

EAST AYRSHIRE COUNCIL

3 NOVEMBER 2011

KEEPING SCOTLAND SAFE AND STRONG: A CONSULTATION ON REFORMING POLICE AND FIRE AND RESCUE SERVICES IN SCOTLAND

Report by the Depute Chief Executive/Executive Director of Neighbourhood Services

1. PURPOSE OF REPORT

- 1.1** The purpose of this report is to advise Council of the contents of the consultation issued by the Scottish Government on the reform of Police and Fire and Rescue Services in Scotland and to seek approval of the proposed response to the consultation.

2. BACKGROUND

- 2.1** At its meeting on 4 May 2011, the Council's Cabinet approved responses to the Scottish Government's earlier consultations on the future of Policing and Fire and Rescue Services in Scotland.
- 2.2** At that time, the Scottish Government's consultations set out three options for the future delivery of Police and Fire and Rescue Services in Scotland, namely:-
- Option A – Single Scottish Police and Fire and Rescue Services
 - Option B - Rationalised Regional Models for both services
 - Option C - to retain the existing arrangements but with increased collaboration between the eight existing Police and Fire and Rescue Services

3. CONSULTATION

- 3.1** The Scottish Government's current consultation sets out proposals for both a new single Scottish Police Service and a single Scottish Fire and Rescue Service, and seeks views on the detailed provisions to be included in legislation to be brought before the Scottish Parliament.
- 3.2** Responses to the consultation are invited by no later than 2 November 2011. Accordingly, the appendix to this report, being the Council's proposed response to the consultation, has been lodged with the Scottish Government as a draft response, subject to Council approval. Copies of the draft response were provided to the Council's political group leaders and no comments or changes have been proposed.
- 3.3** A copy of the full [consultation paper](#) is available from the Members' Portal.

4. PROPOSED CONSULTATION RESPONSE

4.1 The proposed response to the consultation is attached as an Appendix to this report. The response reiterates the key points made by the Council when it responded to the previous consultation, namely:

- the protection of locality policing and frontline services;
- maintaining positive outcomes for local communities; and
- governance arrangements that protect local democratic accountability.

5. FINANCIAL/LEGAL AND RISK IMPLICATIONS

5.1 There are no financial, legal or risk implications arising directly from this report.

6. COMMUNITY PLANNING/POLICY IMPLICATIONS

6.1 The East Ayrshire Community Planning Partnership is responding separately to the consultation.

7. RECOMMENDATIONS

7.1 It is recommended that Council:-

- (i) notes the key principles set out in the consultation issued by the Scottish Government on the proposed reform of Policing and Fire and Rescue Services in Scotland;
- (ii) considers and approves the proposed response to the consultation as detailed in the Appendix to the report; and
- (iii) remits the Depute Chief Executive/Executive Director of Neighbourhood Services to submit the final response to the Scottish Government.

Elizabeth Morton

Depute Chief Executive/Executive Director of Neighbourhood Services

IT/SC

26 October 2011

LIST OF BACKGROUND PAPERS

1. Scottish Government Consultation "Keeping Scotland Safe and Strong a Consultation on Reforming Police and Fire and Rescue Services in Scotland" dated September 2011.

Any person wishing further information on this report should contact Iain Tough, Corporate Business Manager, Chief Executive's Office on Tel: (01563) 576575.

Implementation Officer: Elizabeth Morton, Depute Chief Executive/Executive Director of Neighbourhood Services

Keeping Scotland Safe and Strong: A Consultation on Reforming Police and Fire and Rescue Services in Scotland

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

East Ayrshire Council

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

Tough

Forename

Iain

2. Postal Address

Chief Executive's Office

Council Headquarters

London Road

Kilmarnock

Postcode KA3 7BU

Phone 01563 576575

Email iain.tough@east-

3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate Yes No

ANNEX B: CONSULTATION QUESTIONS AND RESPONDENT INFORMATION

FORM

PART A – POLICE

Question 1: What are your views on how we might strengthen the proposed purpose? Should the purpose be set out in national guidance, or in some other way?

The proposed purpose is welcome. However, the objective of improving the safety and well-being of individuals, families and communities will not be achieved by the police in isolation. Whilst the importance of the work of partner organisations, including local authorities, is recognised throughout the consultation, the proposed purpose does not explicitly reflect this.

As there are no proposals to fundamentally change the statutory duties of the police, it would be sufficient for the purpose to be defined in national guidance, linked to the delivery of National Outcome 9 - "We live our lives safe from crime, disorder and danger."

