LOCAL GOVERNMENT AND REGENERATION COMMITTEE

POLICE AND FIRE REFORM (SCOTLAND) BILL

SUBMISSION FROM ASSOCIATION OF CHIEF POLICE OFFICERS IN SCOTLAND (ACPOS)

1. Introduction

1.1 We believe that we are reforming police from a position of strength, with record levels of performance\(^1\), and our aspiration is that reform presents an opportunity to continue to develop and enhance policing across Scotland. In doing so, we recognise the challenges and anxieties that such a significant process of change presents, which we discuss in this paper. We feel this is best tackled by open and honest articulation of the issues to ensure any problems are recognised and mitigated now. Close scrutiny of the proposed arrangements in that open and transparent manner will be key to ensuring the governance arrangements assist in the design and development of a new policing model that meets the needs of all communities across Scotland, the individual citizen, police service, and politicians.

1.2 It is the intention of the service that policing under the new single force structure will remain locally focussed with strong community relationships and partnerships with local authorities. As such, we firmly believe that reform will not fundamentally change the policing that the vast majority of the public see day-to-day, but it will change how the service is organised.

1.3 Despite the record levels of police performance under the existing arrangements, the recent debate on reform has raised a question mark over the quality of that local scrutiny from various quarters. Likewise, it is recognised that national governance arrangements are ad hoc and in need of modernisation.

1.4 We recognise that appropriate governance and accountability is a fundamental aspect of policing reform. In terms of formal structure, police accountability in Scotland is currently based on a constitutional settlement known as the tripartite structure. This tripartite structure was established to try and resolve historical tensions between national and local influences, and clarify the relative powers of local authorities, national government and chief constables in framing and implementation of policing policy, all whilst recognising that police officers are responsible to the law and that operational policing decisions must therefore be insulated from political interference.

1.5 The proposals will redefine the current tri-partite arrangements and our goal is that this should not undermine the importance and quality of local policing nor threaten the operational independence of policing by introducing an unwelcome imbalance through greater national control of the service. Governance and accountability play a crucial role in ensuring that our policing is ‘by consent’, and any change to these arrangements need to be critically examined.

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\(^1\) ACPOS Annual Performance Report 2010/11: The Scottish Police Performance Framework
1.6 Changes to local governance and accountability are unavoidable, particularly in view of the creation of the Scottish Police Authority (SPA) and the dissolution of the current Police Authorities and Joint Police Boards. The new arrangements proposed in the Bill, in our view, describe arrangements for the relationship and engagement that the police have with communities and their elected representatives rather than a clear role of governance that currently exists locally. This amounts to a momentous and historic change to the policing in Scotland, and has focussed the mind to define the new structure, and importantly, the "new relationship" between the police service and Local Authorities. While the Local Government and Regeneration Committee is principally interested in local arrangements, our professional view is that local and national arrangements need to be considered together.

2. Operational independence of the chief constable / police service

2.1 We believe that provisions within the Bill threaten the operational independence of the chief constable, and therefore policing.

2.2 A key component of the current arrangements is that the chief constables exercise their operational responsibilities free of undue political interference, while subject to appropriate accountability and scrutiny. We are keen to ensure that the Bill provides the necessary safeguards to satisfactorily address and eliminate the inherent concerns that a 'single' chief constable could be subject to political influence and pressure. These concerns are real. They were raised by respondents to the Scottish Government consultation process and indeed the Cabinet Secretary for Justice himself recognised these concerns during the reform debate.

2.3 Specifically, we would raise the following issues: -

1. Ministerial Direction

- Whilst the Bill sets out a separation between Scottish Ministers and the chief constable, the provisions provide that the SPA must comply with any 'direction' given by Scottish Ministers. There is a clear risk that for the Authority to meet such compliance, undue pressure and influence could be asserted on the chief constable, ultimately challenging the impartiality and independence of the role to meet a political demand.

