Justice Committee
Police and Fire Reform (Scotland) Bill

Written submission from the Highland and Islands Fire Board

The Highland and Islands Fire Board welcomes the opportunity to provide written evidence to the Justice Committee on the Police and Fire Reform (Scotland) Bill. The Board is keen to contribute to the legislation to ensure the new arrangements for single services work effectively from their inception. The Board seeks continuity in the performance of police and fire and rescue services in the Highlands and Islands. The constituent authorities of the Highland and Islands Fire Board intend to be pathfinders to aid the transition to the new single services.

1. Part 2, Section 99 and Schedule 1A, 2005 Act, Paragraph 2: The Scottish Fire and Rescue Service

Schedule 1A provides that the Scottish Fire and Rescue Service (SFRS) will have between 7 and 11 members, all to be appointed by Scottish Ministers, with appointments held for no more than 4 years. The Highland and Islands Fire Board (HIFB) is concerned that this size of membership is too small to allow adequate regional or local input to Scottish fire and rescue arrangements. The HIFB seeks the size of the Board to increase to 15 members. It also seeks reassurance in the Bill that membership of the Service makes provision for Scottish rural, island and urban community safety interests. The HIFB sees the inclusion of local elected members beneficial in this respect, and seeks that they comprise at least 8 of 15 members on the SFRS. This would bring a breadth of experience and knowledge of fire and rescue across Scotland. The HIFB supports the appointment of Service members through the Public Appointments process.

The use of sub committees may be useful, but if the maximum number of Board members remains at 11, this would be too small for proper consideration of rural, island and urban issues at sub-committee level.

2. Part 2, Section 99 (Schedule 1A, 2005 Act, Paragraph 8): The Chief Officer

The HIFB notes that the first Chief Fire Officer is to be appointed by the Scottish Ministers and thereafter by the SFRS. The HIFB recognises the advantages of early recruitment of the Chief Fire Officer, to enable transitional arrangements to be put in place earlier; however, the HIFB would have welcomed the involvement of the SFRS from the outset. If appointments to the Scottish Fire and Rescue Service cannot be fast-tracked, the HIFB requests that local governance have a role in the crucial first appointment process and suggests that this be drawn from among the new chairs of joint boards, to enable recruitment by September 2012.

The nature of the relationship between the Chief Fire Officer and local elected members or the new local committees is not clear. The HIFB seeks assurance that this matter will be considered in the Bill process.
3. **Part 2, Section 99 (Schedule 1A, 2005 Act, Paragraph 9): SFRS Employees; and Amendments relating to Part 2**

It may be helpful in remote rural and island communities for there to be an ‘emergency first responder’ capability, where skills found in the separate emergency services (police, fire and rescue and ambulance) could be developed across staff with these roles and deployed more quickly to deal with emergencies arising.

The Bill does not make reference to any statutory bar on employment within the Scottish Fire and Rescue Service. However, there appears to be no amendment among the Amendments relating to Part 2 of the Bill (Schedule 6, Part 2) to the prohibition in Section 51 of the Fire (Scotland) Act 2005 on employment of police. The HIFB is unsure why this prohibition needs to remain and presses for it to be repealed.

By making provision for paid and voluntary employment in more than one emergency service, some recruitment difficulties in remote rural and island authorities may be overcome.

4. **Part 2, Section 99 (Schedule 1A, 2005 Act, Paragraph 12): SFRS General Powers**

The HIFB notes the provision for the Scottish Fire and Rescue Service to provide and maintain various assets to carry out its functions. It seeks the inclusion in this section of a reference to sharing public assets with other public bodies where that would enable best value for the public purse. This could be detailed further in guidance, with reference for example made to shared buildings, shared vehicles or shared maintenance of them, shared land or partnership arrangements for land disposal for best community benefit, shared ICT provision and shared procurement where appropriate.

5. **Part 2, Section 99 (Schedule 1A, 2005 Act, Paragraph 16): Accounts**

Although the Financial Memorandum for the Bill is being considered by the Finance Committee, the HIFB is concerned that the proposed delivery model means that the new single forces will not be able to recover Value Added Tax (VAT). This will incur additional cost to the public purse and reduce resources for the new services. The HIFB acknowledges that the Scottish Government is in discussion with HM Treasury and the HMRC seeking exemptions, but the HIFB seeks assurance that this will be resolved before the legislation is passed.

6. **Part 2, Sections 100-108: Functions of the Scottish Fire and Rescue Service**

The HIFB notes the list of functions to be the responsibility of the SFRS. The HIFB seeks assurance that the legislation and/or accompanying guidance will ensure that:

- the future delivery of the service in the Highlands and Islands will equate to that in other areas of Scotland or for Scotland as a whole; and
- appropriate local governance arrangements are made for the area, which includes mainland and island communities; community representation in these
areas should have no less weight than community representation in other areas of Scotland.

