Background

1. COSLA has been invited to provide a submission to the Scottish Parliament's Local Government and Regeneration Committee on the Bill reforming Police and Fire and Rescue Services in Scotland. This submission concentrates on the proposed local policing and fire arrangements.

2. This submission is based on the policy memorandum and the broad intention of the Bill rather than the detailed provisions. COSLA’s position has been informed by the work of a cross-party Task Group, our Community Safety, and Community Well-being and Safety Executive Groups, and by COSLA Leaders.

3. The COSLA position repeats some of the concerns expressed in response to the earlier consultations. While we concentrate on the outstanding matters, the previous ones (while wholly or partly resolved) are briefly repeated to provide the overall thrust of Local Government’s position. There are also a number of points that so far remain unresolved. COSLA staff continue to be in active dialogue with Scottish Government officials and hope that further progress can be made prior to stage two. In the response, the term ‘Board’ ‘Local Chief Officer’ and similar, apply equally to both the proposed Fire or Police arrangements, unless specifically indicated otherwise.

National Board Arrangements

Role of local elected members

4. For COSLA, councillor representation on the National Boards is fundamental to ensure there are the diverse skills, experience and expertise required for the two national boards to perform their roles effectively. As long as the new local arrangements retain responsibility for ensuring the delivery of local police and fire outcomes, it is a prerequisite that there should be strong representation from local authorities through membership of locally elected members on the two national boards. It is difficult for members to feel anything else would be as meaningful in directly linking national and local accountability given the desired outcome of continuing, and improving, local fire and police services in the context of local community safety. Councillors, through community planning have a strong background in strategic planning across a range of public services.

5. Strong representation at the national level would help maintain a meaningful and influential Local Government interest in the top levels of the new structures. This would help ensure the success of the local governance and accountability arrangements. It would also maintain relations between the local committees and the national Board and between local elected members and the Chief Constable and Chief Fire Officer.

6. From press coverage there appears to be an assumption that the maximum number to be appointed as serving councillors would be 4 – although there is no indication as to whether this might be added to the face of the Bill. COSLA
believes that we should directly nominate the local authority members to the board in a way that explicitly recognises the cross party and geographical nature of local government’s representative voice (whatever the number of places being made available) without going through the OCPAS process, but still with relevant security clearance being undertaken.

7. COSLA recognises the hesitation that the Minister and Scottish Government officials have here. But given the seniority and experience of those likely to be nominated, plus the security checking and fact that once appointed they will be obliged to act in the Board’s best interests, COSLA believes that there is nothing to be concerned about here.

8. **COSLA continues to want to see either the majority or all of the Boards being elected local government members. If this doesn’t gain support from the Committee, COSLA would want to nominate directly, or at least commend applications, to a set number of places on the Board.**

9. We support that the Boards will be able to borrow money (albeit only with Ministerial approval), and note that, unlike now, they will not be able to hold reserves. We are also disappointed at the financial implications of these single services both being subject to VAT. We understand that Scottish Government officials are in discussion with HMRC in relation to a dispensation and are confident that this will be achieved, but as yet we have seen no evidence of this. This is a sizeable sum annually being transferred from one arm of Government to another and we urge the Parliament to seek resolution of this matter. Failure to do so will require the Government to find the money – likely over £20m - and thus have a knock on effect either on the police or other public sector budgets.

10. COSLA’s position was that, rather than forming a NDPB which is subject to VAT and has various financial limitations on it, there were other alternatives, one of which could have been a single shared Local Government service, which would have allowed more financial flexibility.

**Size of Board**

11. The magnitude of other tasks and roles currently undertaken by current police authorities to ensure effective, necessary day to day ‘business’ has been highlighted, as a reason for having the right numbers and skills available to the board. Examples, though not exhaustive, were: Police Appeals Tribunals; monitoring of ill-health retiral and injury awards; police staff appeals; approval of legal expenses for police officers in certain instances; Best Value, Audit and other specific oversight groups for budgetary control etc; Equality Schemes and other such duties; Climate Change duties as a public body plus monitoring arrangements of the force; what are the actual monitoring arrangements now going to be for national policing functions; Authority training; and, the monitoring of Health and Safety responsibilities specifically assigned to police authorities.

12. The proposal is that the two boards would have between 7 to 11 members. The Bill doesn’t state what the sub-committee arrangements will be to meet the responsibilities highlighted above. Given the small number of members, it has been a suggested that a series of sub-committees be established with non-voting co-opted members to advise. However the small board numbers will also make it difficult to ensure a reasonable balance of geographical spread, gender, skills
and expertise, and that the effectiveness of the arbitrarily small board could be easily compromised with three or four people being unable to attend.

