/index/publications/human-rights-publications/content-previous_hr_publications.htm)