



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Tuesday 21 February 2012

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LOCAL GOVERNMENT AND REGENERATION COMMITTEE

5th Meeting 2012, Session 4

CONVENER

*Joe FitzPatrick (Dundee City West) (SNP)

DEPUTY CONVENER

*Kevin Stewart (Aberdeen Central) (SNP)

COMMITTEE MEMBERS

*Anne McTaggart (Glasgow) (Lab)
*Margaret Mitchell (Central Scotland) (Con)
*John Pentland (Motherwell and Wishaw) (Lab)
*David Torrance (Kirkcaldy) (SNP)
*Bill Walker (Dunfermline) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Councillor Bob Band (Scottish Fire Conveners Forum)
Gillian Campbell (Scottish Police Services Authority)
Alex Clark (Chief Fire Officers Association Scotland)
John Duffy (Fire Brigades Union)
Professor Nicholas Fyfe (University of Dundee)
Councillor Barbara Grant (Convention of Scottish Local Authorities)
Bob Jack (Society of Local Authority Chief Executives and Senior Managers)
Andrew Laing (Her Majesty's Inspector of Constabulary for Scotland)
George McIrvine (Unison)
Professor John McNeill (Police Complaints Commissioner for Scotland)
Chief Superintendent David O'Connor (Association of Scottish Police Superintendents)
Chief Constable Kevin Smith (Association of Chief Police Officers in Scotland)
Calum Steele (Scottish Police Federation)
Donald Urquhart (Scottish Community Safety Network)
Councillor Iain Whyte (Scottish Police Authorities Conveners Forum)

CLERK TO THE COMMITTEE

Eugene Windsor

LOCATION

Committee Room 1

Scottish Parliament

Local Government and Regeneration Committee

Tuesday 21 February 2012

[The Convener *opened the meeting at 14:00*]

Decision on Taking Business in Private

The Convener (Joe FitzPatrick): Good afternoon and welcome to the fifth Local Government and Regeneration Committee meeting of 2012. I ask everyone to ensure that their mobile phones and other electronic devices are switched off, because they interfere with our sound system.

We kick off with declarations of interest, and I declare an interest in relation to item 3, as my partner works for the Scottish Police Services Authority.

Kevin Stewart (Aberdeen Central) (SNP): I declare an interest as a member of Aberdeen City Council and of the Grampian police board.

Bill Walker (Dunfermline) (SNP): I declare an interest as an elected member of Fife Council.

David Torrance (Kirkcaldy) (SNP): I declare an interest as an elected member of Fife Council.

Anne McTaggart (Glasgow) (Lab): I declare that I am an elected member of Glasgow City Council.

John Pentland (Motherwell and Wishaw) (Lab): I declare an interest as a councillor with North Lanarkshire.

The Convener: The first item of business is to agree to take in private agenda items 4 and 5. Are we agreed?

Members indicated agreement.

Subordinate Legislation

Representation of the People (Variation of Limits of Candidates' Local Government Election Expenses) (Scotland) Order 2012 (SSI 2012/16)

14:01

The Convener: Agenda item 2 is subordinate legislation. Members have a paper from the clerk that sets out the purpose of this instrument. No parliamentary procedure is required; we need only note the instrument. Are members content to do so?

Members indicated agreement.

Police and Fire Reform (Scotland) Bill: Stage 1

14:01

The Convener: Under agenda item 3, four panels of witnesses will give oral evidence on the Police and Fire Reform (Scotland) Bill. As the witnesses will be aware, our scrutiny is focused on how the bill will affect local government. As the lead committee, the Justice Committee will consider the wider issues of how the new police and fire service will operate. I therefore ask committee members and witnesses to restrict comments and questions as much as possible to areas within this committee's remit.

I welcome the first panel: Councillor Barbara Grant, community safety spokesperson for the Convention of Scottish Local Authorities; and Bob Jack, spokesperson on community safety, justice, police and fire with the Society of Local Authority Chief Executives and Senior Managers.

I will kick off questions by asking the panel members for their views on the proposed national boards, particularly on whether they are content with the proposed appointment procedure and think that the boards' size and make-up are correct, or whether they have suggestions for improvement.

Councillor Barbara Grant (Convention of Scottish Local Authorities): Thank you for inviting us along today.

I think that we made it plain in our submission that we do not believe that the proposal for a national board with seven to 11 members, with possibly three or four of them elected members, is appropriate for something this large. We have suggested that a national board should have at least 15 members, with a majority of elected members. I truly do not see how the business can be conducted with anything less. All you would need is to have two people off with flu and someone else on holiday and you would be stuck. I do not see how you could have several sub-committees, which I believe you would have to have. Having so few elected members does not seem to us the correct way forward either. COSLA has always had the view that police and fire are part of local government business, and we would like that to continue. If the whole project had been set up as a shared service affair, we would not have had such a difficulty.

The Convener: Your suggestion is for 15 members with eight local authority representatives. How might those eight be selected?

Councillor Grant: I believe that the submission says that we would look to COSLA to put forward names of elected members. That would give a broader spread across the country, as it were. The elected people on such boards represent the board, not their own authority. By the same token, they are at least cognisant of what goes on in the world beyond their own little patch, which makes quite a difference.

Bob Jack (Society of Local Authority Chief Executives and Senior Managers): The Society of Local Authority Chief Executives and Senior Managers sets out its position on this matter in paragraphs 4 and 5 of its submission to the consultation, which we have resubmitted for the committee's interest. Like COSLA, we question whether the non-departmental public body route is the correct approach and, in our submission, we suggest that a truly national and local partnership be created. Councillor Grant mentioned a shared service, and we think that it should be shared between the national and local levels. As our submission explains a lot of the rationale behind that suggestion, I will not waste the committee's time going back into it. I simply flag up the point that the particular route set out in part 1 of schedule 1, where the body's status is described, brings with it a whole lot of other consequences.

Some very practical concerns for local government centre on the relationship between the national and local levels—I am happy to expand on that in further questioning—while other concerns are about what happens when you set up this kind of body. I am sad to say that in recent years we have had experience of setting up such a body in the policing field and having to deal with employment, VAT and other issues, which I appreciate might be for another committee to address.

Our view is that this route is not the only one to go down in establishing adequate governance for a national police force. It takes out of local government something that has been there for centuries and moves it entirely into the realm of a quango. There is a different approach, of which, as we highlight in our submission, the Metropolitan Police Authority of London is an example.

Kevin Stewart: On the point about policing having been a local government matter for quite some time, I have to wonder whether it can be said that since reorganisation in 1995 policing has been truly part of the local government family. As Councillor Grant rightly pointed out, folks who are appointed to boards do not represent their local authorities. Moreover, if we take Fife and Dumfries and Galloway out of the equation, the only power that local authorities have with regard to police boards relates to finance and my understanding is

that no local authority has ever refused to pay the requisition. Will the witnesses comment on that?

Councillor Grant: That is perfectly true. As someone who sits on the Strathclyde joint police board, I am not aware that the precept has ever been refused. Of course, where people do not adhere to the precept, the board has the ability to requisition money from the local authority, but I am not aware of that ever happening.

Under the new proposals, there will be no finance from local authorities; all of it will come directly from the top. As a result, local authorities will not be able to suggest anything in their meetings with the local commander. It is all very well saying that they must have an agreement but, if the instructions from on high do not fit into that, what do the local commanders respond to? Do they respond to the local authority agreement or the edict from on high? You cannot have two masters in this business, and I am a wee bit worried about that.

Kevin Stewart: At the moment, apart from Fife Council and Dumfries and Galloway Council, no individual local authority has any real say anyway. Do you agree that the link between local authorities and policing was broken with reorganisation in 1995-96?

Councillor Grant: A local authority always has the authority to go directly to the chief constable or any of his subordinates and say what they want or what they feel. Local authorities have never been barred from doing that. As a member of a local authority, I can lift the phone and speak to Steve House at any time—I do not have to be a member of the police board. A local member can phone up and speak to anybody in the police at any time to make their presence felt, make their views known and have discussions. There has never been any problem that I am aware of.

Kevin Stewart: And that will not change—elected members will still be able to approach local commanders.

Councillor Grant: Well, we do not know that. The difficulty is that there is a big hole at the moment and we have not been able to get a handle on that.

David Torrance: My questions are about community planning and engagement, which is probably the issue that I have been asked about most by members of the public. What are the bill's implications for community policing and fire and rescue services and the community planning partnerships? To what extent do the proposals threaten continued community engagement? How will local police and fire commanders engage meaningfully with the public under the new structure?

Councillor Grant: You are asking questions to which we do not yet have answers, as we do not have the detail to be able to respond positively. Community planning is a big focus for local authorities and we are concerned that the outcome from the community planning partners should be a positive one—that is what we want to focus on. Of course, community planning partners are not just the police and fire services; health and all sorts of other areas are involved, and it has all got to knit together. That is one of the strong things that we want to major on and, hopefully, expand and make better.

The Convener: How could that be improved with a single police force?

Councillor Grant: We are led to believe that there will be a commander at a local level, but we do not know whether that commander will be for one authority or several authorities. An agreement will, supposedly, be reached between the local commander and whatever authority, but, if they do not agree on anything, is there a way to have an adjudication on that? We do not know as yet. We want to ensure that the local commander is on side with what the local authorities want to do and the outcomes that they are looking for.

Bob Jack: That is an important question that needs to be teased out. We raise some concerns about it in the SOLACE written submission. There is a danger that the somewhat simplistic division of national and local policing obscures the issue. Local policing is not the same as community planning in the locality as it operates at the moment. In the two unitary authority areas—Fife and Dumfries and Galloway—and the smaller of the other police areas, engagement with community planning takes place at a much more senior level within the force. Notwithstanding how the organisational structure of the new force develops, the idea that the local area commander will be the be-all and end-all of the police's engagement with community planning is fraught with risk and danger, as we try to highlight in our submission.

We suggest that, as well as the local area commander, there will have to be some engagement between local government and the strategic senior command of the police force; otherwise, for important issues that are currently handled in most of the country, perhaps excepting Strathclyde, at chief officer level, where are we to find the point of connect? For example, in my area, we had a critical child protection inspection—which is a topical issue—in Stirling, in June 2010, and the follow-up inspection in 2011 highlighted the importance of the leadership of the chief officers of the local authority, the health board and the police force in addressing some of the issues of concern and the improvement

actions. Is that as likely to happen at local area commander level, with someone who is a mere inspector or chief inspector? That is the challenge and we need to tease that out.

SOLACE is not saying that the issue is by any means a show-stopper, but it cannot be addressed simply by saying that we have national policing in one place and local policing in another and everything will be fine. Community planning cuts across those two levels and we need to find a way to knit them together, which is why we suggested that the authority might have a better chance of achieving that if it were created as a genuine national-local partnership from top to bottom.

14:15

Bill Walker: Good afternoon. I want to follow that up at a local level. In Fife, we have a pretty good relationship between Fife Council and the police, especially at local level. We have wards, area committees and so on, and as a councillor I regularly meet constables, sergeants, inspectors and chief inspectors. It works well, especially with the community engagement model that we now use successfully.

There are eight existing police boards and 32 local authorities, and I am concerned about how the local commander idea will work. I am content with the current work at local level and hope that it will continue. My concern is that in large local authorities such as Glasgow, Edinburgh and Fife, which is the third largest, the local commander will be a pretty senior person in the national force—I do not know what their rank will be, but it will probably be something like assistant chief constable—while in a small authority it might be chief inspector. I am trying to visualise how these local commanders will get on together if they have a round-table conference. A whole range of ranks will get together and I wonder what the power relationships will be like and about people's ability to relate to local government. How will it work in practice?

Councillor Grant: One of the difficulties is that there is a huge gap in the information about how such aspects of the bill will work. From what we have seen of it, it is not at all helpful on how we will engage. We are okay with what will happen at the very lowest level and, perhaps, with the person at the very top, but we do not have enough information about that huge gap in the middle. Unfortunately, what we have is all far too sketchy to be able to give you a definitive answer, which is what I would like to do. We are not in a position to do so at the moment, because we do not have enough information about how it will all knit together.

The Convener: Is COSLA in discussions with the Scottish Government about some of that detail? Is there any on-going dialogue?

Councillor Grant: We have been in discussion with the Scottish Government for a considerable period, but I cannot say that it has taken on board much of what has been said. It sent out two consultation documents last year and there was quite a good response. Neither of those consultations showed that people were in favour of a single force, but that is what we have and what we have to deal with. I hope that we will be able to do as best we can and that we get the outcomes that we all want, but unfortunately we do not have enough information at the moment to be able to say anything definitively.

Bill Walker: As I have said, in Fife we have a pretty good relationship with all ranks in the matrix structure, from that of chief constable downwards, and I am sure that the same is true in Dumfries and Galloway. A look at those relationships might be worth while.

I should say also that I am pleased to welcome to Fife the interim headquarters of the new police service in Tulliallan. I am in favour of a national police service. I think that it will be good to have one, but it must extend upwards; we do not want a top-down approach. We should develop the community relationships that we have in wards and areas and build up to the top rather than go from the top down. Do you agree?

Councillor Grant: Absolutely—I am all in favour of starting at the bottom and working our way up—but the business of how we get from the ground floor to the top is the bit that we need filled in. I am sure that others who are working on the subject will come forward with that information ere long, because there is a tight timescale to work to.

Bob Jack: The question of how to knit together the national and local bits, particularly in relation to community planning, is at the heart of this. Section 47 of the bill vests the duty to participate in community planning in the local area commander—full stop. From our point of view, the whole force structure needs to have a duty to participate—it cannot just be left at the local area commander level, because some community planning issues are handled above that level, as I said. That issue will need to be looked at as the bill proceeds. The whole authority, or at least the chief constable and the service, must have a duty to participate, whatever is said about the local area commander.

Anne McTaggart: Will local authorities have sufficient influence over local policing and local fire and rescue plans, including budget setting and resource allocation?

Councillor Grant: We will have no influence at all over budget setting—moneys will be handed down, as it were. Once a chief constable and his subordinates are in place, it will be up to them to decide how much money goes where. I hope that, when the money is devolved, it will fit in with whatever the agreed plan is, but we have no way of knowing that at this point. If the budget does not fit with the money, I am not sure where we will go.

I am sorry—what was the rest of your question?

Anne McTaggart: You have answered my question—thank you.

Bob Jack: We touch on the issue in our submission. At the heart of it are accountability and responsibility and how people can be accountable without having responsibility for resources or some influence over how resources are allocated to localities. Those are real questions that people have not begun to get their heads round. I noticed in *The Herald* last week some debate about decisions of the existing fire board on fire stations in the Highlands and Islands, which were taken with a view to reorganisation. As such issues come to the fore, local influence over the allocation of resources will come into sharp focus.

Our submission says that there is no reason why a system cannot be designed to give a locality some influence over and some responsibility for resource allocation, as well as the ability to hold people to account. That model is different from what is set out in principle in the bill. It would still involve a single national force, but it would be governed and organised differently.

