ABSTRACT: This report advises members of the draft response to the Scottish Government Consultation on Reforming Police and Fire Rescue Services in Scotland.

1. RECOMMENDATION

It is recommended that the Council consider the submission to the Consultation on Reforming Police and Fire Rescue Services in Scotland as attached (Appendix I) as the basis for Angus Council’s formal response to the consultation and note that this version has been submitted to the Scottish Government to meet the deadline for consultation on the proviso that any amendments will be submitted by 4 November 2011.

2. BACKGROUND

2.1 On 7 September 2011 the First Minister for Scotland confirmed the Government’s intention to bring forward legislation to create a single Police Service for Scotland and a single Fire and Rescue Service for Scotland. This follows an earlier consultation in June 2011 undertaken by the Scottish Government on the principles of reform. The current consultation document seeks views on proposals for the legislative framework for the Scottish Police and the Fire and Rescue Services. The consultation can be viewed at: http://www.scotland.gov.uk/Publications/2011/09/08111413/0.

2.2 The consultation document in relation to Police is broken into six areas:-

(i) a modern purpose for policing;
(ii) structure of a single Scottish Police Service;
(iii) new arrangements for governance and accountability;
(iv) funding;
(v) scrutinising the Scottish Police Service – Audit, Inspection and Complaints; and
(vi) workforce arrangements.

2.3 The consultation document in respect of the Fire and Rescue Service is broken into seven areas:-

(i) a modern purpose for Fire and Rescue;
(ii) structure of a single Scottish Fire and Rescue Service;
(iii) new arrangements for governance and accountability;
(iv) funding;
(v) scrutinising the Scottish Fire and Rescue Service – Audit, Inspection and Complaints;
(vi) workforce arrangements; and
(vii) fire safety.

The Justice Minister, in launching the consultation document expressed his intention to establish two independent statutory bodies, the Scottish Police Authority and the Scottish Fire and Rescue Service Board which will hold the new services to account. Views are being sought on the composition of these bodies including local government involvements.

The Scottish Police Authority is envisaged as comprising no more than 11 members and views are sought on whether the numbers should be reserved for serving Councillors nominated by COSLA or that Ministers should ensure that members appointed to the authority include those with experience and knowledge of local government.
2.4 The membership of the Scottish Fire and Rescue Service Board could similarly be appointed by Scottish Ministers or be nominated by COSLA.

2.5 The Justice Minister seeks to create a strong and formal relationship between local Councils and the designated local Commander and the local Senior Fire Officer. The local authority will be consulted on and agree a local Police and local Fire and Rescue Plan, they will monitor and scrutinise performance against those plans and they will have authority to seek reports and information from the local Commander or local Senior Fire Officer.

3. RISKS

This report does not require any specific risk issues to be addressed.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from the submission of this consultation paper to the Scottish Government.

5. HUMAN RIGHTS IMPLICATIONS

There are no human rights implications arising from this Report.

6. EQUALITIES IMPLICATIONS

The issues dealt with in this report have been the subject of consideration from an equalities perspective. An equalities impact assessment is not required.

The issues contained in the report fall within an approved category that has been confirmed as exempt from an equalities perspective.

7. CONSULTATION

The Chief Executive, all Directors, the Head of Law and Administration and the Head of Finance have been consulted in the preparation of this report.

8. CONCLUSION

The Scottish Government are currently consulting on the proposal of the First Minister to bring forward legislation to create a single Scottish Police Service for Scotland and a single Fire and Rescue Service for Scotland. Although this is not the result that Angus Council lobbied for in the initial consultation, it is now incumbent upon the Council to work constructively with the Scottish Government and all other interested stakeholders to ensure that local influence is maintained and that existing partnership working is protected. In addition it is essential that local government continues to play a pivotal role in the transition period.

This Report proposes a response to the Scottish Government’s Consultation on Reforming Police and Fire Rescue Services in Scotland and members are requested to consider and if necessary amend the proposed response.

COLIN McMAHON
DIRECTOR OF CORPORATE SERVICES

NOTE: The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Report No 330/11
- Report No 331/11

CS/L&A/SCH
PART A - POLICE

Q1. 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 should be expressed clearly with specific reference to the Police Force. The proposal is so wide it could apply to almost any public sector organisation and it is suggested that the purpose should be more specific to include reference to preservation of order, prevention and investigation of criminal offences and the protection of life and property. It is suggested that the proposed purpose being so general would create difficulties in holding the Police Force to account in monitoring improvements.

Q2. What are your views on our plans to retain existing functions in a modern form or on our proposals to modernise the oath?