The HIFB seeks clarity on the nature of the relationship between the members of the Scottish Fire and Rescue Service and the members of the local committees and with other regional bodies such as the Regional Transport Partnerships.

7. **Part 2, Section 111: Best Value**

The HIFB welcomes the duty of the Scottish Fire and Rescue Service to make arrangements to secure Best Value. It may be worth noting that arrangements for auditing Best Value may change, as the approach to external scrutiny of community planning partners and partnerships in the achievement of outcomes is currently under review. This may be dealt with in the future in accompanying guidance to the legislation (under reference in new section 39B, 2005 Act).

8. **Part 2, Section 112: Scottish Fire and Rescue Service Strategic Plan**

The HIFB recommends that, in preparing the strategic plan, the Scottish Police Authority is named as a mandatory consultee.

9. **Part 2, Section 113 (new Section 41D, 2005 Act): Provision of Local Services**

The HIFB welcomes the provisions in section 41D of the 2005 Act requiring SFRS to ensure that adequate arrangements are in place for each local authority area and to involve each local authority in determining the priorities and objectives for its area.

10. **Part 2, Section 113 (new Section 41E, 2005 Act): Local Fire and Rescue Plans**

The HIFB notes the provisions in the Bill for the SFRS to prepare and submit a local fire and rescue plan to the relevant local authority for approval. However, it is not clear what the process would be if approval were not given. Some positive process of resolving any lack of agreement would be required.

To reduce the risk of such a situation arising, HIFB is of the view that it would be helpful if, in addition to requiring the SFRS to involve the local authority in determining the priorities and objectives for the area, the Bill were to specify that the local fire and rescue plan be developed jointly with the local authority and be subject to public consultation. The HIFB believes that the successful achievement of public protection and community safety outcomes requires partnership or integrated working with other relevant partners, rather than the development of a plan by one organisation for consultation with others.

The HIFB notes that the Bill requires the SFRS to “consult such persons as the SFRS thinks fit”. The HIFB would prefer to see clear acknowledgement in the Bill that successful outcomes mean the involvement of other partners, notably the local police commander, the Health Board, Scottish Ambulance Service locally and the third sector. Having a joint public protection and community safety plan could be
achieved within a framework of national outcomes, national fire and rescue priorities and the fit with local outcomes and local resources. All of this can be supported by the development of the Single Outcome Agreement, especially in relation to partnership performance. This joint approach would enable local solutions to be developed for integrated and preventative services, two of the Government’s four pillars of public service reform.

11. Part 2, Section 113 (new Section 41E, 2005 Act): Local Fire and Rescue Plan

The HIFB recommends that the local police commander is at least included as a mandatory consultee for the local fire and rescue plan. In keeping with the written evidence provided at paragraph 10 above, the HIFB seeks provisions in the Bill for the production of a joint public protection and community safety plan involving not only fire and rescue, police and local authorities, but also the local ambulance service and NHS Boards.

12. Part 2, Section 113 (new Section 41J, 2005 Act): Local Senior Officers

The HIFB welcomes the provision at section 41J that a Local Senior Officer must be designated for each local authority area. It does not however specify the rank for that officer. If this is to vary across local authorities, there is a concern that, in smaller local authorities (e.g. island authorities), a less senior officer will be appointed. This is of concern because he/she would have a lower level of authority within the Scottish Fire and Rescue Service, potentially limiting his/her capacity to influence the national strategic plan and the resources required for the local fire and rescue plan. The HIFB seeks provision in the Bill or accompanying guidance that, if seniority is to vary, the position of local senior officer is in itself afforded a particular status that, when considering matters affecting local service in the Highlands and Islands and the resources for it, would not be superseded by higher seniority in other local areas.

Under sub paragraph (4) the Bill provides that a local senior officer could cover more than one local authority area. This is more likely to be the case where the local authority has a relatively small population or covers a relatively small geography. With the population factor more likely to apply in the Highlands and Islands, the HIFB is concerned that it may not be as well served as other areas with a dedicated local senior officer. This is of even more concern if the officer’s seniority is likely to be lower than in other areas. Assurance is sought in the provisions of the Bill, or in the accompanying guidance, that service delivery, performance and resources will be fairly distributed, with no reduction for the local Service areas currently served by Highlands and Islands Fire and Rescue Service.

13. Part 2, Section 113 (new Section 41K, 2005 Act): Monitoring by local authority

The Bill provides for monitoring of the local fire and rescue plan by the local authority and has a similar provision for local policing (Part 1, Chapter 7, Section 46(2)). It would be more effective, if separate plans are to be produced, for them to be monitored together or simultaneously, given the connections and dependencies across both emergency services.
However, if the Bill is amended to enable the production of a joint public protection and community safety plan for each local authority area, then each contributing partner would need to be accountable for its performance against the plan. This can be facilitated locally through joint scrutiny arrangements (the pathfinder committees), and it can be reported nationally through the arrangements for the Single Outcome Agreement.