Question 2: What are your views on our plans to retain existing functions in a modern form or on our proposals to modernise the oath?

The proposals to modernise the oath are welcome as are the plans to update the duties placed on police constables.

Question 3: What are your views on our proposals for integrating existing bodies into a single service or on how and when partnership arrangements should adapt to align with this new structure?

We welcome the proposal to bring together the Scottish Police Services Authority (SPSA) and the Scottish Crime and Drug Enforcement Agency (SCDEA) within the proposed single Scottish police service.

We also welcome to proposal that the Chief Constable is not directly accountable areas such as forensic and fingerprint services and the Scottish DNA Database thereby maintaining the Chief Constable's operational independence. However, the proposal that the new Scottish Police Authority becomes accountable for these services does require further consideration. A clear definition of the roles and responsibilities for the new Authority in this regard will be essential to ensure transparency in terms of governance of both the police service and the forensic services.

Notwithstanding the points set out above, further detail will be required on transitional arrangements to ensure continuity of service delivery in the context of significant organisational change.

From a Community Planning perspective, our experience of working with the Police, as a key partner, has been positive and is highly valued. The focus going forward, therefore, should be on sustaining and building on the current strong relationship, and it will be important that structural reform does not adversely impact on this relationship. It will be essential to ensure that the local commander continues to have

the capacity and autonomy to participate fully in local planning and decision-making through Community Planning and other partnership arrangements.

Currently, the divisional structure ensures co-terminosity of police area commands with the local authority/Community Planning Partnership boundary, which assists the alignment of local outcomes with policing priorities. The new structure will require to reflect this in some way to ensure robust local planning in the partnership context.

Question 4: What are your views on the composition of the Scottish Police Authority and the specific skills, experience and expertise required for it to perform its roles effectively?

Given the range of responsibilities that the Scottish Police Authority will have, and to provide leadership and direction during the change process, the appointment of suitably qualified and experienced individuals will be essential.

Whilst it is accepted that the appointments will be made in accordance with the Public Appointments Commissioner for Scotland's Code of Practice, specific guidance will be required in respect of the appointment of former or serving police officers.

Question 5: Do you think a number of appointments to the Authority should be reserved for serving councillors nominated by COSLA? Or that Ministers should simply ensure that the individuals appointed to the Authority include those with experience and knowledge of local government?

Whilst it will be essential for the membership of the new Authority to contain experience and knowledge of local government, it will be a matter for CoSLA and political groups to take a view on any proposal that would see places being reserved for serving Councillors.

Question 6: What are your views on the roles and responsibilities for governance and accountability set out above?

The opportunity to formally influence plans for locality policing along with scrutiny of local performance at a Council level is welcome. However, this is already available to Councils through established Community Planning Partnerships. For this to be further strengthened there would need to be some certainty about the availability of funding at a local level to enable prioritisation and flexibility in resourcing activity based on local priorities and circumstances.

Depending on the structure, composition and responsibilities of the proposed local authority police committee (or equivalent), guidance will be required for Councils on implications for elected members' remuneration in accordance with SLARC regulations. Similarly, guidance will be required in respect of utilising existing Community Planning Partnership governance arrangements or for joint arrangements that could be established with other Councils and the potential for incorporating responsibility for Fire and Rescue Services. With local authorities having the ability to tailor local arrangements to local circumstances, this could lead to inconsistency across Scotland in terms of local scrutiny and accountability structures.

The future role of the local commander in each council area will be critical but it should

be noted that the proposals for local commander and council responsibilities could mean that a local commander would be answerable to councils, but not accountable. A definition of the roles and responsibilities for both the local commander and councils will therefore be essential.

Question 7: What are your views on the proposed new funding and financial accountability arrangements set out above?

The proposal to merge all current funding streams into one to be directed by the Scottish Government to the Scottish Police Authority effectively removes any flexibility within Councils in relation to funding of police services.

Capital funding would be provided centrally resulting in a reduced General Capital Grant allocation to Councils. Again, this reduces flexibility and the ability of individual Councils/Members to influence the capital programme and investment locally.

The financial governance of the Scottish Police Authority will also be centralised and it will be essential that the new arrangements enable Councils to challenge and influence decisions on the allocation of funding at a local level. However, it is not clear how Local Commanders will be funded to deliver services at Council level.