- We have asked Scottish Government for practical examples and instances of ministerial direction of other national bodies, in an attempt to allay our concerns. It is our position that past experience of ministerial direction is not indicative of the new relationship with the future policing organisation, failing to take proper cognisance of the unique status of policing.

- Scottish Government’s position is that ministerial directions are used rarely and come as a consequence of the SPA being a national body and that policing can be no different from other Government departments.

- Our view is that policing is different. It has coercive powers and in a democratic society it not only must be separate from Government, it must
be seen to be separate. We believe that the power of ministerial direction of the SPA, if it is to remain, needs to be more fully articulated and described, and appropriate caveats placed thereon, to ensure that it cannot result in an unintended consequence of ministerial direction of the chief constable.

- Sections 5(2) refers to “(a) a specific operation being or to be carried out by the Police Service”, and “(b) the way in which the Police Service is carrying out (or is to carry out) a specific operation”. We believe that this is too narrow in its definition and should be broadened to “any operational matter being carried out by the Police Service”.

2. Power to call on Chief Constable to retire in the interests of efficiency and effectiveness

- While this has its origins in the 1967 Act, the Bill as presented removes any protection from an arbitrary use of this power. The context of the 1967 Act was a significantly greater number of chief constables. We are now moving into a new era of a single service and the arrangements for removal of the single chief constable need to reflect that. We believe that the bill should articulate a more detailed formal process; procedures to be followed, definition of efficiency or effectiveness, and appellate process. The new arrangements should maintain the general principle but there should be a much more robust and documented process to provide clarity for all and to protect the single chief constable from arbitrary use of the power.

3. Scottish Police Authority

We have concerns regarding the specific provisions set out in the Bill for the new SPA:

- The SPA will have a limited number of members. We believe that for the SPA to be effective, in terms of holding the chief constable to account and discharging its wider responsibilities will require not simply high calibre multi-skilled people but in a sufficiency of numbers. We do not believe that the proposal for 7-11 members will be sufficient for this purpose. We believe that 15 would be a more appropriate number to provide capacity and resilience. To effectively discharge its role, the SPA will require a range of sub groups and we are concerned that co-opted members bring another element of lack of accountability.

- The Bill places no responsibility on the SPA to engage formally with local authorities. There should be a formalised connection and relationship between both tiers to ensure ‘local’ influences ‘national’ and vice-versa.

- The SPA has unclear and limited accountability to the citizen due to the small number of members who are appointed, not elected, and there must be some form of compulsion on the SPA to engage with the local committees and consult directly with the citizen.
There should be a number of locally elected members on the SPA. They should not be in a majority and they should be appointed on the same terms as other members, through the public appointments process, for their personal skills and experience and not simply on the basis of being an elected member. Their contribution on ‘local’ issues will be as important to the SPA as the other corporate disciplines brought by independent members.

The financial arrangements of the new organisation, as a consequence of its national status, place significant restrictions on the chief constable. Hitherto able to develop financial reserves to assist in good financial and risk management, the new arrangements, and in particular the restrictions on holding reserves, will encourage a ‘spend it or lose’ mind-set. Moreover, we are concerned that where the chief constable requires additional resources, in the absence of being able to accrue reserves from allocated resources, (s)he will be required to approach Scottish Government (presumably through the SPA). This provides Scottish Government with unnecessary leverage on what may be an operational decision for the chief constable.

We question the proposals in the Bill, whereby the SPA is responsible for development of the strategic plan for the Police Service of Scotland. Whilst we recognise that the SPA will have its own organisational priorities within its own strategic plan we believe the strategic plan of the Police Service of Scotland (as distinct from the SPSA) should be the responsibility of the professional and independent chief constable but would be subject to approval from the SPA.

3. Local Planning and the role of the Local Authority

3.1 We recognise a need to strengthen the role of local authorities in the local planning arrangements to satisfy requirements around local accountability through the community partnership processes.