13. Our members have said that a better size would be in the order of 15 with at least 8 being councillors, appointed by COSLA. This would allow a larger quorum to be set to reduce the chances of what could be a very small number of people making significant decisions over Scottish policing. This is closer to the number that could be appointed to the reformed National Library (14), and would help re-enforce the traditional tripartite approach to policing in Scotland, and assure the public that the boards and services were able to exercise their independence and accountability with a separation from Ministers.

**The Chief Constable and Chief Fire Officer**

14. As the Committee know it is proposed that there be different service specific approaches. To emphasise the independence of the Chief Constable from influence of Ministers, the Bill will require the Scottish Police Authority Chairperson be involved in appointing the first Chief Constable and the SPA more generally thereafter. The Chief Constable will need then to be approved by Ministers. However, given the lesser political sensitivity over the appointment of Chief Fire Officer, the intention is for Ministers to appoint him or her directly.

15. There is considerable pressure with the April 2013 provisional start date for the two new services to make progress to recruitment as quickly as possible, so that both Chief Officers can start recruiting their senior teams, and develop their initial strategic proposals to the SFRS and SPA. COSLA’s members are very concerned that the tight timeframes involved, combined with the proposed appointment processes will undermine accountability at a time when increased accountability is given as a reason for reform. Members were keen that shadow arrangements were in place quickly following the Bill’s enactment.

16. COSLA suggests ideally that a means be found to fast track at least the appointment of the Chairman, but if at all possible other Board members also, to allow an earlier appointment of chief officers to take place than December 2012/January 2013. As an alternative suggestion, there may be a workable proposal based around using experienced current Board members in the selection of the chief officers. In recent discussion COSLA’s Community Safety Spokesperson has suggested to the Scottish Government that the appointment process could be brought forward if the existing Board Chairs of both Police and Fire & Rescue Services were used as a pool from which to interview applicants once the Bill has gained assent allowing the new Chief Officers to be in place possibly by early September

**Strategic Priorities and Plan, consultation, laying before Parliament etc.**

17. The Police Priorities will be set by the Cabinet Secretary after consultation with interested parties, including COSLA and member authorities. For the SFRS it seems likely that the minister will set the priorities and objectives directly. With both services the Strategic Plans will be set by the Board / Authority after consultation with local authorities and COSLA (amongst others). The 3 year plans, once approved by ministers, will be laid before Parliament who will be able to take a view on these and annual reports, questioning both the Board / Authority and their employees as necessary.
18. **COSLA has welcomed some of the clarity achieved here since the initial proposals were put forward. The next significant issue will be the timeframe over which the first draft local plans will be prepared and by who, and the extent to which they tie in with community planning arrangements.**

**Local Arrangements**

*Local Committees*

19. During the consultation process COSLA made clear its position that Councils should be in the driving seat over the monitoring of the local plan and overviewing its delivery. COSLA was concerned about the status of its members councils in the process of drafting the plan. The ambiguity in the consultation document over whether Councils were simply being consulted or something more has been removed. Members welcome this being firmed up with such plans requiring to have the approval of the council.

20. Separately, in earlier responses, COSLA argued for a formal arrangement which places in statute a right of local authorities to hold local chief officers and their right to receive a response, in a similar way as currently available with the existing Chief Constables and Chief Fire Officers. Members are content that this now appears to be adequately covered in the wording of the Bill.

21. By reducing the degree of variation in their form and remit it may make it easier for the Scottish Chief Fire Officer/Chief Constable to manage relations with individual local authorities and to ensure a consistent level of scrutiny across the country.

22. **COSLA’s members would like to see as much detail as practical on the form the local ‘committee’ should take being on the face of the Bill, in part to provide a safeguard for local accountability to prevent it being reduced or removed through secondary legislation by a future government.**

*Local Senior Officers*

23. The Chief Constable and the SFRS will be required to have adequate arrangements in each local authority area, with a local commander/senior fire officer being designated for each local authority area, although the local lead officer may have responsibility for more than one area. They will be responsible for involving the local authority in determining the priorities and objectives for the services in the area.

24. The local Chief Officer will have the duties of participating in community planning of the current Chief Constables/Chief Fire Officers placed on them. They will also have the responsibility of preparing and submitting the local plan for agreement with the local authority. In both cases the local senior officers will be subject to the direction and control of the Chief Constable or the SFRS as appropriate in the carrying out of their duties.