14. Part 2, Section 116: Directions

The HIFB would be keen to see reference made to a general or specific direction from Scottish Ministers on the maintenance or re-location of fire and rescue services to ensure either:

- minimising the loss of front-line or back office services currently based in the Highlands and Islands; or
- for new central services to be moved to the Highlands and Islands to support local economies and rural communities.

This can be enabled by ICT or supported by further shared services arrangements.

15. Part 2, Section 117 (new Sections 43A-43F, 2005 Act): Her Majesty’s Inspectors of the Scottish Fire and Rescue Service

It is not clear how the Bill makes provision for reducing external scrutiny and making it risk based and proportionate, as required following the Crerar Review. In addition, it does not take into account the current review of external scrutiny of community planning partnerships. The HIFB emphasises this point given the provisions in the Bill for a separate Chief Inspector of Constabulary in Scotland (Sections 71 & 74).

16. Part 2, Section 118 and Schedule 5: Transfer of staff, property etc.

The HIFB will consider the potential impact of a staff transfer scheme for staff who are to be treated as fire and rescue employees but are employees of the local authorities involved in the HIFB. It would be helpful to have further guidance available on this matter in advance of the appointed day.

This is important because the Highland Council provides services to the Joint Board in terms, for example, of clerking, administration, finance and procurement services. The Council therefore needs to understand the implications, if any, for staff involved.

Other issues of concern:

A. Accountability, Scrutiny and Governance

The Bill provides limited assurance on local accountability, scrutiny and governance for local fire and rescue delivery. While arrangements for proper local scrutiny of fire and rescue delivery and for community engagement are to be trialled through pathfinders, these will not be evaluated until after the Bill is enacted, so the Bill should at least make reference to the principle and value of local scrutiny of fire and
rescue delivery in its area or explicitly state the role of local committees in scrutiny of performance.

Provision should be made for the additional costs associated with setting up new committees in local authorities. The HIFB seeks assurance that these costs are netted against the transfer of grant from local to central government.

In addition it would be helpful if the accompanying guidance could refer to:

- the support for joint strategic assessment with the local authority to understand needs and priorities for fire and rescue delivery
- the performance standards and performance framework to be used for reporting on how fire and rescue functions are being carried out

This would support one of the Government’s four pillars of public service reform: strengthening the performance culture of public bodies.

B. Community Planning and Joint Working

The HIFB is concerned that the Bill does not make clear the alignment of arrangements for local fire and rescue delivery with community planning arrangements. Community planning should reduce the need for separate plans for local policing and fire and rescue services and instead support the production of a joint public protection and community safety plan for each area, as agreed with other partners, especially local authorities, local health boards and the Scottish Ambulance Service locally. The HIFB accepts that some CPPs may be more able to proceed with this joint planning than others, but it seeks provision in the Bill for those partnerships to proceed in this way if they are ready to do so.

Community planning is also the process for agreeing joint operational working and tasking. More explicit reference to building on current community planning arrangements at the planning and operational levels would support the integration and prevention agendas better, as well as finding potential efficiencies in service planning.

The HIFB notes that there is no explicit requirement made in the Bill for the Local Senior Officer for the Fire and Rescue Service to participate in community planning. The HIFB seeks the same duty to apply for that officer as for the local police commander. In addition, there are four further provisions or assurances requested by the HIFB:

1. The HIFB seeks greater clarity either in the Bill or in its accompanying guidance on the extent of local joint working expected of the new Scottish Fire and Rescue Service. This is required because the HIFB fears that current effective joint working in key community safety areas will be undermined if current fire and rescue input is reduced. Joint working is effective if those taking part have authority to task resources decisively, quickly and within the local area. Delegated authority for local senior officers in deploying their local resources needs to be assured for effective fire and rescue participation in community planning.
ii. The HIFB seeks clarity on how protocols for joint working can be maintained and improved in the change to a Scottish Fire and Rescue Service.

iii. The HIFB seeks provision to be made for the continuation of joint working to support fire and rescue service performance (including the sharing of resources across partnerships). The three island authorities (Orkney, Shetland and Western isles) are working with the Scottish Government to develop a model for integrated service provision in island communities which could see much closer integration of services within the public sector in each island group.

iv. The HIFB seeks to extend the provisions for the duty to apply also to the Scottish Ambulance Service, given the need to align its resources with other emergency services and local partnership arrangements.

The HIFB is aware of the current detailed review of community planning and any implications arising from that for the Scottish Fire and Rescue Service will need to be reflected in the Bill or in accompanying guidance.

Highland and Islands Fire Board
6 March 2012