The Convener: When we heard from the bill team a couple of weeks ago, it suggested that a local authority could decide to buy in additional services. Would that allow for some responsibility for resources? For example, an authority could say that it wants additional police officers in an area. The national service would pay for the majority of the core policing, but local authorities would still have the opportunity to make additional resources available.

Councillor Grant: Local authorities already put in money for additional services, such as campus cops. We do not know what will spring up, but there is a level of business that must be undertaken, which I presume has to be agreed locally. We would hope that the funding would be available, but we have no guarantees of that. The Cabinet Secretary for Justice says that the level of policing will remain the same—17,234 police officers—but that includes those doing all the extra things that are being done. Between 600 and 800 polis are already embarked on extra things, which come out of that chunk of 17,234. If the funding is

not there from councils because they are a bit strapped, that amount of policing will not be there.

Kevin Stewart: I will play devil's advocate a bit here. Councillor Grant, you point out that some local authorities choose to pay for additional policing. However, no local authority really has a say in budget allocation at the moment—you have already given evidence in that regard. The budget is set at the national level and the board sets the level that has to come from the local authorities. You have already said that no requisition has ever taken place because authorities just pay the money straight over. Do local authorities have a say in the budget allocation, apart from funding extra policing if they choose to do so?

Councillor Grant: The say is always there; it is just that local authorities have not chosen to use it. However, when it comes to the bit, it is up to each council to decide what to do.

Kevin Stewart: The say is not there because if a council decides not to pay, the board can requisition anyway. Councils have no budgetary rights at the moment.

Bob Jack: Mr Stewart is technically correct in that if the board gets to a budget decision, it levies a requisition, which local authorities are bound to pay. However, that is the legal situation, not the practical, political reality on the ground. Mr Stewart implied that boards are somehow not part of local government, but they are. They are constituted under the Local Government etc (Scotland) Act 1994 and are entirely composed of appointees of the constituent authorities. They are part of local government, although it is correct that they are separate from the constituent councils.

Boards do not determine their budgets in a vacuum. There is a discussion in the locality about the overall funding available to local government, the police grant and the 49 per cent that comes through local government. The board does not go off into a corner and then face the constituent authorities with a requisition without any prior discussion. There is quite a deal of collaboration among the constituent authorities, the board and the police or fire service before a board would ever get to the point of setting a budget with a legally binding requisition.

Margaret Mitchell (Central Scotland) (Con): A number of the consultation responses referred to the tripartite structure, which is approved of as having a good balance between the national and the local, and political interference. From what you have said today and from your submissions, it appears that there is a real concern that without proper detail about the allocation of resources at local level, the local committees will be nothing more than a talking shop or an extension of a non-departmental public body. Would you prefer the

current arrangement of the police grant to remain to give those local committees real teeth in financial decision making?

Councillor Grant: The tripartite arrangement has worked extremely well. It is a bit like a three-legged stool—if you take a nip out of one leg, it all goes a bit to pot. It is hard to see how the new arrangement will work as well. We cannot go back to what we have had—that is just a no-no. We will have to go forward and make the new arrangement work well. We have got to be there, up front, ensuring that what we get in place works well.

I keep repeating that there are too many things that we do not know about for us to be able to get a handle on the proposals. The proposition is that the Cabinet Secretary for Justice will deal with the national board and not with the chief constable. At the moment, the justice secretary can work with the chief constable, but it is proposed that the justice secretary will work only with the board. However, the statement that the Scottish police authority

“must comply with any direction (general or specific) given by the Scottish Ministers”

seems to be the most undemocratic statement that I have ever seen, and I do not know that I would like to sign up to it. That is in the bill.

14:30

Margaret Mitchell: Is it your definite view that there should be specific and clear provision in the bill for funding at a local level?

Councillor Grant: If there was funding at local level, or an arrangement to provide such funding, it would make the whole business much more accountable locally, which is where we seem to be missing something.

Bob Jack: We said in our submission that we should look at how local government can continue to be a route for some of the funding for the new services. We have been concentrating on the police, but we must not forget that we are talking about fire and rescue services as well.

That is all of a piece with what I referred to earlier: as I understand the parliamentary process, stage 1 is about the principle of a bill. I suppose that the question is whether the direction of travel that is set out in the bill is the right direction in principle. We have asked whether there is another way forward that would view the new single services as a national-local partnership. That would say something about the kind of authority that would be created; about how a partnership between local and national Government could be created at national board level; and about how the funding could come partly from local and partly

from national Government. That, to me, is a pretty fundamental issue of principle.

The Government has made clear in the bill and through two rounds of consultation what it wants to see. This is a parliamentary process. Stage 1 is about principles, so, quite apart from what the Government thinks, Parliament has to be satisfied with the principle. We are suggesting that there is another way of looking at the matter that would achieve the same end result—a national-local partnership around the two single national services.

The Convener: Are you suggesting that we should have a national police service and a national fire service, for which the 32 local authorities would have to come to an agreement on how much they should pay?

Bob Jack: As we say in our submission, creating such a system is not without complexity, but the detail could surely be worked through. Within these islands, we have models that involve just such a system—for example, there is a national-local partnership around the policing of the capital city of the United Kingdom. The answers are out there to be looked for, if we want to look for them.

That is the issue of principle: either we create the new body as part of Government and as a partnership between Government and local government, or we create it as an appointed quango, with all that flows from that. That is the proposition that is in the bill—it involves the creation of an appointed quango, which gives rise to a host of issues. Such an arrangement can be made to work. As the professional organisation for chief executives, it is not our job to comment on the policy. We are saying that we may have views about some of the issues that are of concern, but what the bill proposes can be made to work. We are certainly up for doing that and are determined to do our best in that regard, but at this stage, when the principle is being discussed, it is important to raise the concerns that we have raised and to make the suggestions that we have made.

Kevin Stewart: The funding issue is a bit of a red herring. It is national Government that decides what goes on in each force area, because it provides 51 per cent of the funding; the 49 per cent automatically comes from local authorities, without using requisition. Am I right in saying that for a number of years national Government has decided the resourcing in each force area?

Bob Jack: The 51 per cent police grant comes directly from the Scottish Government to each police board and the 49 per cent comes through the grant-aided expenditure distribution of revenue support grant to local authorities. As I explained,

the position is usually the result of consultation among the constituent authorities before the board sets its budget. You are quite right about the legal position: if the board sets its budget, the authorities must meet the requisition. One could observe that pretty well all local government's money comes from the Scottish Government. That is the reality. The 49 per cent comes through the revenue support grant, which provides all bar 10 per cent of what local government spends.

Kevin Stewart: It is right that a lot of the money that goes to local government comes from central Government. In most areas local government can decide how it spends the money, particularly now that ring fencing has gone, but in relation to police funding, since the change in the system in 1996 it has always been the case that every local authority has paid the boards 49 per cent, to match the 51 per cent from central Government. Is it the reality that national Government currently sets the budget for police forces? Yes or no?

Bob Jack: The legal position is as you described it. If the board sets a budget and levies a requisition, the authorities must pay it. The situation has never arisen, I suggest because of the pre-budget-setting consultation that I described. If a particular police board and force decided to exempt itself from the whole drive on efficiency, for example, and was not prepared to cut into budgets, there would be a pretty serious issue. It would be pretty serious if a budget was set at a growth level and a requisition came down that the authorities would be legally obliged to pay, at a time when the authorities are having to meet substantial efficiency targets in their own budgets. The practical, political reality is that such matters are discussed and the point is never reached at which the legal requisition must be met in the face of opposition from the constituent authorities.

Margaret Mitchell: Would you welcome clarity on the funding that is available to local committees? Would you very much welcome direct funding to local committees, to give them the accountability that they need if they are to form a partnership between national and local policing and fire services?

Bob Jack: That is our position, as we said in our submission.

Margaret Mitchell: The submissions from both witnesses reflected concern about whether there will be independent information gathering that is separate from the information that is provided by policing and fire alone. Reference was made to the importance of local intelligence and the kind of information that currently comes to committees in relation to serious crime and so on. Will you talk a little more about that and allay our fears about the important role that local government plays in that regard?

Councillor Grant: Will you be a little more specific about what you mean?

Margaret Mitchell: COSLA said in paragraph 37 of its submission:

"COSLA are not clear where informed independent professional advice on policing and fire will come from to inform the local committees."

In paragraph 7 of its submission, SOLACE referred to

"the consequences of serious and organised crime at the national (or indeed international) level",

and local intelligence about disruptive individuals, dysfunctional family units and so on, which comes in a wide variety of ways.

Councillor Grant: I am with you now.

So much of what goes on locally feeds into issues that go beyond the local level. A care worker who, while they are out and about, sees something that they think should not be happening can refer the issue to their local police constable, sergeant or whoever. There are all sorts of things going on locally that intermingle with one another. If something that is happening locally gets referred up, you do not know whether it concerns someone who is part of a terrorist organisation or is involved in serious crime, of which there is a lot going on.

A lot of things are in the mix, and we do not tend to separate them out, because everything is there to make the process work; people understand that they have to take cognisance of what is going on around them, and people who are working in the community—whether they are care workers, health workers or people who work in the fire service—keep in touch with one another. If they see something that does not appear to be the right way forward, they can soon get in touch with someone about it.

Serious and organised crime is a big issue. I do not know how much of that will be involved locally—

The Convener: I am slightly concerned that you are getting on to operational matters of policing, which is going beyond where we should be in terms of the committee's remit.

Margaret Mitchell: Are you content that the provisions in the bill give you the mechanisms to provide that local intelligence?

Councillor Grant: I hope that they do.

Margaret Mitchell: But you are unsure. You would like that to be clarified.

Councillor Grant: There are many things that we do not have information about at the moment.

Bob Jack: I do not see any reasons why those mechanisms cannot continue under the new

structure. It is a matter of how things are organised and what the relationship is between local government and national Government. That is the point that we were making in the paragraph that you referred to, which has to be read in the context of paragraphs 6, 7 and 8. In essence, the point is that you cannot tease out which issues are local and which are national because the one type informs the other. The risk is that, if you get too fixed on the idea that the only business of local government in relation to the police is what is defined as local policing, you will miss that wider picture.

Margaret Mitchell: Is it your perception that there might be additional costs to local authorities as a result of the provisions in the bill?

Councillor Grant: If local authorities wanted to do something specific that was not part of their general agreement, that would represent an on-cost. We still have to—

Margaret Mitchell: I was thinking more specifically about some of the provisions around training or information sharing. Are there other costs that might be incurred as a result of the provisions in the bill?

Councillor Grant: We would ask whether setting up committees for police and fire services will represent another on-cost in relation to the current provisions around the way in which local authorities work with various committees. Will it cost a bit more to set up another bureaucracy around a police and fire committee? Obviously, training is always undertaken, but it might need to be more extensive as a result of the bill.

Margaret Mitchell: Does SOLACE have any concerns?

Bob Jack: I suppose that, in theory, having a local police committee and a local fire and rescue committee—or even a combined police, fire and rescue committee or a wider community safety or public protection committee—that serve the purpose that is set out in the bill represents an additional cost, as we do not have that at the moment. Personally, I do not think that that is a huge issue. We have committees for all sorts of things. We combine committees and disband committees and recreate committees. That issue is not as significant as some of the others that we have been discussing.

Margaret Mitchell: Do you have any comments on the provisions, or lack of provisions, about dispute resolution in the bill?

Councillor Grant: We do not know who will deal with any disputes. If a council goes forward with a plan and hopes that its local commander will be happy with that plan, because that is the outcome that the council wants, will someone sit in

arbitration with regard to the way forward? The bill contains nothing about how that would work. Would both sides just bang their heads together in the hope that they will come up with a good answer?

14:45

Margaret Mitchell: More clarity on that would be welcome.

Councillor Grant: Yes—more clarity on much of the bill would be helpful.

Bob Jack: I wonder whether you really want to go down the route of including dispute resolution machinery in the bill. We raised a concern in our submission at the second stage of the consultation about whether the local authority would approve or simply be consulted on the local plan. That has been clarified in the bill: it is approval. What happens if the authority does not approve the plan?

You can go down one of two routes. You can put in place dispute resolution machinery and legislate for such a situation, or—as I explained to Kevin Stewart—you can do what happens in reality with the budgets, which is to leave the resolution of such situations to practical political good sense.

If an authority had serious issues with the proposed local plan—if there were things in the plan that the authority did not like, or if things were not in it that the authority wanted to see—that would soon escalate through the structure and there would be a resolution, whether the bill sets out the machinery or not. Some of these things are best left to good sense, if and when the—one would hope very unusual—circumstance arises.

John Pentland: You have both touched on the questions that I am about to ask with regard to relationships. Will those involve working together or not? Does SOLACE or COSLA have any concerns about variation between the areas and the seniority of local commanders and senior officers? Should there be a direct relationship between local authorities and the governing boards of police and fire services?

Councillor Grant: At present, the relationships between councils and police and fire and rescue services are excellent, and we certainly would not want to lose that. I am fairly hopeful that we will not, but everyone will be working through a new piece of ground.

If councils decide to set up police and fire committees, one presumes that the chief officers will have to come along and talk to those committees. One would hope that they would not just be sitting there and nodding like donkeys, and that there would be good interaction and a good

reason to have a committee, but we will see: time will tell.

Bob Jack: We raised that issue in our submission. The target operating model—as it was called—that underlay the business case mentioned a potential span of four ranks from which the area commander would be drawn. That may or may not—in fact, it will probably not—be the end result as the organisational design is progressed, but there will still be a disparity because the 32 councils, which must all have a local commander, must fit into whatever organisational structure the new force develops.

I would have thought that all 32 local area commanders could not by definition be of the same rank, because they will be looking after areas of considerable difference in size, geography and so on. There is an issue around how we deal with that. We certainly felt that a span of four ranks was unacceptable, because the smallest authority's local area commander could be an inspector and the largest authority's commander could be a chief superintendent, which is a huge difference in seniority and authority.

The system will work best if there is at local level someone of sufficient seniority and authority to build a relationship with the local authority and the local community. There is a question in that regard that must be resolved as the organisational structure is progressed.

In some respects, that is why we suggested that there should be a local government voice at the national board level. That would help with regard to Margaret Mitchell's point about how disputes are resolved. If that perspective is there at the national level, as well as in each of the 32 localities, perhaps disputes will be less likely to arise or will be more easily resolved if they do.

That takes us back to the question of what we are creating through the bill. Is it a quango to run a single national force, be it fire or police, or is it more of a partnership between the two levels of governance in the country? Our strong view is that if we take the latter route, a lot of the concerns and issues will be more easily resolved than if we take the route that is currently proposed.

John Pentland: Councillor Grant, is it your view that each local authority should have a police and fire committee?

Councillor Grant: No. My view is that it should depend on how each council feels about the issue. Certainly, my council in East Renfrewshire is looking at the pathfinders business and thinking that it would not go down the route of having a separate police and fire committee, but would formalise what is being done informally at the moment and look at its cabinet reporting to the

council on the business that it has done. East Renfrewshire Council is a small authority, but bigger authorities such as Glasgow City Council or Dundee City Council might want to have a police and fire committee. It will be up to each authority to decide the best way forward for it.