While it is inevitable that there will be differences in funding levels at different Local Authorities, there needs to be a transparent process in place to allow local communities to understand their respective share of the pot and how this impacts on the Local Commander's ability to achieve the priorities agreed in the Local Policing Plan.

The existing police forces have built up financial reserves that ultimately have been funded from their grants. Proposals on how they will be redistributed to their member Councils are required.

Question 8: What are your views on our proposals for inspection and audit?

Whilst we welcome the proposed arrangements for inspection and audit, including the continued role of HMICS for inspection of the Police Service and the transfer of responsibility for audit of the Police Authority to the Auditor General, clarification will be required in respect of implications for the Best Value audit process of local authorities and Community Planning Partnerships.

In particular, with local authorities having an increased role in monitoring police performance and deployment of policing plans at a local level through new governance arrangements (e.g. local police committees etc), guidance will need to be developed to ensure that the Best Value audit process for local authorities and Community Planning Partnerships takes into account the new governance responsibilities that are proposed.

Question 9: What are your views on our proposals and options for handling complaints, criminal allegations, serious incidents and reviews of investigations?

The over-riding priorities for the handling of criminal allegations, serious incidents and reviews of investigations should be ensuring independence and transparency in the process. On that basis, the Council would support the creation of a new independent body, whose functions would include the existing responsibilities of the Police

Complaints Commissioner for Scotland (PCCS) along with powers to investigate complaints and allegations of misconduct by Chief Officers (Option 1a) and incorporating the existing inspection and advisory functions of HMICS (Option 2a).

In addition, it is appropriate that the consideration of non-criminal complaints against police officers and staff continues to be managed through the complaints handling and line management functions of the service, overseen by the Scottish Police Authority.

Question 10: What are your views on our proposals for Independent Custody Visiting?

We support the proposal to maintain the independence of custody visiting and to introduce statutory provision for this valued service in accordance with the rest of the UK.

Question 11: What are your views regarding our proposals for officers and staff transferring to the new Scottish police service? Are there any other workforce issues we should be considering?

It will be essential that the transition arrangements, including the related transfer of police officers and staff to the new Scottish Police Authority, do not adversely impact on the delivery of operational police services. Similarly, it will be important that there is no detriment to individual employees through the transfer process and we welcome the proposal that police staff will retain their terms and conditions at the point of transfer and that it will be for the leadership of the new service to negotiate any changes if required.

It will also be important to ensure consistency of representation from the police on the Community Planning Partnership Board and other strategic groups.

Question 12: Are there any other issues we should consider in creating the Scottish police service?

No.

PART B – FIRE AND RESCUE

Question 13: What are your views on how we might strengthen the proposed purpose? Should the purpose be set out in the Fire Framework, or in some other way?

The proposed purpose and functions of the Scottish Fire and Rescue Service is welcomed, particularly the explicit reference to partnership working. This further strengthens the already strong relationship the Council has with the Fire and Rescue Service through our established Community Planning Partnership.

Question 14: What are your views on our plans to retain existing functions for the Scottish Fire and Rescue Service?

The proposals to retain existing functions for the Scottish Fire and Rescue Service are welcomed.

Question 15: What are your views on our proposals to transfer Scottish Government assets to the new body?

Whilst welcoming the proposal to transfer Scottish Government assets to the new body, consideration should be given to the long-term future of the Fire Service College at Gullane given the significant investment in the construction of the Strathclyde Fire and Rescue Service Training Centre at Cambuslang.

Question 16: What are your views on the composition of the Board of the Scottish Fire and Rescue Service and the specific skills, experience and expertise required for it to perform its roles effectively?

Given the range of responsibilities that new Board members will have, and to provide leadership and direction during the change process, the appointment of suitably qualified and experienced individuals will be essential.

Whilst it is accepted that the appointments will be made in accordance with the Public Appointments Commissioner for Scotland's Code of Practice, specific guidance will be required in respect of the appointment of former or serving Fire and Rescue Officers.

Question 17: Do you think a number of appointments to the Board should be reserved for serving councillors nominated by COSLA? Or that Ministers should simply ensure that the individuals appointed to the Board include those with experience and knowledge of local government?

Whilst it will be essential for the membership of the new Board to contain experience and knowledge of local government, it will be a matter for CoSLA and political groups to take a view on any proposal that would see places being reserved for serving Councillors.

Question 18: What are your views on the roles and responsibilities for governance and accountability set out above?