3.2 Chapter 7 of the Bill sets out the provisions for local policing arrangements, and is prescriptive in the alignment of local policing with the 32 Local Authorities and the requirement for the local police commander to involve the Local authority in the setting of priorities and objectives, and preparation of a local police plan.

3.3 There is, however, a lack of clarity on how local arrangements and formalised reporting mechanisms should link in with the statutory requirements of accountability and scrutiny under the new Scottish Police Authority. As articulated previously, there needs to be connectivity between ‘local’ and ‘national’. National plans must reflect the importance of local delivery. Equally, local plans need to ensure appropriate prioritisation of national objectives. However, there must be clarity of accountability in terms of these two constituent parts of the governance structure.

3.4 Without such clarity, the proposals as they stand risk placing the new service under obligation to serve two ‘masters’; one on a statutory footing with governance and fiscal responsibility but little local accountability, and the other
with influence in determining local policing plans and outcomes but no statutory authority or fiscal responsibility to support delivery.

3.5 In some respects, the planned pilots and pathfinder projects that will test the new arrangements are key to determining future policy and practice in local policing arrangements. Moreover, the police service has a well refined and mature methodology, through the Strategic Policing Assessment and the Tasking & Co-ordinating Process for developing policing plans and effecting delivery of them, balancing local and national and through our active participation in the pilots/pathfinders, we believe that we have a positive contribution to make.

3.6 We fully support the practical benefits of the proposed alignment of local policing with the 32 Local Authority areas. Indeed this largely reflects current arrangements throughout Scotland. The chief constable will have a duty to ensure adequate arrangements for local policing and the SPA will hold him/her to account for that but there can be no ambiguity about the role of the chief constable, who must remain responsible for local policing and to whom local commanders are accountable. The question is one of balance. Just as it would be inappropriate for an over emphasis on national policing, an inflexibility at the local level that fetters the chief constable from his/her wider responsibilities would be equally inappropriate.

3.7 ACPOS advocates current community planning arrangements as a key consideration in determining how policing can be delivered locally within partnership arrangements, through:

- Professionalising and realigning existing community planning partnerships to bring corporacy to the 32 local area structure in support of local policing
- Linking the local policing plans into the community planning process and SOA’s through a local strategic assessment
- Consolidation and enhancement of partnership working to support the principles of policing

3.8 Linking policing plans into the community planning process, and feeding into SOAs, would provide a structure conducive to requirements of both local and national accountability, and a correlation between local and national priorities.

3.9 We recognise the significant contribution that has been made to local policing in recent years through the formalised community planning processes, partnership and collaborative working. Furthermore we acknowledge the progress made by the police service in Scotland though a clear focus and effort on community engagement, and improved accessibility and willingness to respond directly to local problems.

3.10 This effort has resulted in increased levels of trust, confidence and public satisfaction in policing, and the processes that support it, and this must be preserved under the new arrangements. A continuation and standardisation of these arrangements is key to the future success of local policing delivery within the new structure.
Local Police Plans and Priorities

3.11 The inclusion of all stakeholders is crucial to this process; delivery of the local police plan cannot be seen to be the sole preserve of a newly defined ‘police - Local Authority’ relationship.

3.12 We believe the terms of the localised delivery around this requirement must be reflective of the need for flexibility in its application, and integral to the wider local community planning processes. This approach will encourage the citizen and all key stakeholders to contribute meaningfully to local policing planning process. This is in accordance with a model that conforms to the policing principles and purpose of policing to improve the safety and well-being of communities.

3.13 The Bill is clear on the statutory responsibility on the local commander to prepare and submit a local police plan to the relevant local authority for approval. This places emphasis on the local commander to consult with and seek ratification from only one partner (the respective local authority) on local policing. We believe this should be modified to reflect wider local policing arrangements; it would be more accurate to ask the local commander, with community planning partners, to produce a local strategic assessment which will assist and inform the local police plan.