The proposal to retain the duties set out in the Police (Scotland) Act 1967 is acceptable and given that the oath has served the passage of time, there is little merit in changing the wording. The duties as set out in the 1967 Act as amended could however be reworded in a more modern context.

Q3. What are your views on our proposal for integrating existing bodies into a single service or on how and when partnership arrangements should adapt to align with this new structure?

In general an integration of existing bodies is acceptable although it is extremely difficult to comment upon anything other than the principle in the absence of detailed proposals. The main concern for Councillors is the retention of a locally responsive policing unit which is sufficiently resourced to serve the people of Angus. The response should be able to adapt to the very rural locations within Angus as well as the burghs.

As an example of partnership working, the consultation document mentions the SCDEA and the SPSA. The SPSA in particular has had a difficult incarnation with ICT in particular being an area of considerable concern in Tayside. Rather than supporting policing and the use of ICT by forces, Tayside have found particular difficulties following upon the setting up of the SPSA and the promised improvements and efficiencies are yet to be delivered.

The existing partnership working with local authorities including Community Planning Partnerships, Child Protection, Drugs and Alcohol Forum, the Community Justice Authority and many others are all well established and have begun making significant changes within local communities. It is essential that local commanders have both the powers (delegated authority) and also the resources to maintain these links and contribute to that partnership working.

Shared location of services has already commenced within Tayside and this is seen as a major benefit both for the community and as an efficiency exercise.
Q4. 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?

The composition of the Scottish Police Authority is recommended as having 11 members. This is not considered sufficient to maintain close links with local government and in the interim particularly, the experience of local Councillors is essential in setting up the Scottish Police Authority.

If the new functions of the authority are the same as the existing joint boards, the 11 members are not going to be in a position to fully represent the diverse communities and the wide ranging services currently offered by the Police. It is suggested that the local authority membership requires to be increased.

Regarding the specific skills, expertise and experience, the main contribution by Councillors is their knowledge of their communities as well as their interest and commitment to an efficient and effective force. If that force is to remain accountable to local communities, there must be strong links with local Councillors who are the elected representatives of those communities.

Q5. 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?

It is essential that existing Councillors, Board members and Conveners/Vice-Conveners are given the opportunity to assist the new authority and the new Board in maintaining momentum over the uncertain period. Board members will be familiar with each other particularly Conveners and Vice-Conveners having attended the existing Conveners’ Forum and other groups currently contributing to the running of Scotland’s Police Forces. It should be up to the existing Boards or their constituent local authorities to propose nominations to the new Board with COSLA offering perhaps a supportive role in ensuring new members have an appropriate knowledge base with which to perform their duties.

It is not recommended that Ministers be given authority to appoint individuals as this will create a perception of influence which could cause resentment within local communities.

Q6. What are your views on the roles and responsibilities for governance and accountability set out above?

The consultation document suggests that the new arrangements will “enable local authorities to shape local priorities” and this is to be welcomed if it can be delivered in practice. To ensure delivery, local Senior Police Officers would require significant financial and operational autonomy to make this a reality. The consultation indicates that the local Senior Police Officer will be able to seek resources from the Chief Constable to help deliver a local policing plan but much of the Scottish Government rhetoric has focussed on the need to ensure that the Scottish Police Force delivers on national priorities and national operational requirements. It is therefore unlikely that a local Police Officer, who may be junior in terms of rank, will have significant operational and financial autonomy from the centre. The ability of local Councillors to influence a local policing plan may therefore be limited. It is proposed that a scenario similar to education where a proportion of the budget is “devolved” for spending decisions made entirely at local level would ensure that a
proportion of the resource is available for delivering the local policing plan. It would be essential if local Councillors are to remain involved that they have some say over how resources are deployed.

There is a fundamental tension in the proposed structure where the local Senior Police Officer will require to reconcile his/her accountabilities to the Scottish Police Service with his/her accountabilities locally. Directions from the Chief Constable or a lack of local resources may seriously impinge on the ability of the Divisional Commander to provide the service required by the local communities. The governance and accountability of the new police authority will require to be carried out by locally elected Councillors otherwise the Board will be viewed as simply another government quango with no links to communities or local needs.

Q7. What are your views on the proposed new funding and financial accountability arrangements set out above?

Consolidation of existing funding sources into a single funding stream for the Scottish Police Authority is the cleanest method of funding the new organisation. The impact on local government funding will need to be worked through in detail including any residual elements such as community safety activity. The challenges around ensuring full accountability and proper financial governance from the beginning of the new organisation will be significant and time consuming to put in place.