The opportunity to formally influence plans for locality policing along with scrutiny of local performance at a Council level is welcome. However, this is already available to the Councils through established Community Planning Partnerships. For this to be further strengthened there would need to be some certainty about the availability of funding at a local level to enable prioritisation and flexibility in funding activity based on local priorities and circumstances.

Depending on the structure, composition and responsibilities of the proposed local authority fire and rescue committee, guidance will be required for Councils on implications for elected members' remuneration in accordance with SLARC regulations. Similarly, guidance will be required in respect of utilising existing Community Planning Partnership governance arrangements or for joint arrangements that could be established with other Councils and the potential for incorporating responsibility for police services.

Question 19: What are your views on the proposed new funding and financial accountability arrangements set out above?

The ability of Local Members/Officers at Council level, to understand, challenge or influence financial decisions will be minimal through the single funding stream approach proposed.

The 'Local Senior Officer' has a defined role in the proposed financial accountability arrangements, which is welcomed. This will be important in ensuring local priorities can be incorporated into national spending plans. It is, however, inevitable that there will be differences in the level of funding available to each Council, and there needs to be a transparent process in place to allocate resources to deliver Community Planning Partnership priorities and local fire and rescue plan targets which will be very much determined by reassurance and capacity availability.

The existing Fire & Rescue Services have built up significant financial reserves, ultimately funded from their grants. Proposals on how they will be redistributed to their member Councils are required.

Question 20: What are your views on our proposals for inspection and audit?

The proposed arrangements for inspection and audit involving the Fire and Rescue Advisory Unit are welcomed, although clarification will be required in respect of implications for the Best Value audit process of local authorities and Community Planning Partnerships.

In particular, with local authorities having an increased role in monitoring fire and rescue performance and deployment of associated resources at a local level through new governance arrangements (e.g. local fire and rescue committees etc), guidance will need to be developed to ensure that the Best Value audit process for local authorities and Community Planning Partnerships takes into account the new governance responsibilities that are proposed.

Question 21: What are your views on our proposals for handling complaints?

The proposals for handling complaints follow current good practice and are welcomed.

Question 22: What are your views on the workforce proposals for staff transferring to the Scottish Fire and Rescue Service? Are there any other workforce issues we should be considering?

It will be essential that the transition arrangements, including the related transfer of fire and rescue officers and staff to the new Scottish service, do not adversely impact on the delivery of operational services. Similarly, it will be important that there is no detriment to individual employees through the transfer process and we welcome the proposal that staff will retain their terms and conditions at the point of transfer and that it will be for the leadership of the new service to negotiate any changes if required.

It will also be important to ensure consistency of representation from the fire and rescue service on the Community Planning Partnership Board and other strategic groups.

Question 23: Please highlight evidence where the existing provisions in relation to the employment of police constables causes significant difficulties preventing fire and rescue services delivering their statutory duties. How would you differentiate between the correct duties a special constable/fire officer should follow if they attend an incident where both a crime is being committed and an emergency situation requires urgent action?

This is a matter for operational policing and fire and rescue professionals to determine.

Question 24: What are your views on the benefits and/or disadvantages regarding the obligations to promote fire safety at local, regional and national levels?

These obligations sit comfortably with the current focus through Community Planning Partnerships and specifically in relation to Community Safety thematic work. As a key partner in our Partnership arrangements, the Fire and Rescue Service deliver actions in support of safety in our communities through our Single Outcome Agreement and we welcome any proposal that will further promote fire safety at all levels.

Question 25: What are your views on our proposals to:

- **pass the Chief Inspector of Fire and Rescue Authorities enforcement role, under 61(9)(b) of the Fire (Scotland) Act 2005, to the Scottish fire and rescue service; and**
- **allow duty holders and the enforcing authority to independently refer a disputed matter to the Chief Inspector of Fire and Rescue Authorities under sections 67(1) of the Fire (Scotland) Act 2005. What safeguards, if any, should be put in place to ensure arbitration is only requested in appropriate cases?**

This is a matter for operational fire and rescue professionals to comment on.

Question 26: Are there any other issues we should consider in creating the Scottish Fire and Rescue Service?

No.

Question 27: The partial EQIA can be found at <http://www.scotland.gov.uk/policereform> or <http://www.scotland.gov.uk/firereform>. Do you have any comments on the partial EQIA? Are there any other potential impacts to consider?

No comment.

Question 28: The partial BRIA can be found at <http://www.scotland.gov.uk/policereform> or <http://www.scotland.gov.uk/firereform>. Do you have any comments on the partial BRIA? Are there any other potential impacts to consider?

No comment.