On the issue of a local commander for an area, at the moment one local commander covers the three Ayrshire authorities, for example. I do not see any reason why something like that would not be appropriate elsewhere. My authority is part of G division in Glasgow, which looks after Pollok, Govan and so on. The chief superintendent there looks after part of Glasgow and the whole of East Renfrewshire.

Obviously, there could be umpteen different permutations for having a local commander, but I would be surprised if, at the end of the day, we had 32 commanders. If there was only one commander for a big city, we would have to think through what we do for smaller areas. It is the business of the police to work that through. When a chief constable is involved and the whole business filters down, we might be in a better position to make judgments.

The Convener: There are no further questions, so I thank the witnesses for their evidence. You are welcome to stay for the rest of the meeting, if you wish.

14:52

Meeting suspended.

14:54

On resuming—

The Convener: The panel for our second oral evidence session is slightly bigger. If the witnesses feel that someone has covered an area to their satisfaction, it is not necessary for them to answer every question.

The panel consists of Chief Constable Kevin Smith, president of the Association of Chief Police Officers in Scotland; Councillor Iain Whyte, chair of the Scottish police authorities conveners forum; Andrew Laing, Her Majesty's inspector of constabulary for Scotland; Professor John McNeill, Police Complaints Commissioner for Scotland; and Gillian Campbell, director of human resources at the Scottish Police Services Authority. You are all welcome.

I kick off by asking panel members for their views on the proposals for a national board. Do you think that the appointment process and the number of members and make-up of the board are appropriate? If not, do you have suggestions on ways to improve the proposals?

Chief Constable Kevin Smith (Association of Chief Police Officers in Scotland): There are a number of issues. The national board will be a very important part of the new structure. The one thing that has been missing from the discussion so far and is missing from the bill is the part that the citizen plays in it. There is no reference to the connectivity between the national authority and the citizen, nor is there any direct reflection in the bill of the relationship with the citizen and the local authority. To ensure that the process is democratic, there must be some form of compulsion on the police authority to have a consultation process with the citizen so that it is informed by what the people of Scotland think.

We have a number of other points. It came through in the previous evidence session that there must be a link between the local and the national. Not to have such a link would be to miss a trick. I spent some time in Northern Ireland looking at the governance set-up there. The one thing that became clear was the void between the district policing partnerships and the national policing board. In policing, there is no clear delineation between the local and the national; it is a continuum and a mosaic. Clarity between the two does not exist for us. We must ensure that the local informs the national and the national informs the local.

We are looking for a new era of governance in terms of the scrutiny and the calibre of people who will be required to hold a £1.4 billion budget and a very powerful individual to account, and the process must be informed by elected members of an equal calibre. We believe that there should be a number of elected members on the national authority. Just as people come to give their expertise in finance, risk management and corporate governance, so too must elected members come to ensure that the police authority is informed by the local element. They must be there on an equal footing with the other members and must also be appointed through the public appointment process.

Another provision on the national authority that we question is the power of ministerial direction. When we have asked the Government about the issue, we have been advised that policing is a national service and that the health service and other important public services survive with such an arrangement and that we are no different. However, we are absolutely different. We have very strong coercive powers and the chief constable is in a very powerful position.

We believe that there needs to be further clarity on and further articulation of what ministerial direction would look like in practice. The reference in the bill to a specific policing operation is a very narrow definition and we believe that the definition

should be much broader. The ministerial direction is to the authority, not to the chief constable, but there is not much of a buffer in between. We believe that a fundamental part of the formation of the new authority must be some questioning and relaxation of the power of ministerial direction.

Those are my views on the role of the national authority.

Councillor Iain Whyte (Scottish Police Authorities Conveners Forum): I am happy to agree with most of what Kevin Smith said. I further emphasise the point that some others have made to the committee, which is that the number of board members seems insufficient to the conveners. I sit on a board of 18 for Lothian and Borders Police. Some of my colleagues sit on boards that are only slightly smaller and others sit on boards that are quite a bit larger to deal with the business of policing throughout the eight areas of Scotland. It is quite tough—there is quite a workload on some of the people who are more heavily involved. Without having a bigger board than is suggested in the bill, it will be very difficult to get through the business and bring the proper scrutiny that is required, especially when sub-committees have to be set up for certain issues.

15:00

I, too, have concerns about the local relationships. There is at least the potential for a force that is directed nationally through direction from ministers to the absolute governing body, the board, to concentrate on centralised national issues, some of which are quite high profile—quite sexy, shall we say?—to the detriment of local policing. That is certainly the way that resourcing could go. I fear that, without some control and monitoring of resourcing locally, there will be a problem. At the moment, that is what we have through the tripartite system. I listened to your earlier discussion about budgets. Budgets are set through dialogue with local authorities and it is not just about GAE. Every local authority in my area spends more than its GAE in topping up the police numbers. GAE alone does not set the budget, and it is all done through dialogue with council leaders. If there were a real problem—if there were differences of opinion with the board members who are members of those councils—there would be votes at police boards about how much to requisition from the constituent councils. We do not have those because we do it by agreement.

Andrew Laing (Her Majesty's Inspector of Constabulary for Scotland): Good afternoon. Thank you for the opportunity to speak today. The question that you pose about the board is a long-asked question that stems back to the 1962 Royal Commission on the Police, which tried to strike a balance between democracy and accountability at

both local and national levels. We do not seem to have found an answer to that yet, although what is proposed takes us some way forward.

Around a year ago, HMI provided the committee with a paper on governance and accountability in policing in Scotland, which drew on evidence from best-value reviews, the independent review of policing and other papers. It identified a number of areas that required to be addressed to ensure good governance and accountability in policing. It recognised the need to strike a balance between democracy—the democratic will of the people on behalf of the citizen—and governance and accountability with the competence and capability to quiz intuitively and call policing to account, taking into account the fact that policing is a professional and specialised area. Much of what is seen at the moment at board level is the superficial face of policing—the public-facing bit. What is often not seen is the bit behind the scenes—the intelligence and the information that is not widely or publicly available. The notions that are contained in the bill suggest to me that the future board, as proposed, could be a mix of democratically elected members and others with competences in the specialisms of policing, finance, resource management and corporate governance. That would be a positive benefit.

I will briefly touch on two other points, the first of which follows on from the earlier discussions regarding accountability. Within the notion of a single board, some effort must be put into defining what we mean by accountability. In purist terms, I suggest that accountability comes with consequence and that consequence within a linear structure—within a chief constable's responsibility for day-to-day management—must go down through the organisation. If we get to a position where there are two or more seats of accountability with consequence, we will be in a very difficult position. That has been drawn out, over recent years, in evidence from best-value reviews. The short answer to your question is that, in terms of structure and where accountability is placed, the proposals are positive but need to be taken into a context of local reporting and local answerability where the consequences are drawn back through the top.

Professor John McNeill (Police Complaints Commissioner for Scotland): Good afternoon. I am pretty sympathetic to what Andrew Laing has said. I have considerable experience of corporate governance, and my primary concern is whether any police authority is competent to hold the command team to account. I do not subscribe to the view that the current arrangements are uniformly robust, and I therefore welcome the proposal to establish a police authority whose members will be appointed on the basis of their competence. There is another issue here, which is

that at least some of the members will need to be security cleared to a fairly high level if they are to hold the chief constable and his or her team to account. I am fond of saying that there is a world of difference between hearing an account and holding to account, and for me the primary role of any police authority and the acid test of its performance will be whether it actively and successfully holds the command team to account.

The Convener: Do you think that the current system holds the command team to account?

Professor McNeill: Others are better placed to comment on the current system, but my experience, albeit fairly limited and focused on complaints handling, is that there is considerable room for improvement. I published two reports last year, one of which was intended to assist police authorities and boards with holding the command teams to account, particularly with regard to complaints handling. It is a checklist that is adjustable for both national and local contexts.

The second report was statutory guidance. It is imperative that the Scottish police authority takes seriously its statutory responsibility under section 61 of the bill, putting in place effective mechanisms for dealing with complaints and, importantly, consulting others about how that is done, including, I hope, the police investigations and review commissioner.

Gillian Campbell (Scottish Police Services Authority): By and large, the SPSA is comfortable with the proposed numbers. Over the past four to five years, it has usually operated with a board of eight members—currently seven—and with the sub-committees there has been consistent delivery of output and governance at a strategic level. We do not have the same policing organisation that sits underneath the SPSA, nor do we have the interface at a local level, but I am conscious that many multinational and highly complex organisations run with a board of between seven and 11 people.

Kevin Stewart: I have a question for Professor McNeill and Mr Laing. The joint best-value reports by Audit Scotland and Her Majesty's inspectorate of constabulary have shown failings in a number of areas. Can you comment on some of those failings? Could the situation be improved with a new national authority?

Professor McNeill: I am convinced that a national authority can improve performance. I qualify that by saying that performance is not uniform across Scotland. Some time ago, I held a seminar in Dundee for representatives from police boards at which I emphasised the importance of the boards being resourced adequately. That means not just having an executive director or the finance, but having information and time made

available, along with training in the discharge of their role. One of the primary functions of a Scottish police authority should be to confirm public confidence in policing by underlining the need to learn from complaints and, in my judgment, it would be able to do that more effectively than would a variety of boards across Scotland.

Although the bill places very clear responsibilities on the Scottish police authority, it places an equally clear responsibility on the local commander to provide information to local areas. I hope that the combination of the police authority, the local authority and the police investigations and review commissioner will drive up standards of governance and accountability.

Kevin Stewart: Mr Laing, will you comment on the best-value audits that you carried out with Audit Scotland?

Andrew Laing: Certainly. First, though, I just want to support Professor McNeill's comments.

I make it absolutely clear that elected members who perform the function of bringing chief constables to account locally by and large do a good job. Indeed, the best-value reviews provide evidence to support that. However, the fact is that policing is hugely complex, highly demanding and an expensive asset. The questions raised in the best-value 2 reviews centre more on boards' capacity to bring chief constables to account and the individual capability and competence of members vis-à-vis their professional knowledge, their business knowledge and their knowledge of organisational structures.

A secondary issue is the support that is provided to board members. The vast majority of board members are part-time and have limited time to commit to police committees and, similarly, the support provided across Scotland often comes from constituent local authorities on a part-time basis. All of that leads me to believe that there is room for significant improvement, partly by selecting individuals on the basis of competence and partly by taking into account the fact that the individuals who make up the board must have not only those professional qualities but the ability to exercise the democratic will and provide a democratic voice.

Finally, I want to highlight the notion of what is called operational independence, which creates a huge difficulty in governing policing. As I have said before, policing is to a great extent self-regulated. Very often, chief constables determine what will be presented to the board and when it will be presented and then ask elected members to call them to account on it. Much of that is secreted in the concept of operational independence. There is no clear definition of the term; we certainly need a

clearer definition but, in my view, the bill does not go far enough in trying to set that out. The questions that need to be asked include what a chief constable should be operationally independent from, why they should be operationally independent and where the boundaries lie. I do not think that we will get a definitive answer to that but, at the moment, the gulf is so wide as to leave chief constables in a reasonable position to use operational independence as a defence mechanism when called to account.

David Torrance: I want to go back to my initial question. How will the bill affect community engagement and community planning partnerships? Will it restrict such engagement? How are we going to engage with the public who, after all, will be the first to complain to us? They are certainly the most concerned about the issue.

Councillor Whyte: This is a very difficult area and the bill does not give us much of a clue about how any of the local arrangements will be taken forward and—critically—gives us no clue about how the Scottish police authority will deal with the public. There has to be a direct relationship in that respect, and others might want to amplify that comment.

As for local arrangements, there are differences in how well police boards up and down Scotland engage. Some are better than others. Indeed, community planning works in different ways in different local authority areas. My biggest concern about community planning is that, even when it is working well, it is not open to very much democratic scrutiny, and there could certainly be improvements in that area.

At least once a year, the chief constable of Lothian and Borders Police and I visit local community planning partnerships throughout the police area to listen to their policing issues and, when I do so, I speak mostly to council officers or partner body officers. Very few elected members are present and there is very little interaction with the public on these matters. In a sense, therefore, the introduction of a local public committee will help. However, that will not necessarily get us anywhere in dealing with the deficiencies that we have heard about in current police board arrangements, for example in maintaining direct contact with the public—perhaps the boards leave that to the force, because it has the resources to do it—and in holding the force to account, although you may have been drawn a jaundiced picture about that. On the whole, boards do a good job. It is difficult to come up with reasons why they are doing a bad job when most of our police forces are performing very well. The test of such things is when things go wrong. When things

go wrong, the boards step up to the mark and hold chief constables to account.

15:15

How we fix this in a future landscape will be difficult, because we do not yet know what kinds of organisations will be put in place, but the link to the public is critical. I am not convinced by the idea of committees of local councillors. The bill and the policy memorandum suggest that it will lead to the involvement of more councillors and, therefore, more members of the public, but I am not at all convinced by that. As MSPs—there are seven of you on this committee—you deal with local government issues on behalf of your colleagues. Councils are the same, but their members are probably on more committees, so their ability to get involved at any great strategic level is limited, which is where some of the differences in the quality and level of engagement by boards come in. Getting that engagement right in the future is the key issue.

The Convener: How does the number of Edinburgh councillors who sit on a committee compare with the number who sit on the fire board? I would have thought that more councillors would sit on a council committee than would be involved with the fire board.

Councillor Whyte: There will probably be a few more. I cannot speak for all councils. To use Edinburgh as an example, we have nine members on the Lothian and Borders Police board and the average membership of our committees is about 15, so there may be a few more on committees, but not a significantly larger number. It will, however, make a difference to some of the smaller council areas, where the membership could increase from two to a much larger number—it depends on how they determine the membership of their committees.

Bill Walker: I will have another go—you heard us discussing this with the previous panel—at the idea of local commanders. In Fife, we have a good relationship at the lower levels—by which I mean wards, area committees and so on—between communities and the police. That works very well and involves constables, sergeants, inspectors and chief inspectors. I believe in a national police force, but I am concerned about the idea of a local commander. Perhaps we are spoiled in Fife, because we have the same area for both the police and the council. That is fairly straightforward, but Scotland has 32 local authorities, so the new set-up could, in theory, include as many as 32 local commanders, although I doubt that it will. I think that this will be key.

As he knows all the police areas in Scotland, I ask Mr Laing how this can be resolved. Do you envisage a police commander taking on four local areas and having helpers? How will it work? I would hate to lose our relationships on the ground; I assume that they will continue and, I hope, improve. How do you envisage the idea of a local commander working while keeping other linkages right at the appropriate levels?

Andrew Laing: If I can return to the previous question, you may then wish to turn to Mr Smith, who is in the process of thinking through the detailed arrangements. Part of the issue about community planning partnerships and the relationship between local commanders and local bodies centres on governance and accountability. Community planning partnerships work reasonably well, but each of the constituent organisations, such as police and social work, housing and other local authority agencies, is functional in its make-up. In the context of what the bill describes, those partners will need and require to continue to participate—there is no lack of clarity about that. I think that the community planning arrangements that are in place will be perpetuated under a local commander.

