Justice Committee

Police and Fire Reform (Scotland) Bill

Written submission from the Scottish Chief Police Officers Staff Association

1. Introduction

1.1 The Scottish Chief Police Officers Staff Association (SCPOSA) was formed as a separate entity to the Association of Chief Police Officers in Scotland (ACPOS) in order to represent the views of Scottish Chief Police Officers and senior Police Staff in respect of terms and conditions of service. As such, the views of the Association do not necessarily reflect the views of ACPOS, which is the professional voice of the service.

1.2 In view of the foregoing the evidence presented hereunder will relate only to those provisions of the Bill which are seen to relate directly to the terms and conditions of both current and future Chief Officers who either transfer to the Police Service of Scotland or are appointed to Chief Officer rank in the future.

2. Background

2.1 The terms and conditions of Chief Police Officers in Scotland have evolved over a considerable period through the Police Negotiating Board (PNB) and indeed more recently in direct negotiation with the Scottish Government. This has resulted in Chief Officers in Scotland having largely similar terms and conditions to their colleagues in the remainder of the United Kingdom although Police Authorities in England and Wales have deviated significantly from the recognised national arrangements to attract or retain Chief Officers.

2.2 In respect of Chief Police Officers, whilst conditions of service are broadly similar, a range of salaries exist in respect of Chief Constables and Deputy Chief Constables dependent on the size of the Force concerned, additionally, these ranks are the subject of Fixed Term Appointments which normally extend for a period of five years.

2.3 Assistant Chief Constables, no matter the size of Force or portfolio, are rewarded on a fixed scale of six points. These officers are not the subject of Fixed Term Appointments.

2.4 The definition of who is identified as a Senior Police Staff member varies throughout Scotland, as does the salary scale paid within each Force. In the main, these members of staff occupy senior positions in relation to finance, human resources, legal and corporate services.

2.5 In the current structure of policing in Scotland there are eight Chief Constables, nine Deputy Chief Constables and 13 Assistant Chief Constables, of whom eight currently hold the rank on a Temporary basis.
3. **General Implications of the Bill**

3.1 It is evident that on the implementation of the reform agenda the number of Chief Officers in Scotland will be significantly reduced with a resultant loss of experience and resilience in command roles throughout the country.

3.2 The implementation of the Bill will also lead to a loss of career path and predictability for all officers in the service who may have aspired to the assumption of command roles. Indeed in current form it provides a high degree of uncertainty to many serving senior officers as to their ability to complete their career or reach full pensionable service. It is therefore hoped that individual circumstances will be considered in order to retain experience and skills within the new organisation.

3.3 Whilst the Bill provides for the transfer of all existing Chief Police Officer ranks in Scotland to the Police Service of Scotland there will, by the nature of the amalgamations which will take place, be a significant reduction in the number of posts which are available in Scotland both in respect of police officers and Senior Police Staff. This will lead to a surplus of both senior officers and senior police staff in the early stages of the new service.

4. **Specific Provisions of the Bill**

The following are seen as the provisions of the Bill, which have a direct impact on the members of SCPOSA:

5. **Section 11**

5.1 Within the terms of this Section of the Bill the ranks, which will form the Police Service of Scotland are defined and mirror those currently in existence. Allowance is made in Section 11(5) for the addition or removal of any rank below that of Assistant Chief Constable.

5.2 The formation of the Police Service of Scotland will create the second largest police organisation in the United Kingdom with officer strength of 17,234 and a substantial police staff workforce. The closest comparators in the United Kingdom are West Midlands Police with c8581 officers and the Metropolitan Police Service with c33,298 officers.

5.3 Whilst the rank structure of West Midlands Police reflects the rank structure of the current Scottish Police Service the Metropolitan Police Service has an extended Chief Officer rank structure of Commissioner, Deputy Commissioner, Assistant Commissioner, Deputy Assistant Commissioner and Commander to allow for the management of a very substantial organisation.

5.4 It is accepted that the structure of the Police Service of Scotland has still to emerge but it is the view of SCPOSA that Section 11(5) should be amended to allow for the addition or removal of any rank in the service, including those of Chief Officers. In seeking this amendment the Association believe that it would allow for a larger degree of flexibility to manage what will be very substantial areas of responsibility in a national organisation. Whilst the insertion of an additional Chief
Officer rank is not proposed at this time it is felt that the option to do so should be allowed to the new Authority in order to effectively manage the organisation and indeed cope with what are likely to be substantial areas of responsibility for Chief Officers.

6. **Section 14**

6.1 The terms of this Section cause considerable concern to members of SCPOSA in relation to the security of their employment. As currently drafted the Section allows the Scottish Police Authority to:

"call on a senior officer to retire from office in the interests of efficiency or effectiveness."

This extreme measure in respect of members is balanced only by the suggestion that a senior officer must be informed of the reason for such a decision being made and be given the "opportunity to make representations" to the Authority who "must consider any representations made".