25. **COSLA had been concerned that the was insufficient detail over where local elected members could go to if they had concerns about the delivery of the local services. This has largely been sorted out with clearer drafting in the Bill.**
Local plans

26. The local plans, to be revised at least every three years, are to set out the main priorities and objectives for the local area, state what the arrangements for the delivery of these will be, identify the measurable outcomes, and be tied in with other relevant outcomes from the community planning partnership. The format for the plans will be specified by the SFRS/SPA and these will require the plans to address the issues raised in the relevant national strategic plans. Modification to the plans will be subject to the agreement of the local authority.

27. COSLA has previously stated that we believe decision making and financial responsibility cannot be separated. If local accountability and subsidiarity are really to be enhanced, budgets must be aligned to where the decisions are being taken. Each local plan should be costed and resourced so that progress can be reported on. It would form a basis on which additional local expenditure could be set against. An alternative would be to establish a scheme of delegation to the local chief officers so that they have powers to hold budgets, direct these and officers under their command, and enter into agreement with the local committees. Either would achieve the same end, although the latter would be preferable if the Christie Commission recommendation on “Forging a new concordat between the Scottish Government and Local Government to develop joined-up services, backed by funding arrangements requiring integrated provision” is to be acted on.

28. COSLA would like to see changes to the Bill to achieve this alignment of plans and resources. For example, councils already directly fund an additional 600 – 800 police officers (who are part of the current force of over 17,234 officers), and we need to be sure in future that the resources we are allocating to Community Safety are in fact still delivering the desired additionality. A budget would make this process transparent.

Regional arrangements

29. At present there is little information about what the regional arrangements will be between local authority members and national board members or between the local chief officers and the Chief Fire Officer/Chief Constable. The Government maintains a position that much of this will be at the discretion of the new board/authority or the chief officers to arrive at.

30. While deferring operational decisions over territorial arrangements within the two services may seem reasonable, ideas will need to be developed to manage regionalised work such as Strategic Co-ordination Groups, Community Justice Authorities and Regional Transport Planning.

31. COSLA also raised the issue of how relatively junior local officers would hold their own against their more senior graded ‘peers’. This is something that may be resolved if the Government officials’ view that smaller population areas could be grouped together under more senior commanders/local senior fire officers is acted on.

32. Similarly it may be useful to arrive at some early idea for arrangements with members of the SFRS or the SPA acting as liaison members with given authorities/areas, to ensure a smooth flow on information and knowledge about regional matters.
33. It has been suggested that liaison responsibilities could be placed on members of the relevant boards to ensure that the awareness of local concerns is maintained at a local committee/board level, rather than solely being managed through the command structure.

34. *The Committee is asked to satisfy itself that such an approach will be actively considered in the new arrangements.*

**Other matters**

*Resourcing local authority arrangements*

35. As one of the intentions of the Bill is “to strengthen the connection between services and communities, by creating a new formal relationship with each of the 32 local authorities, involving many more local councillors and better integrating with community planning partnerships’ the Local authority Fire and Police committees have a serious workload. They will be expected to: formally comment upon the Local Plan; monitor, scrutinise performance and offer improvements; seek reports, answers and explanations regarding the local plan and raise issues with the Chief Constable, Authority and the SFRS as necessary.

36. COSLA members have been asked about the additional burdens of establishing these. Initial estimates suggest that there would be a requirement of something in the order of £3-4m to have simple administrative roles in place with some policy and analytical capacity. This is an area in need of attention given earlier concerns raised by Audit Scotland and the Scottish Parliament reports regarding instances of apparently ‘flawed’ police authority scrutiny, and lack of professional officer support.

37. COSLA are not clear where informed independent professional advice on policing and fire will come from to inform the local committees. This still needs to be dealt with. Amongst the options on the police side are the establishment of a national resource providing support locally or by gaining access to the resources of the SPA - with it’s Chief Executive having a duty to meet reasonable requests for support. There will be obvious additional on-costs in providing informed local arrangements.

38. *The Committee is asked to satisfy itself that these matters are addressed either on the face of the Bill or managed through agreement with the Scottish Government.*

*Riotous Assembly*

39. Under the 1824 Act police authorities have responsibility to compensate the public and businesses for damage caused by riot. While this has not been a common problem in the recent past, the disturbances of 2011 and the need for councils to secure insurance cover for high profile events mean that this is a continuing and real burden for some authorities. As the current policing role is transferring to the new national service so should the liability for policing riotous assemblies.

40. COSLA has approached the Scottish Government over this to resolve the matter, particularly as councils they have no practical or theoretical ways of actively mitigating the risk.
41. COSLA would like to see this matter addressed in this piece of primary legislation, or a formal agreement being reached with the Scottish Government that the new Police Authority would cover all the liabilities that remain with Scottish councils.

COSLA
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