To give some confidence about that, I say that the best-value characteristics for police authorities and forces take into account local relationships. For the inspectorate or Audit Scotland as we move to the future, those relationships will form part of an inspection and audit or scrutiny regime that reports back into the system. I have no great concern that the existing arrangements will be deviated from. The local or additional scrutiny arrangements will provide confidence that such arrangements are happening.

Will there be 32 local commanders? I think that there will be 32 areas in which a local commander has a presence; Mr Smith might be able to answer the question whether local commanders will have single commands or a variety of commands. Will they all be at the same rank? I suspect not, but they will have a similar function and responsibility. I am convinced that the chief constable will hold them to account in much the same way, irrespective of rank.

As we move forward, HMI will have to think about how it performs its function. At the moment, we look at eight forces and the Scottish Police Services Authority's constituent parts. In the future, my intention is to develop an inspection and audit regime jointly with other agencies, such as Audit Scotland, to look at performance in the broadest terms, which would include relationships across the 32 local authority areas.

Chief Constable Smith: It is not unreasonable to be concerned that the advent of the new force could mean that all the good local policing will stop

all of a sudden and somehow go to another place, but local community policing is in our DNA—it is absolutely part of how we are brought up as police officers and it reaches up to chief officers. No matter whether someone is a chief in a large urban area or a small rural force, local community policing will remain integral to what we do.

It is right that what that will mean to the local elected member has been discussed, but I will concentrate on the relationship between local people and the local police, which should not change. We do not envisage that, from day one, all the good work that is in place the length and breadth of Scotland will change. We can talk about frameworks, governance, processes and the bill, but the critical part is relationships locally between the community cop—or, at the level above, the local community inspector—and the people with whom he or she engages. As important as the relationship between the local authority and the police is, community planning brings a much broader, deeper and richer relationship, because it is informed by a much broader base of people.

Two things are certain: there will be 32 local things and there will be one national service. The issue is the bit in the middle. Whether there will be 32 local area commanders has been discussed. I suppose that, as the committee is scrutinising the bill, it probably will not see the output of the pathfinders that are on the go, as that will be available much later in the year. I think that the pathfinders will inform a lot of practice in the local relationship. What will come from that is a willingness among local authorities to come together and share resources. A commander might be clearly for one area, but he or she might have more than one area.

The issue of rank is a red herring. I was a divisional commander in the east end of Glasgow when I served in Strathclyde. As a chief superintendent then, I had more people than I had as the chief constable of Central Scotland Police. When I went to Central Scotland, a chief inspector was in charge of Clackmannanshire, which is the smallest mainland local authority area. I can guarantee that that individual was much closer to the local authority than I had been. Rank is not the issue; what matters is the relationship, how close the parties are and how well they develop that.

There is also concern that people at a lower level cannot draw down resources. We have a fairly sophisticated tasking and co-ordinating process, which means that, if the smallest is having the biggest problems, we, as the biggest gang in Scotland, will go and help and ensure that the resource gets drawn down to assist. Serious and organised crime and counterterrorism happen in places such as Clackmannanshire and the Highlands and Islands, and the beauty of the new

service is to do with retaining what is best about the current service and developing the capacity and capability that we want for the more specialist services across Scotland. Within that, the chief constable still has to deliver local policing and will still be held to account by the police authority for the delivery of local policing. Therefore, I do not think that there is the wide gap that some might see.

Professor McNeill: I agree with Kevin Smith on the importance and reality of relationships at the local level. A key element is how complaints that are essentially about local relationships are resolved at the local level. In the guidance that I set out last year, I expected them to be resolved as quickly as possible at the lowest possible grade in the police and clearly within the locality. I am delighted that ACPOS is currently taking forward training in dealing with complaints, and I see no reason why that training should not inform the approach of any future Scotland police service in dealing with complaints at the national and local levels.

Anne McTaggart: I am not sure who I will aim my question at, but I am sure that someone will jump up and down—although most of the witnesses will simply look at their feet. Should the bill prescribe the structure and operation of local authority police and fire committees? I ask Mr Laing to answer that question, as he is looking at his feet.

Andrew Laing: I was actually writing down what I was going to say. [*Laughter.*]

Anne McTaggart: That is what I thought.

Andrew Laing: A great deal of care has to be taken in forming the legislation, and a primary principle should be put in place. The question is whom we want to manage the service. I return to the comments about operational independence and the ability to execute and exercise the law. If we want the chief constable to manage the service, we must be careful not to build legislation that constrains that too much or, by default, tries to govern how the service is managed. That is probably a clumsy way of saying that the process is so new that it will have to be given the flexibility to evolve. From HMI's perspective, an important part of that is scrutiny and auditing to ensure that what is intended actually starts to happen. If it does not, recommendations should be made to allow things to flex a little bit and become better. If the legislation is too tight and definitive, the scope to do that will be very much restricted.

Professor McNeill: I agree. A key element will be not only how responsive the local bodies are to stress testing the local policing plans, but how active they are in informing the content of the policing plans.

Councillor Whyte: There must be a fair degree of flexibility, and the pathfinders are intended to look at that. However, there are some areas that I do not want to get lost between the national and the local. For instance, at the moment police boards have responsibility for custody visiting schemes, but there is nothing to tell us what will happen to them, although we will require to have them. We need to meet our international commitments on the right of people in custody to have a custody visiting scheme, but where will such schemes be placed? Even if they are the responsibility of the new authority, will it want to sub-contract the running of them locally to the local authorities? It might well do, because they currently recruit people and have the local knowledge about where people go in the custody process. There is a whole host of issues around that.

15:30

Similarly, on complaints, Professor McNeill's written evidence is clear about the safeguards that must be built in, but he does not mention the work that is currently done by police board complaints sub-committees, which dip sample and look at complaints in detail and then ask questions of the police complaints and standards people about the implications for the general running of the force and about how they ensure that the public get a good response to complaints.

I see nowhere where such work can happen, as things stand. We must not forget about that; provision must be made. If the intention is that the new authority members will do that work, I suggest that their scope for scrutinising complaints in that way will be limited, because there will not be many of them and they will have to cover the whole of Scotland. The work might need to be devolved to the local level, so that we ensure that councillors on local committees look at cases that have gone wrong, as well as having the general view from the divisional commander about how things have gone in the area.

Chief Constable Smith: I want to draw out some of the detail that I think would benefit the bill, some of which I have touched on. I suppose that it is a question of having one's cake and eating it; there is a need for flexibility, but key areas must be clear.

There absolutely must be a link between the local and the national; the bill is currently silent on that and must clearly define the link. It must also set out the requirement for consultation with citizens, to ensure that citizens' voices are heard. There must be a role for elected members, who must be on an equal footing with independent members on the national authority. We need

further clarity and greater comfort about what ministerial direction should and should not involve.

An area that has not been highlighted brings us back to operational independence. The bill states that it will be for the authority to develop the strategic plan for policing. There is a role for the authority and for ministers in determining strategic priorities, but it is for the chief constable to develop and deliver the plan, subject to approval. A key part of operational independence is that the plan should be the chief constable's plan. ACPOS thinks that the bill would benefit from fine tuning in those areas.

Professor McNeill: I make two general comments. First, it is crucial that whoever is a member of the police authority recognises the corporate nature of the work. There are dangers, which are very evident in the experience of a number of oversight bodies. When representative members are put in, quite often their default position is to represent their base, consciously or unconsciously, and the whole principle of fiduciary responsibility goes out of the window. It is of paramount importance that whoever is appointed signs up to working for the police authority in a corporate way.

My second point relates not to my role as Police Complaints Commissioner but to my wider interests. I do not subscribe to the myth of operational independence. Patten put it much more appropriately in Northern Ireland when he talked about "operational primacy". One of the tensions that any police authority at national—and I dare say local—level must confront is the idea of the independence of policing. Policing is about working with and in the community and being informed by the community, but consent to policing must be informed. The whole concept of operational independence flies in the face of that, so I prefer the concept of operational primacy, which is subject to being tested.

John Pentland: I was going to ask questions about relationships and ministerial direction, but both issues have been well covered.

Mr Laing talked about the chief constable having autonomy over their remit, and Professor McNeill talked about operational independence. On this side of the table, we would perhaps say "operational separation".

That leads on to what Councillor Iain Whyte talked about. If the board was autonomous and centrally funded, perhaps it would do the sexy things rather than other things. Are we saying that there should be no political intervention in, or influence over, how the board runs its business?

Chief Constable Smith: Mr Laing should answer that first.

Andrew Laing: Thanks, Mr Smith.

Chief Constable Smith: I heard your name being mentioned.

Andrew Laing: Perhaps I used loose language in my previous comments about operational independence. To be clear, I was throwing out the challenge that we need a better definition of it. We are in danger of having a heated agreement. *[Laughter.]* We need something—it might be called operational primacy—and we need a bill that spells it out.

Earlier, I asked, “What are the police operationally independent of?” It is probably unwise of me to answer that question myself, but, for me, they are not operationally independent of the citizen or the governance body; rather, they are operationally independent to exercise and execute the law. Nobody can tell the chief constable that he must enforce a certain law in a certain way at a certain time.

There are dangers that, as has been mentioned, the powers in the bill would allow ministers to tell the authority how they wanted a particular policy to be implemented and the authority could then tell the chief constable. That would get us into some dangerous operational areas.

I will use an example to exaggerate the point. If the ministerial direction was to police or not police an industrial dispute and the police followed that direction without taking cognisance of the law, we would start to get into some dangerous territory. The stated case law talks about issues with the police having been directed to police or not police certain activities, which were mostly industrial or political.

We need a clear statement in the bill, so that the governing body and the chief constable understand what operational independence is. I am not overly concerned about whether it is described as independence, primacy or something else.

Does that answer most parts of the question?

John Pentland: Yes.

Margaret Mitchell: Section 5 gives ministers the authority to give general or specific directions. I suppose that the key to maintaining independence will be ensuring that, as ACPOS said, the resourcing of the local committees reflects the variations between communities throughout the country. We must also ensure that resources are not transferred to an urban area at the expense of a rural area.

Will the witnesses comment on the apparent lack of clarity on the resourcing and financing of the local committees?

Chief Constable Smith: I drew earlier from my experience in another place. There is a concern that resources will be moved from rural to urban areas—more specifically, to the central belt. I have worked in the central belt, and the concern there is that the resources will be spread even more thinly to the more rural areas. Whether in Glasgow or somewhere much further north, police share the concern that they will lose resources. Our responsibility in developing the new service is to come up with a scientifically based resource allocation model.

There is no such thing as a perfect resource allocation model. Resource allocation models only cause fights between senior officers about who wins and who loses. However, we need a model that is based not only on the incidence, threat and risk of crime—all the aspects of demand—but on need. That is, it should take account of matters such as domestic violence and public protection. We need a sophisticated model that goes some way towards assuring the people of Scotland—locally and nationally—that we have a sound method by which we allocate resources.

However, it is not as simple as deciding what is local, as earlier witnesses said—the local community cop, local patrol vehicle drivers and local investigations. Specialist experience of public protection, sex offender management, counterterrorism and so on is being brought in at the local level. There is the notion that if you protect the local, it will take care of itself, but that is not the case. My hope is that those who think that they might lose resources will start to see evidence of the wider effort of the Scottish police service being brought to bear.

Much of what we will have to deliver through the bill has rightly been thrust on to our shoulders, and we are absolutely committed to delivering it. The notion of maintaining and enhancing the jewel in the crown—local community policing—will stay for ever. However, we need to take that a step further and ensure that the specialist support—the more sophisticated types of policing—is available when and where required. Fortunately, most parts of Scotland do not need that support most of the time.

Councillor Whyte: This is a difficult area to get into. I will comment on some of the questions that COSLA and SOLACE were asked about the resourcing of local committees and how they look at these things. For instance, the current resource model is not implemented properly. The grant-aided expenditure allocation formula has not been updated since 2004, so my policing area is underfunded because there has been population growth and change. Such things will have to be looked at again by the new chief constable and the

force. There must be fairness and proper scrutiny—scrutiny is the big issue.

Police boards' resource in the form of research, back-up capability and training for members is currently underfunded, which probably represents a risk. That was highlighted in Andrew Laing's best-value audits. In Lothian and Borders we have spent more in that area, but we were still asked about it at the end of what was a fairly good best-value report. If all the resource flows to the new Scottish police authority—we do not know whether it will—how will committees hold a local commander to account, compare their area with other parts of Scotland and review whether they should take up a resource, crime rate or solvency rate issue? We need some back-up for that, as it will probably be a big issue for local authorities.

Margaret Mitchell: So, the authority must be accountable and transparent, and resources must be allocated, with details of how that happens. Are there any other comments on that specific point?

Professor McNeill: I endorse what Councillor Whyte has said. For me, one of the key tests for the Scottish police authority will be how it monitors and responds to the feedback that is provided to the local commander by the local authority. The bill provides for the local authority to monitor and give feedback to the local commander on reviews and on any policing matter, and, importantly, to recommend improvements. I am keen to see a duty imposed on the Scottish police authority to justify its response to the improvements that have been recommended to it by local authorities.

Chief Constable Smith: It is critical that we resource locally, and that we maintain that. However, what we are doing here is setting the context for significant savings. If the chief constable has no flexibility to move resources and rationalise them across Scotland, we will not make the significant savings that are needed. I caution that this is all being seen as local, but although local is a big and very important bit, the chief constable and his or her command team must have flexibility, and if he or she is too constrained by 32 demanding bits of governance there will be no capacity to move and rationalise resources, and make the required savings.

Margaret Mitchell: In your submission, you talk about financial arrangements, the inability to hold reserves and a spend-it-or-lose-it mindset, which does not seem a sensible way to proceed.

15:45

Chief Constable Smith: We have talked about some aspects of the way in which the new authority will be set up, ministerial direction and so on. As things stand, we will have a significant VAT liability, although Government is working hard to

resolve that. Furthermore, we have been working hard since 2007 to resolve the SPSA issue. Other issues that arise are limited borrowing powers and the inability to carry forward reserves. National bodies are used to working within that type of framework; we are not. Good strategic management and good risk management in an emergency organisation require a capacity to carry reserves forward, in order to deal with the unforeseen and with contingencies. We have not been party to the considerations up to now, but we feel that, without that capacity, we will be drawn back to the Government too regularly. Being able to carry forward reserves will be a key component of the patchwork of things that will allow us to maintain our operations. I was about to say "maintain operational independence from Government" there, but I mean everything to do with our operations. We should not be regarded as just another national body or just another Government body. Policing should not be part of a Government body.

Margaret Mitchell: We take that key point from your evidence today—that the police are a special case, distinct from health boards or other national bodies.

There has been a lack of detail in regard to dispute resolution. Are you concerned about that—whether it relates to resourcing, information, allocation, or whatever?

Chief Constable Smith: Do we want a complex system of dispute resolution? I think that we want dispute prevention. We suggest that a formal relationship between the local and the national will be key; the local must inform the national, and vice versa. We want dispute prevention, rather than a complicated process of dispute resolution.