6.2 As described previously in this paper the number of senior officers in the Police Service of Scotland is likely to reduce substantially from the numbers currently in post and it is therefore felt that this provision could be utilised to dispense with the services of senior officers merely on the grounds of undefined issues of efficiency or effectiveness. The unchecked use of these powers would have huge financial and career impacts on the most senior officers in the country who are charged with leading the new service and yet appear to have no route of either process or independent evaluation of an opinion regarding their performance.

6.3 Whilst a similar provision existed within the terms of the Police (Scotland) Act, 1967 it has never, to knowledge, been used and indeed legal opinion currently to hand indicates that any attempt to use such a wide and unchecked power would be challengeable by Judicial Review.

6.4 The position of senior officers who could be required to resign in the interests of efficiency or effectiveness is markedly different from that of senior employees in the private sector, or indeed elsewhere in the public sector. Most senior employees will have a fixed notice period, often of 12 months or more. They may also be entitled to bonuses during that period. While it is certainly the case that senior employees can be dismissed at short notice elsewhere in the public and private sector, in normal circumstances, such a dismissal will only be in circumstances where their entitlements under their contracts of service are also met. To put it in more common parlance, their contracts are paid up.

6.5 In the circumstances of senior officers, it would appear that what is being envisaged is requiring senior officers to resign with immediate effect with no compensation at all. While, as indicated, such a course of action could lend itself to a judicial review, nonetheless, the officer is left in a situation where he or she has no further entitlement to receive pay, in circumstances where any procedure, which has been followed could be perfunctory to say the least. Given that officers may be on fixed term contracts, which still have several years to run, and the officer may not
have accrued sufficient service to allow him or her full access to their pension, one can see that the officer concerned could be significantly disadvantaged. Following such a course of action could also impact upon the reputation of the officer concerned and therefore affect his or her future employment prospects.

6.5 It is of note that provisions in respect of the efficiency of more junior officers require a very detailed process to be applied to secure improvement and consider evidence in order to ensure fairness.

6.6 The current process for dealing with what is considered as misconduct which could potentially lead to the dismissal of a senior officer is balanced to the point that consideration of the evidence available is undertaken, following investigation by a Chief Constable, by the Police Authority, an independent solicitor and ultimately a panel chaired by a person nominated by the Lord President of the Court of Session. This is in stark contrast to the proposals made by Section 14.

6.7 SCPOSA fully accepts the need for a system to deal with underperformance by senior officers but feels strongly that appropriate safeguards require to be in place to protect officers from what amounts to summary dismissal.

7. **Section 49**

7.1 Whilst the Bill provides that the terms and conditions of officers will be preserved on transfer to the Police Service of Scotland, Section 49 provides the power to Scottish Ministers to make Regulations relating to the conditions of service of constables.

7.2 It is fully accepted that such a provision is required to develop conditions appropriate to the new service SCPOSA has concerns regarding the uncertainty which exists at present as it is apparent that the majority of terms and conditions of Chief Officers within the new service are unknown.

8. **Schedule 4 Paragraph 4**

8.1 This provision allows for the transfer of Chief Constables, Deputy Chief Constables and Assistant Chief Constables to the Police Service of Scotland and to retain their current contractual status and terms.

8.2 Whilst the preservation of current terms of members is welcomed, the consequence of this will be that there will be a surplus of senior officers on commencement of the service. In addition, there will be a number of members who, in the previous structure of the service, had a reasonable expectation of extension of Fixed Term Appointments to allow them to reach full pensionable service. This will result in serious financial and career penalties for members.

8.3 SCPOSA seeks assurance of the renewal of Fixed Term Appointments to allow the achievement of full pensionable service for members so affected and seeks consideration, as highlighted at Paragraph 6.4 above, of the buy out of the contracts of those members who do not secure substantive roles within the Police Service of Scotland but have Fixed Term Appointments which will allow them to reach full
pensionable service. The implementation of such a provision would allow the new service to rationalise senior ranks and make the recurring savings which reform seeks.

9. **Schedule 4 Paragraph 9**

9.1 This provision indicates that officers transferring into the Police Service of Scotland will not require to move home. Senior officers are excluded from this protection by Paragraph 4(a) of the Schedule.

9.2 Whilst SCPOSA recognises the need for flexibility within the new service it equally believes that members should not suffer detriment as a result of their position and would therefore seek a degree of protection for members in respect of the location of their workplace or appropriate compensation should they agree to move to a new location.

10. **Conclusion**

10.1 SCPOSA fully accepts the progress of the reform agenda and the savings which are sought to protect policing in communities. The Association seeks a fair settlement for officers who have led the outstanding performance delivered by the current Forces in Scotland whilst facilitating the transition to the Police Service of Scotland.

Deputy Chief Constable Andrew Barker
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