3.14 Ownership and responsibility for the local police plan remains with the police, and the plan is still prepared and subject to approval by the Local Authority, per the provisions of the Bill. However, the local strategic assessment upon which the plan is based, in broader terms, will be developed by the police through wider consultation with partners. This takes full cognisance of the importance of a partnership approach in the participation and responsiveness to the delivery of policing. Local policing, in particular, is not delivered in isolation and aspects of local policing will be delivered with and by local partners.

3.15 As a consequence of this approach the local strategic assessment highlights the priorities for local policing more broadly, and ensures delivery of these priorities - and therefore the local police plan, at least in part - is integral to community planning and the local SOA. This approach will contribute to the wider effort to focus on preventative effort through partnership working, where there is a need to link police reform to the work currently ongoing under the Scottish Government Review of Community Planning and Single Outcome Agreements.

3.16 There is almost a bit of the unknown here and how this will work in practice. All of these processes, and the detail around it – setting priorities, the approval of the plan, community planning partnership delivery - needs to be fully exposed and subjected to rigorous scrutiny and testing through the local Pathfinder pilots.

3.17 In addition to this, ACPOS is resolute in its assertion that local policing arrangements (governance and scrutiny) must take full cognisance of the wider statutory requirements and responsibilities on the chief constable around continuous improvement in the carrying out of police functions in terms of Best Value, and scrutiny through the Scottish Policing Performance Framework (SPPF) in terms of national performance and outcomes (and notwithstanding the important external inspection and scrutiny arrangements by HMICS).
4. **Implications for local resourcing of police services**

4.1 Work is currently underway as part of the mandated Police Reform programme to develop a blueprint for the new Police Service of Scotland. In full recognition of the importance of local policing, ACPOS have appointed a dedicated team to apply the appropriate focus and effort to this significant aspect of police reform. This work is further underpinned by effort from across a number of executive-led workstreams within the reform programme, with full cognisance of interdependencies.

4.2 Whilst a final **resource allocation model** has not yet been determined - and is subject to the outcomes of these wider processes of remodelling - ACPOS fully acknowledges the importance that the commitment of local policing resource does not suffer to the detriment of police reform. A number of objectives and determining factors, critical to the successful outcome of this remodelling process are being followed, and this is fundamental in preserving that balance of local resource within the context of the new single service.

4.3 However, within the revised resourcing framework there will be the inevitable movement and displacement of some officer numbers and police staff from existing resource allocation within the geography of the 8-force model, SCDEA and SPSA. This is a fundamental objective of the reform of the police service, and will eventually remove some duplication of support services, and create more equal access to specialist support and national capacity where and when they are needed. ACPOS does not anticipate this will have a detrimental effect on local policing; indeed the contrary position should apply in that communities will benefit from the availability of increased cadre of specialist resource when required.

4.4 Local policing resource needs to reflect variance in our communities across the country. We would caution against a potential risk of bias from outcomes being too narrow and focussed on, for instance, crime levels and solvency; outcomes must be reflective of the broader well-being of all our communities, and not a charter for something that would result in resources being dragged in to the busier urban areas at the expense of localised need or lack of regard for geography or spread of population, or other variables.

4.5 The 17,234 police officer numbers should ensure that we maintain correct levels of policing in local communities. Key to maintaining this is a reduction of costs in other areas, the risks to which are outlined in our paper to the Finance Committee.
5.  Conclusion

5.1 The introduction of the Police and Fire Reform (Scotland) Bill undoubtedly signifies a momentous change to policing in Scotland.

5.2 We fully acknowledge that reform on the scale proposed inevitably brings considerable challenges and not least the practicalities and logistical considerations of combining 8 individual forces and two policing agencies into one single organisation.

5.3 Alongside these challenges, we welcome the unique opportunities this presents. ACPOS looks forward to actively engaging with communities, partners and stakeholders as we reshape and modernize policing into a service that is more efficient, effective and responsive to the needs of all citizens and communities in Scotland.

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