If a process of dispute resolution exists, my concern is that it will be used. My mantra is, "For the vast majority of policing, you will see no difference." Things will happen the way they happen just now—through effective relationships and through being able to speak to the next person up the chain. That person will still exist, although in most cases, they will not be a chief constable. Many things will be resolved in the way that they are today—through effective dialogue and good relationships.

Margaret Mitchell: Do you regard the local level as key in the resolution of complaints within the service?

Professor McNeill: Yes. In essence, complaints are about relationships. Most relationships will be at the local level, so it makes sense for them to be resolved quickly at the lowest rank possible. The police have worked closely with me and my staff to make that possible.

Councillor Whyte: If the culture is that the local force commander reacts to complaints from the public, there is an oversight role locally, through police boards, to ensure that complaints are handled properly and issues highlighted. Members raise issues relating to their own areas, and I am sure that that will continue. Feedback is very important in local scrutiny.

Kevin Stewart: Given what Councillor Whyte said, I will say that I come from an area in which the police board has always been underfunded and has only recently made some headway. However, I do not want to be too parochial.

I want to ask about resource allocation, and Chief Constable Smith has talked about the amount of time that has to be spent on what is a somewhat sophisticated system. Would it not be better to import best practice from across the country, before you fiddle too much with resources?

Chief Constable Smith: If anything in my evidence made you suspect that we were going to fiddle with things from day one, let me reassure you. Day one of the new service will be about low risk and soft landings. If a person needs the police, I hope that they will notice no difference. The badge, the logo on the car and the introduction on the telephone will be different, but, by and large, I hope that there will be no difference. On the new chief constable, the new era and the development of the new resource allocation model for the future, the resources in your or any other area will largely be the same as they are at present.

Kevin Stewart: I am glad to hear that. Personally, I am not that bothered about badge changes. I am sure that they will be followed through.

My second question is for Councillor Whyte. How many council leaders or senior councillors currently sit on police boards?

Councillor Whyte: I am unaware of the numbers throughout Scotland. I can speak only for my own police board. Its members are not all council leaders, but we have dialogue with other council leaders. In Edinburgh, both the council leader and the deputy council leader are members of the police board.

Kevin Stewart: I will turn to Mr Laing. Certain best-value reports state that there are not enough senior folk on a number of police boards throughout the country. Am I right in saying that those areas for which the best-value reports were not so good had no senior councillors on their boards?

Andrew Laing: Yes. The picture is mixed across Scotland. Councillor Whyte has rightly

identified the position in Lothian and Borders. There are areas in which council leaders and deputy leaders are not on the police boards. The selection process is a matter for the constituent local authorities. The notion that there may be a hierarchy in relation to how councillors are appointed has been mooted in the past. An important issue for the future, particularly as we approach local government elections and a transitional period, is the challenge of who will fill the posts in the interim period. We need to pay close attention to that over the next few months.

Chief Constable Smith: Just for clarification, the leader of Stirling Council sits as a vice-convenor on the central Scotland joint police board.

Professor McNeill: I will go back to the issue of police boards and the continuous improvement of complaints handling. I have been heartened by the willingness of the conveners forum and police board members to work closely with my office over the past year or two. That has been particularly apparent in the dip sampling to which Councillor Whyte referred, which identified a number of concerns. A crucial element has been the willingness of a number of boards—one in particular—to stretch the current legislation to resolve an issue that their dip sampling had identified. I am confident that, if we are clever about this, we can get an axis between the police authority, local authorities, the police investigations and review commissioner, and the command team—the police in general—that will drive up the standards of complaints handling and confirm confidence in policing throughout Scotland.

Bill Walker: This might be the final question. I was heartened to hear Kevin Smith mention earlier that an inspector or chief inspector would be the local commander to look after Clackmannanshire. I live near there, and that is good.

The position of local commander will be at the heart of the system and will be very important. I would like to ask Gillian Campbell about that—it is about time that she was asked a question, because she has not been asked many at all. This is a completely unscientific finding, but I have met many officers and have found that, although those above the rank of chief inspector—such as superintendents—are all wonderful people, they do management and planning jobs that are a bit remote from community work. I hope that a lot of chief inspectors and superintendents will be involved at local commander level. Will there be a need for human resources training to ensure that superintendents, who have a high-powered job, are more community oriented in the local commander structure?

Gillian Campbell: My role is in the SPSA, which has no police officers. In effect, we provide a range of services on a national basis—forensics, information and communications technology and training—to the police forces. We look at training for all the ranks, and just now we are looking at what will be needed for change management to help to skill and prepare officers of all ranks for the significant change that they will need to deal with. It is well understood that there will need to be a real focus on the training agenda and what needs to be delivered, which continues to evolve, as we understand how the picture is evolving. Significant work and thought has already gone into what the training requirements will be for skilling and ensuring that we have the right structure.

Andrew Laing: Perhaps I can introduce a cautionary note. The local commander will have a vital, pivotal role in policing partnerships, communities and building the relationships that have been talked about all afternoon. However, as an inspector of constabulary I am slightly concerned that if we see the development of community planning partnerships and another body at local level—a police committee—to hold the local commander to account, most of the time will be spent in servicing those bodies. There is a vital job to be done at the back of that and real care must be taken not to build in a level of bureaucracy that inhibits that job.

To put that into context, we have talked a lot about accountability, but it is only one part of the system of governance that will emerge. There is direct accountability at Scottish police authority level, but there are also levels of external and internal scrutiny and levels of inspection and audit jointly with inspection and audit agencies. There will undoubtedly also be a raft of internal and external performance measures. That ambit of measures should provide a good system of governance overall without the need to burden local commanders by having them answer for every detail.

A significant amount of effort and industry rightly goes in from both sides to servicing eight police authorities at the moment. I am concerned about the bureaucracy that might be invoked by projecting that into 32, plus one national body.

The Convener: Are there any thoughts on those points?

Councillor Whyte: I hope that this committee will note the concerns about the potential costs of the proposals. Margaret Mitchell asked about the resourcing of local scrutiny, which is a real concern. Local authorities will have to be left with some resource once transfer takes place to allow them to undertake scrutiny. To properly run a committee a clerking system is needed as well as research and policy support. Within councils, there

must be responsibility allowances for a convener and vice-convenor. All such aspects involve a limited use of resources, but they must be thought about, quantified and put forward. I am not sure that there is anything about those in the financial memorandum at present. The committee's assistance to local authorities on that issue would be helpful.

I did not get a chance earlier to say anything when somebody asked about dispute resolution. Like others, I am not sure that we need a formal system, but there probably needs to be a way of bringing in some outside advice and help for such situations. At the moment, it is partly the job of Mr Laing, who is sitting on my right, to provide independent, professional policing advice to the Government and police boards. I think that that would be an appropriate place to start in considering whether a policing plan is appropriate on a professional basis.

Anne McTaggart: It is not like me to try to defend the police, but anyway. There was reference earlier to terms and conditions and people being moved around. Perhaps I have not listened properly, but I have not heard anyone mention terms and conditions or contracts. Are the unions involved?

16:00

Chief Constable Smith: You are asking about what will be the most important area of work, because we have eight police forces, the SPSA and the Scottish Crime and Drug Enforcement Agency. I am sure that Gillian Campbell can speak much more knowledgeably about the issue than I can. There is huge variety out there, and a major part of the reform programme will be about the harmonisation of terms and conditions. That will be a significant piece of work.

It is not just about day one. The work will run for some time thereafter and has been budgeted for in the business case—it will come with a cost. The responsibility for the transfer of staff rests with the Scottish Government, but significant effort will be needed from the service—the forces and the SPSA—to ensure that things happen for day one. A complex piece of work must and will be done.

Gillian Campbell: From an employment law perspective, a number of things need to be taken into consideration in the context of contract harmonisation. On its formation, the SPSA had its own set of terms and conditions and policies, and eight other sets came in. It took four years for the position to be resolved so that we had a harmonised set of terms and conditions.

The scale of work and the amount of negotiation and consultation that is involved should not be underestimated. I hope that we have learned a

number of lessons that can be taken forward in the new police authority, so that we can expedite the process, but employment legislation must be taken into consideration in relation to the timing and delivery of changes.

Margaret Mitchell: A big reason for the proposal to move to a single police force is that savings will be made. To what extent will the bill place additional costs on local authorities? Councillor Whyte touched on costs of administration in relation to contracts, and the submission from the Scottish police authorities conveners forum mentioned costs. Concern has been expressed about resources being moved from local level to the new national authority. Specialist knowledge and expertise might have to be replaced at local authority level, for example in relation to camera safety partnerships. Will the witnesses elaborate on that?

Councillor Whyte: I mentioned the cost of running local scrutiny committees. Under the new arrangements, in Lothian and Borders we would have five committees instead of a single police board, which would create an additional cost to be spread between the local authorities. The authorities currently pool their resource; it goes into the police board budget and is top sliced, and we then buy back the resource that we need—mostly from City of Edinburgh Council, although it could be from any of the constituent authorities—based on time. The new arrangements will multiply all that by five. Of course, resource also has to go to the centre, to run the police authority and the force headquarters.

There will be savings on the policing side. My view is that some of those are heavily constrained by the requirement to keep to policing numbers, which includes numbers that local authorities and others are paying for, and by the Government's policy of no compulsory redundancies. So far, police authorities have made savings through voluntary redundancies, but I wonder when we will reach the limits of that approach and it will be no longer feasible.

Margaret Mitchell: Do other witnesses want to comment on the potential for additional costs at local level?

Chief Constable Smith: I can give a specific example. The business case looked at savings of £2.5 million per annum for the police through the transfer of the function of traffic wardens to local authorities. I cannot see how that is a saving; if we transfer the function I imagine that local authorities will look for the salaries. Even if there is a saving for the police there will be a cost to another part of the public purse. There are other functions in that regard—I cannot remember the detail.

We need to ensure that a measure that is counted as a saving for the police does not simply place additional pressure on the local authority. Traffic wardens are a specific example—if all the organisations are put together I think that we are talking about £10 million, £20 million or £30 million, which is a fairly significant sum.

Andrew Laing: I reiterate what I said about the dangers of the bureaucracy that 32 local committees will create. The pathfinders projects that are established will try to develop some of the detail around the issue. It might be inevitable that we end up with 32 local committees and that the financial cost of running them and the cost in terms of demands on local commanders' time will be significant.

The Convener: If there are no further questions, I thank the witnesses.

16:05

Meeting suspended.

16:15

On resuming—

The Convener: I welcome our third panel of witnesses. It is another large panel so, if the witnesses indicate to me when they want to speak, I will try to ensure that everybody gets the opportunity to feed into the discussion when appropriate.

The witnesses are: Chief Superintendent David O'Connor, president of the Association of Scottish Police Superintendents; Donald Urquhart, chair of the Scottish community safety network; Calum Steele, general secretary of the Scottish Police Federation; George McIrvine, vice-chair of Unison's Scottish police committee; and Professor Nicholas Fyfe, director of the Scottish institute for policing research at the University of Dundee. You are all extremely welcome.

I will kick off with the same question that I asked the previous two panels of witnesses. What are your thoughts about the make-up and size of, the appointments process for, or any other aspect of the proposed national boards? How might the proposals be improved?

Chief Superintendent David O'Connor (Association of Scottish Police Superintendents): There is a clear view among our members that some form of democratic accountability needs to be built into the new Scottish police authority board. Indeed, there must be a link from the national authority back into the local policing areas.

A board membership of between seven and 11 is proposed in the bill. Would that be sufficient to

handle the business that the authority will undertake? Given the task that must be undertaken, particularly in the early years of reform, should those posts be full time? Police reform is not only about 1 April next year; it will probably go on for a number of years thereafter.

Donald Urquhart (Scottish Community Safety Network): Some of the previous witnesses covered some of the issues about which the Scottish community safety network is concerned. However, community safety partnerships are concerned about the separation between ministers, the board and operational delivery.

The proposed size of the police authority board will not enable appropriate representation that reflects all 32 local authorities or local community safety partnerships. Although we would not expect one board member per partnership, a larger board might better reflect the variation across Scotland and enable that to be reflected more accurately in some of the board's decisions.

Calum Steele (Scottish Police Federation): The SPF's views largely mirror those that Kevin Smith presented, with a heavy leaning towards John McNeill's comments—we do not consider the two points of view to be in any way contradictory.

We consider a board of seven to 11 members to be far too small. Policing, probably like nothing else in the world, holds a fascination for the general public that is almost difficult to comprehend—I suspect that it even goes beyond the current vilification of bankers. There are three areas on which everybody in the street has an opinion: policing, football and the family. Given the interest in the police service and the expectations that are placed on it, a board that could be as small as seven members—or even a board of 11—would not have the resilience to deliver all that will be expected of it.

George McIrvine (Unison): Unison echoes what the federation and many others have said. The numbers proposed—seven to 11 members—are not enough to cover a national board; we should be thinking about 15 plus.

One of the key principles of the Christie commission on the reform of public services is that a service is built around the people and the community in which they reside. Public reassurance could be affected if the board is seen to be small and not reflective of the community, and that may have a negative effect on democracy and the democratic process. That is Unison's view.

Professor Nicholas Fyfe (University of Dundee): I echo and endorse a lot of what has been said this afternoon, but I want to add something that we set out in our written evidence. We could assess the board's role and

effectiveness against a set of democratic criteria. I particularly highlight the distribution of power in the board and the balance between the national and the local.

Various people have highlighted the issue of access to information. Will the board be wholly reliant on information that is provided by the police service, or will it have an independent capacity to gather information about citizens' views on policing and police effectiveness? It is crucial that the board is resourced in a way that allows it to engage in a deep and rich dialogue with the police about the delivery of policing.

My final point is about participation. How will the board encourage wider community and citizen participation in debates about policing locally and nationally? Dialogue and drawing a wider constituency of people into the discussion about what makes good policing in Scotland is definitely a good thing.

The Convener: I return to David O'Connor and the idea of the board perhaps being full time. Should the whole board or only some of its members be full time?

Chief Superintendent O'Connor: In the early days, given the significance of the new police authority's task and the scope of its work, there will have to be a clear focus on getting Scotland's new police service up and running in order to do the job justice. I am not sure what other commitments the potential appointees would have. The point was made that the work will probably take a couple of years.

The Convener: That is interesting. Obviously, it would be difficult for local councillors to have that work as a full-time commitment.

David Torrance: I return to my original question on community planning and engagement. How does the bill affect that? Will it restrict or enhance it?

Chief Superintendent O'Connor: We clearly have a real focus on community safety but, as a result of the local commander's role in community planning—many of our members will probably be designated as local commanders—there will be the potential to improve local community planning and engagement. I agree, however, with previous comments that have been made about the need for links into local community and strategic planning. There has been a great deal of focus on and discussion about local commanders—potentially 32 of them—being involved in community planning, but we must consider that some problems will transcend boundaries and consequently we may need to consider community planning arrangements across a number of local authority areas. I sense that some of our discussions will need to go in that direction.

Calum Steele: I will pick up on Kevin Smith's earlier comments about local community policing being in our DNA. We do not need legislation to tell the police service how to engage in community planning; we would do that regardless, even in the absence of legislation. David O'Connor's point about going beyond the local authority element is important. Again, I suspect that, almost without the requirement for legislation, circumstances will evolve to enable that to happen.

Donald Urquhart: I am conscious of what Andrew Laing said about the danger of the local commander being so closely involved with the local bureaucracy that he or she ceases to be able to undertake an effective operational role. There are a number of established local partnerships, such as child protection committees, alcohol and drug partnerships, community planning partnerships and community safety partnerships. Their make-up and effectiveness vary significantly. We would like a means of engagement that is effective and improving, so that services such as community safety are delivered much more effectively locally. However, as a retired police officer, I say that it is important to ensure that that does not impact negatively on operational delivery. Appropriate strategic involvement locally is key.

Bill Walker: I hope that David O'Connor will remember that I said to the previous panel that superintendents are all very nice people.

I am very much in favour of the whole thing, but its success on the ground will revolve around the local commander. In Fife, we have good relationships through our structure of ward and area committees. I meet a lot of people up to the chief inspector level; I made some comment, which I hope was not disparaging, about superintendents getting a little bit airy-fairy.

Superintendents and chief inspectors will play a large part in the local commander function. Will you reassure us that that is the right way to go? I am sure that it is. Do you agree that it would be good to look at how the arrangements operate in west Fife—you are welcome to come to Fife any time—and particularly at the community engagement model, which is good? We do not want to lose that but, as I said to the first panel, I hope that we can improve things upwards, rather than downwards.

Chief Superintendent O'Connor: Contrary to what Councillor Grant said, superintendents supported the establishment of a single service during the consultation exercise.

On your point, part of the consultation exercise was that we need to focus on building the new service from the community up, with local commanders who lead local policing teams from local police stations that provide visible and

accessible response policing that is subject to local accountability and governance. It is right that there is much discussion about the top-down approach to the strategic framework, the new Scottish police authority and the chief constable's role and responsibilities, but we must have a balance. To maintain service delivery, we must build the new service from the bottom up.

You are right—a number of our member superintendents and chief superintendents and some of our Scottish Police Federation colleagues are already local commanders and provide such a service across Scotland. There are many examples of good partnership working. Police performance has never been better and we need to draw on all the positive experience of local partnership working and local policing. As I have said before, policing in Scotland is not broken, so let us not try to fix it too much.

Donald Urquhart: One key challenge for community safety partnerships at present is dealing with the speed and frequency of changeovers of individuals in local policing arrangements. We see an opportunity to address continuity of membership on some of the key partnerships that we have spoken about, such as community safety partnerships and child protection committees. People in such partnerships can begin to develop an effective working relationship with their local police contacts, but when those people are—for understandable policing reasons—moved on, the partnerships have to spend considerable time on building up new relationships. That can have a significant negative effect on a partnership's effectiveness. We can never expect guarantees, but we look for reassurance that continuity will be maintained as much as it can be, to ensure that partnerships are as effective as they can be.

16:30

Calum Steele: If any partnership or relationship is built on the rank of the officer, it is built on the wrong thing. Relationships and partnerships surely work most effectively because of the personalities of the individuals involved. I have not yet found a situation where the rank of one person makes them any more informed or better placed to take their place in a partnership than any other individual.

In a past life I served in remote and single-officer stations. I am pretty sure—I would certainly like to think that it was the case—that the community in those areas felt that they got a particularly good service because there was a police officer there and did not think that the service was in any way diminished because the officer happened to be a constable.

By the same token, many local authorities are served by chief inspectors and many island areas are served by constables in their own right. I am sure that the individuals in those areas very much consider themselves as the chief constable of Barra or the chief constable of Comhairle nan Eilean Siar, Orkney or Shetland and that there is no diminution in the service or the relationship as a consequence of the arrangement.

Professor Fyfe: A footnote to that response is that we have just carried out a piece of research evaluating the Fife community engagement model. The model is well received by the community across Fife and one reason that it works so effectively is that it encourages a problem-solving approach to be taken locally, because it deals with issues that local people bring to the meetings. Such issues are often not to do with crime but with disorder, antisocial behaviour, youths hanging around and so on.

The model creates a very intense form of local accountability. The officers have to keep going back to the meetings every two months and members of the community ask what actions have been taken. Although we are talking about much bigger structures of accountability, it is important not to lose sight of the local infrastructural accountability that operates through such meetings.

George Mclrvine: Another issue with regard to community planning is funded posts. A lot of posts are currently funded, be it part time or 100 per cent, by local authorities. The posts and services include mobile closed-circuit television, community intelligence analysts, researchers, safety camera partnerships and the like. That also needs to be looked at. What happens when we move to one national board? Where will the money come from? Will we retain those services?

John Pentland: My question follows that response. Gillian Campbell, who was a witness on the previous panel, answered Anne McTaggart's question about the transfer of employees, which was more related to the police. Are there existing local variations or employment agreements that should be taken into account in transferring local authority staff—which I think you touched on—to new services? What needs to be considered in transferring local authority staff to the new services? I was a wee bit surprised when Gillian Campbell said that it took four years for that to be dealt with when the SPSA was set up.

George Mclrvine: That is not my recollection; it happened much more quickly than that. At the inception of the SPSA, the employer and the trade unions came together admirably on harmonisation of terms and conditions of employment. If we do the same again, I do not think that there will be a problem and it will not take four years.

There is a lack of clarity and detail on where we are with the reform group. I cannot comment at this juncture on where we are on harmonisation, but I hope that we will be able to give an update on it soon.

John Pentland: Does anyone else have a comment on the transfer of local authority staff?

Donald Urquhart: I am not sure that my comment is necessarily about the transfer of local authority staff, but one issue is funding for additional officers in specific roles—Barbara Grant mentioned campus cops, for example—and additional neighbourhood policing, which is funded either by community safety partnerships or by local authorities. There is a lack of clarity about how such funding will be carried forward through the transitional period. I recognise that budgets and responsibility for finance will be shifting. It will be interesting to see whether local authorities will still be in a position to fund additional services, should they feel that there is a need for them because of local circumstances. A bit of additional detail on that might be helpful.

Chief Superintendent O'Connor: I will make a point about police officers. There will certainly be areas of the bill that we will scrutinise in terms of the impact of the changes on officers' terms and conditions. We have heard that officers will transfer into the new service with their current terms and conditions, and we will carefully consider that over the weeks and months ahead. One thing that the bill proposes is the dissolution of the Police Advisory Board for Scotland, and we will seek clarification about what will replace it.

Anne McTaggart: I will ask a different question this time. Is that okay? [*Laughter.*]

You have all been here for most of the afternoon and we have spoken about the impact on communities, but I want to ask you about something that has been mentioned in the press and in documents that we have read: the projected loss of 2,000 police staff posts over the next three years. Do you see that having an effect on the police service of Scotland and, if so, of what kind? What impact could it have on local authorities and communities?

Chief Superintendent O'Connor: I will start—again.

Anne McTaggart: I was hoping that you would.

Chief Superintendent O'Connor: The reform process has been built on making efficiency savings, and such savings normally lead to financial savings, which ultimately lead to cuts in people's jobs—in this case because 84 to 86 per cent of police funding is spent on staff. The Association of Scottish Police Superintendents believes that the new model must be predicated

on a balanced workforce, which means a balance between police officers and police staff, with the right people with the right skills doing the right jobs at the right time. We have a lot of highly experienced, competent and skilled police staff and we need to maximise opportunities to retain those skills.

Anne McTaggart: Would it be wrong of me to talk about the 2,000 posts that I have read about, but which you have not mentioned?

Chief Superintendent O'Connor: The figure has been mentioned in the context of the reform programme. I sense that we need to take this one step at a time. It will be key that we maintain service delivery during the reform programme and, critically for us, that we maintain staff confidence and morale. I am sure that George McIlrvine can respond better about the fears among police staff.

We believe that as we build a new model for Scotland we must have that balance, with highly skilled, experienced and trained police officers out in communities exercising their core functions and police staff providing the other valuable services that are needed to deliver the complete new model.

The Convener: We are moving into an area that is probably for the Justice Committee, but it is only fair to let George McIlrvine in on this point.

George McIlrvine: We are hearing about being truthful and transparent, so I will give a simple answer: there most certainly is an impact. You cannot get rid of 1,000 posts through early retirement, voluntary redundancy and the non-filling of posts without there being an impact on services. I will just give a wee example. You are talking about 1,000 times 36 hours a week, and that is a lot of policing hours. We talk about the 17,234 police officers but not about the 5,000-plus police staff; near enough one in three of the police family are staff but we never speak about them. There is a wide range of specialised and administrative support posts, including forensic scientists, scene-of-crime officers, intelligence analysts, control-room dispatchers and custody staff.

The conundrum is that police reform requires that efficiency savings be made within the constraint of maintaining 17,234 police officers and having no compulsory redundancies. My and Unison's view is that something has to go. We are effectively decivilianising Scottish policing as we know it, which is unfair. Davie O'Connor touched on the reason why we brought civilianisation in, which was to bring the right people with the right skills to the right jobs, but we are not doing that and we are going to lose it.

Following the Winsor review in England and Wales, we hear about the balanced workforce and

we see cuts in the numbers of police officers and police staff. What we are seeing in Scotland is the Winsor review being adopted, but only for police staff. It might not affect terms and conditions, but it has an effect in terms of job losses.

Professor Fyfe: I will make a brief point on that. A group of police staff with whom we work closely consists of crime analysts, performance analysts and intelligence analysts. They play a crucial role in the provision of effective intelligence-led policing and we have built up a lot of expertise over the past few years by using such analysts. It seems to me to be a backward step to start not to use such people, who can help to deploy resources effectively and build an evidence base for policing practice and so on.

Calum Steele: I understand the sensitivities in the debate. The requirement to save money is evident across all areas of public life and, indeed, all areas over which the Government reaches. I understand the focus on the 17,234 police officers but, as is always the case, it depends on what the starting point is. In the 10 years before the pledge on 1,000 extra police officers—between 1997 and 2007—police officer numbers in Scotland increased by only 8 per cent, while support staff numbers increased by 71 per cent. That was undoubtedly in large part a consequence of how the police service has evolved.

I have always said—our written submission makes this clear—that we should not look at what the job is or who does it, but at why the job is done in the first place. I suppose that in many ways that links neatly back to the various discussions that have taken place about the information that is to be supplied locally at the local authority centre through the police boards, and about where expectations are to be laid. We could find ourselves in a situation in which every local authority and the proposed Scottish police authority want to hold the service to account, so it is spending so much time being accountable that it is not delivering the service.

Donald Urquhart: I have to be very careful about what I say, because I am married to a member of the police support staff.

I was at the Scottish community safety convention this morning, at which the Minister for Community Safety and Legal Affairs and Colin Mair from the Improvement Service talked about changing the way in which we look at community safety in general. There is no doubt that communities would be concerned if they were to see a significant reduction in the numbers of police staff, which includes police officers and support staff, who fulfil an important function.

One of the issues that we will have to come to terms with, against the backdrop of significant

financial reductions, is how we will engage with communities so that they police themselves more effectively with the support of the proposed new police authority and a number of local partnerships that are in existence already.

As Barbara Grant said, we are where we are, but we undoubtedly need more detail. We need to start thinking about how we can put what is proposed into effect in the most beneficial way for communities. We need to reassure people that although there may be reductions in police staff, there are better and more effective ways of delivering safer communities for Scotland. That would be one of the things that partnerships would seek to achieve.

Margaret Mitchell: A number of the submissions from the panellists, including those of the Scottish Police Federation, the Association of Scottish Police Superintendents and the Scottish community safety network, stress the importance of retaining political neutrality and operational independence for the police. The SPF goes a little bit further, and states:

"We are concerned that the Bill proposes changes to accountability and governance which could affect operational independence and amount to inappropriate political direction."

The key issue seems to be resourcing of the proposed new Scottish police authority and local police committees. Can you comment further on that?

Calum Steele: I think that points about the SPA have been largely covered by Kevin Smith, including points on the ability of a committee with between seven and 11 members to discharge all its functions—which tied in nicely with Barbara Grant's comments about incapacity.

As we intend to say to the Justice Committee, if we have to suspend a member from the SPA, the authority's relationship with the chief constable will have to be clear. To expand on that, it can be argued that, by default of a ministerial direction to the board, the board itself would give a downward direction to the chief constable, which has the potential to cause significant difficulty.

16:45

I think that many of those who have attended this meeting would agree about operational independence; I am mindful of Andrew Laing's comments on that. The key element for us is that we would hate to see anything that would result in a diminution of the chief constable's operational independence. That relates to the master-servant relationship between the local commander and the chief constable or, indeed, the local authority.

Chief Superintendent O'Connor: Building on that, Mr Smith talked about seeking clarification on ministerial direction. We have heard about operational independence, operational responsibility and operational primacy, as well as about accountability. I sense from the bill that we need to clarify what all those things mean to the men and women who actually go out and provide the service. The one thing that has been missing in the debate so far is recognition of the fact that we are held accountable for our actions by the courts—that is what people need to remember. When the men and women who go out and deliver the Scottish police service day in, day out decide to do something, the first thing in their minds is that they will be held to account for their actions by the Scottish courts. That is true of the constable, the commanders and, ultimately, the chief constable. The operational independence and operational neutrality that police officers need in order to apply the law—Mr Laing also mentioned this—are a fundamental part of case law that has been handed down from generation to generation. We need to seek clarity about what all this means. The local commanders among my members will certainly seek clarity.

Margaret Mitchell: Will you underline the special case, in policing terms, for a national police force, as opposed to the case for other national bodies?

Chief Superintendent O'Connor: As agents of the Crown and as officers of the law, we have a duty to enforce the law. In that respect, we are different from other parts of the public sector.

Donald Urquhart: One of the difficulties in working with a number of partners in communities is their lack of understanding of what the law actually means and how it can and cannot be applied. Andrew Laing's comments were helpful in terms of understanding what operational independence actually means, and greater clarification of that would be helpful. Sometimes, there is a fundamental misunderstanding of what the police can and cannot do, and that can get in the way of effective partnership working. That being made clearer might contribute to far more effective partnership working at local level.

Margaret Mitchell: On the resources issue, it is fundamental that you have the resources to do what you want to do. The Scottish police authorities conveners forum mentioned that it would not be able to keep reserves from year to year in order to use funds in the way that it wanted; other financial restrictions have also been noted. Moreover, Unison wrote:

"More detail is required on the issue of local budgets and whether or not there should be some funding specifically set aside for this."

Perhaps those issues need to be teased out a bit. Resourcing and funding are key to accountability and transparency, keeping the local links that we want, and achieving a good partnership between national and local forces.

Donald Urquhart: The resourcing of the police service is not just about financial resources; it is about people resources, too. Kevin Smith talked this afternoon about the fact that the police are the biggest gang in town, and we must get across to local communities the need to be able to mobilise that gang and shift them to where the need is greatest. We would like the service to be responsive to local needs and to see additional resources brought in, where necessary, to supplement what is available immediately locally. If the service is responsive in that way, that will reassure people much more effectively.

As for the financial issue about reserves, I do not think that the community safety network would feel well placed to comment on that at this time.

Margaret Mitchell: Would anyone else like to comment?

Calum Steele: There is a logic to saying that the inability to carry reserves will result in what we used to see in local government for a long time before councils had that ability—come the middle of February onwards, everything started to smell of paint. That might be fine from an estates maintenance point of view, but we all know that it is not the best use of resources.

Some areas of the bill will confer on the national police authority the ability to form businesses, and there is a question in my mind whether such a business could borrow money in its own right. That could provide some capacity at a national level for the service to think creatively in ways that the legislation had not intended. I appreciate that that does not help the local situation, but it seems that the removal of some of the burden from local police boards and authorities, where they exist, to the more strategic elements of the new authority should free up the 32 authorities to direct some of their time and resources towards the issue.

It is odd, however, that local authorities say that things must come with additional responsibility money when, within the police service, we just get on and do things regardless of what we get paid. I would like the police service to get that additional responsibility money, as I suspect that I would be quite well paid on the back of it.

Chief Superintendent O'Connor: As commanders, many of us have grown up not only making operational decisions about local service delivery and achieving policing priorities, but making the financial decisions as well. When carrying out policing in any area, we must have a clear focus on service delivery and what we are

seeking to achieve; however, in those parts of the country where there has been devolved management and devolved budgets, we have also had to make the financial decisions locally. We will want to know how those devolved budgets will operate in the future, because I sense that the financial decisions will have to be made right up there alongside the policing decisions.

Margaret Mitchell: Would Unison like to comment, given that you have specifically mentioned local budgets?

George McIlrvine: As we state in our written submission, we require more detail on that. My comments follow on from what Davie O'Connor just said about the policing budget having to balance with the financial budget. I have spent 25-plus years in Tayside Police and have worked under different divisional commanders and heads of department who have spent their budgets differently. As Calum Steele said, sometimes you can smell the paint in February and March. There needs to be a balanced and consistent approach across the new force so that the budgets are spent properly.

Margaret Mitchell: So, there is a scrutiny angle, too.

George McIlrvine: Yes. Absolutely.

Kevin Stewart: Let us return to the question of accountability. Mr O'Connor said that the police feel accountable to the courts. Do your members feel accountable to the existing boards, or are they far away from them?

Chief Superintendent O'Connor: Just now, a number of our members participate in the presentations of the police boards and police authorities across Scotland. A significant number of our members also have greater engagement with local community representatives and local councillors at divisional and sub-divisional level. Indeed, a lot of the issues, the police priorities and the matters that need to be resolved are dealt with through the arrangements that are in place before they come to police boards and police authorities. There is an opportunity to look at good practice in the work that is going on and build that into the new service.

Kevin Stewart: So you are more accountable to communities than you are to police boards. I am sure that that would continue, no matter what.

Chief Superintendent O'Connor: Absolutely. The new committees, however they look—it depends on what the pathfinders come up with—will certainly have more engagement with local authorities. There will be more democratic accountability and more reporting. There is a lot of good practice out there already. I have been a divisional commander in two divisions, and that

work has been going on in the service for some time.

Calum Steele: To a large extent, I echo what David O'Connor says. There is a subtle but distinct difference between accountability and governance. Beyond the fact that police officers are accountable to the courts, they are unique in that they are accountable for every single action and inaction. That applies from the moment that they are sworn in until the moment that they retire—it is not as simple as being from when they turn up at their shift. If a member of the public phones, it is expected that an officer or officers will be able to give information back to that member of the public.

My observation on the operation of police boards is that it is more in keeping with the comments of Professor McNeill: they tend to receive an account more than hold to an account. The most effective members on police boards and authorities are those who undertake the very relationships that David O'Connor mentioned; often, they seek out the views of the elected representatives of the Scottish Police Federation or indeed the local commanders before they attend. As I said, such things do not have to be legislated for—they either exist through personalities and relationships or they do not.

Kevin Stewart: Gumption.

On resourcing, there has been talk of things changing, but the reality is that they will probably change very little. As far as I am concerned, national Government already sets police budgets. We have discussed the ability to hold reserves and so on.

My question is directed mainly at David O'Connor. If local police commanders were given their own devolved budgets, would a bit more gumption come into play, with joined-up thinking with local authorities and other bodies to stretch out the budget that bit further?

Chief Superintendent O'Connor: Yes. As divisional commander, I operated under a devolved management system in which the budget, by and large, was decentralised and went out to the local commanders to provide a policing service in their communities. The local commanders were held to account for the way in which the finances were spent, but they were also held to account for performance. As I said earlier, we cannot and should not separate our operational decisions from our financial decisions, because everything comes at a cost.

Margaret Mitchell: The Scottish Police Federation believes that

“unless some definition is created the local authority role in policing could be subject to thirty two different

interpretations and potentially place an undue burden on local commanders.”

It goes on to say that that could lead to “enormous bureaucracy” and that

“there is no mechanism for resolving disputes.”

It is not clear where the primacy would lie in a non-approval situation. Will you say a bit more about that?

Calum Steele: I am absolutely clear that the primacy in policing decisions rests with the local commander or, in the event of a dispute, with the chief constable. That is the nature of policing. It always has been and always should be.

The issue of the 32 local bureaucracies was rather succinctly covered by Kevin Smith and Andrew Laing when they referred to the fact that we cannot legislate for the mechanisms that are to be put in place to such an extent that they hamstring the organisation from delivering the service.

We may be very good at producing glossy books and brochures to satisfy local authorities, but we tend to miss the point somewhat because, ultimately, what matters is the service that is delivered to the public. If the local commanders are going to spend their time going in and out of their local council headquarters night on daily, they will not be in a position to ensure that policing is delivered as effectively as it should be.

17:00

Margaret Mitchell: So the definition in section 46 should be clarified or made more specific.

Calum Steele: Section 46—I am working from memory, which is dangerous to do—

Margaret Mitchell: It is the definition of the local authority's role.

Calum Steele: Yes, it would be useful for that to be clarified.

Chief Superintendent O'Connor: We must remember that the police service is a disciplined service. We operate in an environment of command and control. Ultimately, commanders will be responsible to the chief constable for that discipline and for the command and control.

We need to be clear about how the local policing arrangements that are set out in sections 46 to 48 will work. I have no doubt that the officers who go out and provide that service in local communities know that they will be accountable to their sergeants, inspectors and local commanders, who, ultimately, will still be accountable to the chief constable.

John Pentland: Do you have any concerns about the variation between areas in the seniority

of local commanders and senior officers? Should there be a direct relationship between local authorities and the governing boards of the police and fire services?

Calum Steele: I answered that question earlier. The answer is no, we do not have such an arrangement just now, but I am pretty sure that Comhairle nan Eilean Siar, Orkney Islands Council and Shetland Islands Council would not say that they suffered as a consequence. Relationships and the ability to function do not depend on the rank of the individual who happens to be in command of the area.

Chief Superintendent O'Connor: The important factors are the roles, responsibilities and spans of command within the local areas. It is clear that the 32 local authorities are of different size. Consequently, one size will not fit all in the new structure. Therefore, it would be wholly wrong to focus on the ranks of local commanders. We need to consider the span of command and control within the different local authority areas.

Donald Urquhart: For community safety partnerships, it is important that, whoever the local commander is and regardless of the rank that they hold, they have the delegated authority to make local decisions to satisfy the local plans as they meet local needs and requirements.

Effective partnership working is down to individuals understanding what partnership working is about. It is about using gumption—Kevin Stewart used that word—and being able to back that up with the authority to make decisions that can be implemented locally on behalf of the service, if the need arises.

Professor Fyfe: I will make a brief comment about rank, roles and responsibilities. Recently, we did a piece of work in Northern Constabulary on policing in remote rural environments. Officers of a relatively low rank there have to develop a striking range of skills because they work in isolated communities.

At an event that we ran, somebody asked the participants whom they would rather have working on their team: a sergeant who had worked their whole career in an urban environment or a sergeant who had worked their whole career in a rural environment. They all said that they would prefer the person who had spent their time in a rural environment because of the responsibilities that they would have had to handle. That is interesting.

The Convener: There are no further questions, so I thank the witnesses.

17:04

Meeting suspended.

17:07

On resuming—

The Convener: We now have the final panel of witnesses for today's lengthy evidence session. I am pleased to welcome Councillor Bob Band from the Scottish fire conveners forum; Alex Clark, chair of the Chief Fire Officers Association Scotland; and John Duffy, Scottish secretary of the Fire Brigades Union.

I will kick off by asking whether you think that the national board's size and make-up will be appropriate for a national fire service.

Councillor Bob Band (Scottish Fire Conveners Forum): First, I point out that I am a very late substitute for the witness panel, so I may not give as polished a performance as the committee has had from others.

I spoke to one of the ministers during the consultation process, and it was said then that the biggest difficulty in getting the message of a single service over was the constant comparison with the Scottish Ambulance Service and people not having representation on its board.

Earlier, someone said that there should be at least 15 members on the board to allow for illness, other commitments and any other issue that could take somebody away, so that there would still be enough people. I know what it is like trying to run committees and boards in my local authority, and I do not think that it would be sustainable to have only seven members.

Alex Clark (Chief Fire Officers Association Scotland): The arguments about the number of board members being limited to between seven and 11 have been well presented today and I do not intend to revisit them. However, it will be crucial that the make-up of the board brings the right skills to the table to enable proper scrutiny of the fire and rescue service's activities. The skills can come from lots of sectors, and representation from local elected members who have experience of the fire and rescue service's activities can add strength to the board's scrutiny of the new service's activities.

What is fundamental is the skill set and the view that board members represent the fire and rescue service's interests and not other interests when they participate in the board—they must leave any prejudices or other influences at the door. The fundamental role that they will perform within the framework of the board will be to contribute to ensuring that the service delivers the right outcomes for the communities of Scotland.

The Convener: Do you have thoughts about the balance of councillors and other individuals in the board's make-up?

Alex Clark: I have no particular thoughts. Local authorities must have a good representation, to bring localism to the board's make-up, but I have no particular percentage in mind.

John Duffy (Fire Brigades Union): The key priority is the scrutiny by and democratic accountability of the new board. The current arrangements lack oversight above the local fire board level. In my time in the Fire Brigades Union, I have been involved in preparing submissions and briefing notes for a number of parliamentary debates on the fire service. It is clear that the Parliament has an interest in the fire service operating and functioning properly. A key point that we look for is that the new board should be answerable to the Parliament, which is the right place for ultimate public scrutiny of the fire service.

The current set-up of six joint boards and two unitary authorities has been regularly criticised by Audit Scotland for board and authority members' lack of understanding of the service and their overreliance on chief fire officers. We can relate to that, but that is not a criticism of the individuals who are involved, because the system was flawed almost from its inception. The chief officer is the board's adviser but is also given the task of developing and implementing policy and reporting on how well the service has done. The new service and the new board should avoid that dangerous closed loop.

To open up the closed loop, the board must have some way of getting external expert—for want of a better word—advice and other opinion. Perhaps that is where the link into local government is significant, because there must be a way to undertake what was earlier called dispute resolution. There must be a place to voice any difficulties between local government and the national board and to bring in an external view. As the representatives of the uniformed staff in the service, we will look for an opportunity to voice our members' concerns directly to the board, too.

Councillor Band: When I talked to the Minister for Community Safety and Legal Affairs some time ago, I made the point that I work on a number of committees and boards that include bodies like the FBU. In education, teachers have seats on the board; in housing and health, residents have seats on the board. I see no reason why the fire and rescue service board should not have a representative of the uniformed staff. I know that not all members of the Chief Fire Officers Association Scotland share that view, but I hold it, have expressed it at the conveners forum and have had support for it.

David Torrance: Will the bill restrict or enhance community planning partnerships and engagement? We in Fife have a tremendous record of community engagement in the fire service—it is second to none and is very impressive. How will the bill enhance that?

Councillor Band: It is good that Fife has something going for it as far as the service is concerned. In Perth and Kinross, we have the support of Tayside Fire and Rescue service, its convener, its chief officer and his depute and assistant. I cannot see the bill making any difference to our community engagement, because we are heavily engaged already. Our mantra is “prevention, prevention, prevention”, starting with teaching youngsters to drive responsibly and going right through to fitting smoke alarms.

17:15

Alex Clark: I firmly believe that the bill brings opportunities to enhance community planning. Let us not forget that we are not starting from the beginning; we are already well embedded in community planning partnerships. The fire service is an exemplar of good community engagement and integration, and of trying to make a visible difference in people's lives. That is already happening across the country. Contrary to what some people might think, I believe that with the local senior officer arrangement the bill brings an opportunity for us to allocate more resource to local authority areas and to improve our contributions at the local level. Key to success, though, will be how we manage the expectations of local authorities and other partners within the community planning environment. There might be a belief, for example, that the 32 local authorities will get their own fire brigade, and that would be a big expectation to manage. As we engage more in the community planning partnerships and start to make a difference, we have to be careful to manage local authorities' expectations sympathetically and with our eyes open.

John Duffy: We see absolutely nothing in the bill that would restrict, prevent or damage the work that is being done in community planning partnerships. I agree with Alex Clark that a great deal of work is going on around Scotland with the fire service's involvement in the partnerships, and that can only be enhanced.

One of Alex Clark's colleagues has said that at least one of the organisations involved in a community planning partnership will know the name of the next fire death victim. It is about how we draw that information out and how the service taps into and best uses the knowledge that the housing department, the police and social services have.

I suggest that a key point is how we drive down the level at which community planning partnerships work, so that fire stations and their crews are much more involved with other agencies at their level, because that is where the snippets of information can be gathered and utilised. During the bill process we will be looking for as much as possible of the responsibility within the service to be devolved to local stations and local areas, so that they can best use the knowledge that is gained from being within structures such as community planning partnerships.

Anne McTaggart: I think that the witnesses have partly answered one of my questions. Will the local authorities have sufficient influence over local fire and rescue plans, including budget setting and resource allocation?

Councillor Band: The obvious issue there, which has often been mentioned, is that the plan has to be agreed. What will happen when it is not agreed? How do we have an influence at that point?

Alex Clark: The ambition is for local authorities to be fully involved in developing the local plan, because there must be that engagement early on if the fire and rescue service is to respond to local needs. Without that, the situation will become one of the fire and rescue service saying that it knows best and telling local authorities how to deliver the local plan to meet local needs, without there having been a dialogue to determine what those needs are.

Local authorities will be involved in developing the local plan, which, I understand, will be aligned with the national strategic plan, and we will then try to deliver the local plan and make significant differences in an area. I understand that the finances and budgets will be set at the top and devolved into the local authority areas, so, to reflect on what Councillor Band said, that would itself bring tension. If the money does not follow local priorities and is not enough to deliver against those priorities, tensions might arise. Many people have mentioned that already.

There must be some clarity around the mechanism for achieving a resolution of such a dispute. If local needs cannot be met because of a lack of provision, how do we square that off? We need clarity in the bill on how to resolve such situations.

John Duffy: Notwithstanding the arrangements in the joint boards, our concerns about finance, particularly in relation to the two unitary authorities, have been highlighted. I am going to pick on Fife in particular—I mean no disrespect to our colleagues from there. In general, the question relating to the funding arrangements for the fire service in Fife is how much of a cut in the budget

will be made, but that is the wrong way round. We should look at what we are trying to achieve in the service and then try to make arrangements to fund that.

When we talk about consistency across Scotland, we know that there are differences in the make-up of communities across the country and in the risks, but the key is having a consistent methodology. The service should measure the risks and needs and then there should be resourcing, as opposed to trying to accommodate the particular influence of any councillor, a strong council or whatever.

I noted from the evidence from the police that one of the significant differences between us is that the fire service currently has no ability to top up—councils have no opportunity to add additional resources. In considering that alongside our view on having a consistent methodology, we would say that, if a council wanted to add additional resources, we would still be adamant that those resources should be sent to cover the greatest risk. They should not necessarily stay with the council that is prepared to dig deepest into its pocket.

Kevin Stewart: On consistency, have local authorities across the country been best served by the current fire boards, particularly when fire boards have bought equipment that cannot be used in other areas? Will the uniformity of a single fire service resolve some of those difficulties?

John Duffy: We hope so, as fire boards buy equipment that they cannot use even in their own authority areas. I do not want to sound too scathing, but things really cannot be much worse in some areas. One service in Scotland, which is being resourced from outside, is at the point of near meltdown. We must therefore be able to take down the borders—the lines on the map—if we are fully to support and resource areas in which there is the most risk and need.

The Convener: Councillor Band probably has a slightly different take on that matter.

Councillor Band: I hope that, when John Duffy spoke about taking down borders, he meant boundaries and was not referring to Lothian and Borders.

My only experience is with Tayside Fire and Rescue service. We designed our own combined aerial rescue pump. I think that John Duffy recognises that it works perfectly well in our area and that we have a good arrangement for crewing, but I know that other areas have vehicles that they cannot use, which are passed on to other services to use in a different way. That is ridiculous.

I agree that the single service will standardise some of the equipment, although, as far as I am

aware, ours is standardised with that of our neighbours. Indeed, on Friday, we had a major, 10-pump issue and were able to source a high-volume pump to take water from the local river. That pump happened to be out on an exercise and it took half an hour to load it and bring it up to us, but that is a different issue.

Alex Clark: The answer to the question is that having a single service will absolutely resolve some of those difficulties. When the eight services become one, the efficiency that will come from more effective procurement will deliver benefits to the service.

That work is already under way through reform planning. A number of teams are looking at what the future arrangements will look like and are starting to build up knowledge of the current asset mix across Scotland. Work is being done on an asset replacement strategy that will harmonise things and enable us to move towards a single procurement route so that we can realise the efficiencies that have been alluded to.

Margaret Mitchell: I want to go back to the issue of local connectivity with the national board, which is summed up well in paragraphs 5 and 6 of the Scottish fire conveners forum's submission. It says:

"The reality of being able to shape priorities locally and engage more effectively with the service at local authority level is obviously influenced by the extent to which budget decisions are driven nationally or locally ... It is not clear what level of delegated budgetary control is envisaged and whether delegated responsibility will be provided to the local senior officer for the management of a local budget."

For the record, will you confirm that more clarity on that aspect of the bill is essential?

Councillor Band: That is essential. We need more clarity on what the level of delegation of budgetary control will be. I keep harking back to other committees that I deal with. In education, for example, we have the devolved school management budget.

In previous discussions, I have brought up the issue of what level the budget is devolved to. Is it devolved to local authority level? Is it devolved to area—*[Interruption.]* My apologies. My phone is switched off, but sometimes it does these things. *[Interruption.]* It is particularly persistent—it will not go off if it is doing something.

Margaret Mitchell: Perhaps you could get someone to take it outside for you.

Councillor Band: That should be it now. I am sorry about that.

We require more clarity on the budgetary situation—and on the plan.

Alex Clark: From an operational command perspective and from a local commander or local

senior officer perspective, there has to be clarity on the devolution of financial control. If we are truly to make a difference at local level, the local commander or local senior officer must have the flexibility to deploy resources and to contribute to the community planning agenda.

Earlier, one of my colleagues mentioned that it is necessary to have the ability to commit resources in order to make a difference. Without that devolved responsibility, we will not achieve anything and the single service will not achieve what it is intended to achieve.

John Duffy: I reiterate my colleagues' comments; indeed, I would go one step further and say that, as yet, we do not have any clarity on the national budget. Previously, the fire and rescue service was funded against national response standards. Once the service had put in place the resources that it required to meet those standards, it was inspected by Her Majesty's chief inspector of fire services for Scotland and the funding was, in effect, signed off at that level.

Since the introduction of the Fire (Scotland) Act 2005, that has continued to be the basis for the funding, with ad hoc increases. We are now at the point at which those increases have stopped and the budget is shrinking, but we do not know what the national budget is based on. That raises the issue that someone needs to tell the fire service what they want us to do. Do they want us just to meet the three statutory obligations that we have, or do they want us to have a wider role? I suggest that there is a public expectation that the fire and rescue service has a much wider role than it had previously. A generation ago, our activities in dealing with road traffic collisions and accidents were not a funded part of the service; they now are.

However, none of the other things, such as water rescues and line rescues, is a funded part of the service. The Government must tell us what the basis is for its figure on the funding of the fire service and what the expectation is—what the Government wants us to do in exchange for the money.

17:30

Alex Clark: I will echo some of John Duffy's points. An opportunity has perhaps been missed in the bill to recognise the broader role that the fire and rescue service plays in the prevention agenda and through our contribution to road safety work and water rescue activity. If the service is currently undertaking additional functions—in the absence of anyone else doing those things—the bill presents an opportunity to make that work part of the role of the fire and rescue service and to bring clarity to its functions. That would allow us to

develop into a service that will deliver the functions far more succinctly.

Margaret Mitchell: I have two final questions. First, will you comment on the lack of a dispute resolution provision? Secondly, one aspect that we did not touch on with the police witnesses—although we should have—was the timescale for implementing the bill and establishing the national police force and the Scottish fire and rescue service. To clarify, I am not asking you to tell me what the timescale is; I just want you to say whether you have any concerns about it.

Alex Clark: I mentioned that we need provision for how to handle disputes between the national and local agendas. I understand from previous evidence that there might be a belief or perception that such disputes will not arise frequently. I have a different view. In the early stages of the new service, disputes might well arise fairly frequently because of the issue of how we balance the expectations of local authorities and those of the national direction and strategic plan. The lack of a mechanism for that will undoubtedly make the job of local commanders and local senior officers particularly challenging. They will be trying to serve two masters, but who will they actually report to?

The timescales for establishing the new service are challenging. In our written submission, we make the case for earlier appointment of the chief fire officer so that a shadow management arrangement can be established much earlier and we can move towards the new service far more quickly. At present, we are taking a collegiate approach. The services are involved in trying to develop the shape of the new service, but that is being done with no clear leadership and direction in decision making. Currently, we are eight individual fire and rescue authorities that service the needs of our fire boards. That is a difficult place to be.

The early appointment of the chief fire officer and, subsequently, the management team will provide authoritative direction setting to allow us to move forward on some of the innovative ideas that are arising about what the new service can deliver. Until such time as we have that person in place, it will be difficult to make progress. The longer it takes to put that person in place, the more the timescales for implementation will be compromised.

Margaret Mitchell: That is helpful.

John Duffy: If a disputes procedure is put in place between authorities and the service, it will be used. Trust me—I am a trade union official.

Margaret Mitchell: I believe you.

John Duffy: It would be better to try to avoid that, but that requires a method by which the local authorities have direct access to the board.

The timescale is challenging. However, I suggest that the fire service has never stopped changing and evolving and that the bill is just another part of the process. We are focusing on the fact that at some point next year a snapshot will be taken, at which point the service must look and feel a bit like a single service. If we continue to take the collaborative approach that we are currently taking, I do not doubt that we will be most of the way there. The work will certainly not be finished and there will be much to do, but I am sure that it will be possible for us to meet the timescales that ministers and the Government have set and to produce something that looks and feels like a single service.

Councillor Band: I think that on the due date we will be on the cusp of getting down to the finer detail. As far as the dispute scenario is concerned, if we put it in the small print, no one will know that it is there.

Bill Walker: I will ask a question that is similar to the one that I put to the police. I am pleased to say that in Fife, or certainly in west Fife, which is my part of the world, there is a pretty good relationship between the fire and rescue service and the communities, although in recent years the relationship was placed under a bit of stress when the fire station was moved from the west to the south of Dunfermline. I am told that the move worked out well and that response times are just as good if not better—I am subject to correction on that.

Am I correct in thinking that you will face the same issues as the police will face in relation to the appointment of local senior officers who will have a relationship with local authorities? Local authorities are of different sizes. Perhaps more junior people will be appointed to deal with some authorities, or perhaps a more senior person will have to look after several local authorities. Mr Clark might be best placed to respond.

Alex Clark: I agree with what some of your previous witnesses said. The rank of the local senior officer is not particularly important. However, from the fire and rescue service point of view, there is an additional complexity, in that the service has put in place role maps, which align a person's responsibilities and activities with a pay grade, for example.

We can test engagement at local authority level. A number of people in the fire and rescue service community have signed up to be pathfinders and establish the local senior officer arrangement across a range of roles, from group commander up to principal officer level, depending on the size

of the local authority. The pathfinders are pilots and we will learn lessons about how to pitch engagement at the right level from the pilots' successes and failures.

It is worth mentioning an issue that has not emerged in the discussion. The model for the new fire and rescue service is completely different from the current one in the number of people who will occupy senior roles. We currently have eight chief fire officers; in future we will have one. The opportunities for talented people to rise to the top of the organisation will become significantly limited. The people who in the current system would become chief officers are in future likely to find themselves filling the role of local senior officers, because the opportunity to progress to chief officer level will be limited, by virtue of there being only one chief officer.

Therefore—to answer your question—in future it will be the talented people in the organisation who perform the role of local senior officer. I am not too hung up on what is the appropriate rank for the person who is accountable to the local authority; it is about a person having the skill set that enables them to build the relationship and contribute effectively to the outcomes that they are expected to achieve through local engagement.

John Duffy: Many senior officers are FBU members and they are feeding back to us that they think that there are opportunities. Some of the services are already trying to organise themselves in a coterminous way with wards and the like. They see it as a huge opportunity to develop ideas from local circumstances and we are keen to explore with the service how that can be speeded up. The more experiments and trials there are of different ways in which to approach the problems, the more opportunities we have to find successful methods of working. We believe that there are opportunities to devolve down to the local level some of the service's responsibilities and actions. I reiterate that the local senior officer is not the be-all and end-all; what is crucial is their ability to devolve down even further to station managers and station crews, because the crews are the point of contact with communities.

Councillor Band: Undoubtedly, it is the crews, who turn up for the gala days and suchlike, who have contact with members of the public. I agree with John Duffy that we are looking for responsibility to go down to ward level and to the local fire station and to local people. I think that we can bring the community together on that.

John Pentland: With any reform or review, there is a tendency to look at the financial resource that is required to deliver the service or look at what efficiencies can be made. However, the other very important element is the human resource, which I think the panel has touched on.

Are there any particular areas of concern that require both immediate, short-term solutions and, ultimately, long-term solutions? Should there be a direct relationship between local authorities and the governing boards of police and fire services?

John Duffy: On short-term solutions, there are clearly a number of areas of uncertainty and where there is uncertainty there is generally apprehension. Our approach is to work closely with our management colleagues in the service. Over the past few weeks, we have done a number of joint training courses with them to try to make the process easier. One of the things that we need to do is to separate the idea of the post from the person. I know that there has been some discussion about the Transfer of Undertakings (Protection of Employment) Regulations with regard to terms and conditions, but that deals with the transfer and does not take account of the restructure, which will reduce the number of posts.

The issue is how our organisation and the service deal with the people who find that when the music stops there is no chair. As a trade union, our number 1 priority is the people, but we will look to build relationships with senior management colleagues in the service. One of our problems is that there will not be a new employer until 1 April but a lot of the work that needs to be done now involves negotiation. We are all in untried territory here, but the commitment that we have seen in the early months is encouraging. If we can sit down and talk about the issues, we can find a way to deal with the process.

I reiterate that the priority for us is the people rather than the posts. As has been said, we all appreciate that there will be fewer posts at chief officer and senior levels; the issue is how we deal with the people.

Alex Clark: I echo John Duffy's point about the union and the management in the service working closely together to try to resolve some of the issues that arise as we assess how to take things forward. That work has proved to be productive.

On the question about the human resource side of things, our concern is how, in order to deliver the financial efficiencies—which have to be linked to the service that we provide—we deal with the financial implications of a business case that indicates that significant savings will be made by reducing the head count predicated on a retirement profile for the workforce when there is no requirement to retire. The numbers are aligned to the retirement profile of a firefighter who serves for 30 years and then retires, but that firefighter does not have to retire at that point, and many do not. Our concern is that it is anticipated that an efficiency can be gained through natural turnover of staff with no compulsory redundancies but, come the day, all those people may still be sitting

in their seats, and we will have a financial envelope to satisfy while still paying their salaries. How do we do that without there being an impact on service delivery? Delivering within our cost envelope will be a challenge. Do we take action at the early stages to identify the people who will be affected in order to best manage that from now on? We need that direction to take those steps earlier, in order to ease the burden that will inevitably come.

17:48

Meeting continued in private until 18:15.

17:45

Councillor Band: As has been said many times, on 1 April we will see no difference on the streets. Perhaps Aberdeen will have red fire engines instead of white ones, but that will be the only difference that we will see.

If we are going to make these savings, we must consider what the expected savings from back-office staff will be. Only 12 per cent of the total establishment are back-office staff, so the required savings cannot all come from there. As John Duffy and Alex Clark said, something must be done now to slim down the workforce on a voluntary basis before we get too far along. Half of the 12 per cent who are back-office staff earn less than £15,000 a year, so there is not a huge saving to be made by dispensing with them. It is assumed that amalgamating the eight different services will cut out duplication, but there is not a huge saving to be made in that regard. We must make savings if we are going to make the expenditure on front-line services, but that is the difficulty that we face.

Kevin Stewart: I will ask one final question, in fairness, because I asked Councillor Whyte to answer the same question from a police perspective. I know that Councillor Band is a late substitute and I do not want to put him on the spot, but I will ask the question anyway.

Do you know how many leaders of councils or very senior councillors currently sit on fire boards?

Councillor Band: I do not know about other fire boards. None of the three authorities on my own fire board is represented by senior councillors such as a leader or deputy leader.

Alex Clark: The leader of the City of Edinburgh Council and the leader of West Lothian Council are both members of the Lothian and Borders fire board.

The Convener: It looks as if John Duffy has no idea; he is shaking his head.

There are no further questions for the panel. Thank you very much—you had a long wait. We now move into private session.

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