There is a concern that priority funding will be withdrawn from rural areas resulting in higher or greater levels of crime than present and therefore some devolved spending should be considered for Area Commanders.

Q8. What are your views on our proposals for inspection and audit?

As this builds on existing arrangements which work well, the proposals are acceptable. The proposals do not, however, include Internal Audit which will be a core assurance function in terms of governance.

Q9. What are your views on our proposals and options for handling complaints, criminal allegations, serious incidents and reviews of investigations?

It is recommended that Option 2b be implemented given that the existing advisory and inspection functions of HMICS have worked well and the Scottish Public Services Ombudsman deals with complaints across the wider public sector.

Q10. What are your views on our proposals for independent custody visiting?

Independent Custody Visiting has worked well in Tayside whereby volunteer members of the community who have received appropriate training make unannounced visits to detention cells. Their purpose is to inspect on the welfare of those persons being held in police custody. It is essential that any new organisation whether it be statutory or otherwise continues the work of the local custody visiting schemes.
Q11. 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?

The proposal to retain current terms and conditions is welcomed although much work remains to be completed in consolidating Police Officer and staff terms and conditions. There will however be a need for clarity over which local government pension scheme the police staff of the new organisation will join. At present existing police staff will be members of the local government pension scheme for their area but early decisions require to be made as to whether or not this will continue.

Q12. Are there any other issues we should consider in creating the Scottish Police Service?

The main concern within Angus is that a successful, effective and efficient organisation will be denied resources, be denied the ability to determine a local strategy and be denied quality staff as a result of the downgrading of rural policing. It is essential that centralisation is introduced sympathetically and carefully to avoid detriment to the local economy. It is also important that procurement is open to local businesses and services supporting the Police for the same reasons.

The establishment of the SPSA should be analysed to ensure that there is no repeat of failing services within the new Scottish Police Authority. Basic functions such as payroll, creditors, debtors, treasury management and internal audit can all be easily overlooked in such a large scale reform. The new organisation will require core support functions to operate effectively from inception and the Scottish Government will require to develop a timetable and allocate the resources to ensure that this is accomplished.
PART B - FIRE AND RESCUE

Q13. 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?

As the Fire (Scotland) Act 2005 and The Fire (Additional Functions) (Scotland) Order 2005 were only recently introduced, Angus Council considers the functions contained within the legislation to be an effective foundation on which to continue to develop the service.

We consider it appropriate for the purpose of the service to be set out in the Fire Framework.

Q14. What are your views on our plans to retain existing functions for the Scottish Fire and Rescue Service?

Angus Council supports the retention of the existing functions for the Scottish Fire and Rescue Service as currently contained within the Fire (Scotland) Act 2005 and The Fire (Additional Functions) (Scotland) Order 2005.

Q15. What are your views on our proposals to transfer Scottish Government assets to the new body?

Angus Council supports the proposal to transfer Scottish Government fire related assets (Scottish Fire Services College, Firelink Communications System, Specialist Resources) to the Scottish Fire and Rescue Service. In addition to the transfer of these assets, it is essential that the levels of funding necessary to maintain and insure these assets are also transferred to the new service.

Q16. 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?

To enable the Scottish Fire and Rescue Board to perform its role and deliver its responsibilities effectively Angus Council considers it essential that the membership of the Board has the required range and mix of skills, experience and expertise. Ideally this would include the skills, experience and expertise of delivering a public sector community safety and emergency response service. A knowledge of the geographic and demographic differences across the diverse areas and communities of Scotland is also considered essential, as is the knowledge of how to effectively deliver a public sector community safety and emergency response service to all of those diverse areas and communities.

Q17. 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?

Angus Council considers that either existing Boards or the constituent local authorities should nominate members to the Board.
Q18. What are your views on the roles and responsibilities for governance and accountability set out above?

Angus Council considers it essential that the strong links between the Fire and Rescue Service and all other partners on Community Planning Partnerships at Council level are maintained and continue to be developed. The success of Tayside Fire and Rescue in increasing the safety of the communities they serve by working with these communities to drive down the risks from fire is due to the effectiveness of partnership working at the community level. It is essential that the rank of the local senior officer is commensurate with the level of responsibilities of this important role within the service.

Angus Council refers to the answer to question 6 above in relation to Police as the accountability issues relate equally to the Fire and Rescue Service.

Q19. What are your views on the proposed new funding and financial accountability arrangement set out above?

The success of the Scottish Fire and Rescue Service will be dependent on both the provision of sufficient funding to deliver effective community safety and emergency response services to all the communities of Scotland and the quality of its leadership. The consultation paper provides no details on how Ministers will reach their Fire and Rescue Service funding settlement decisions. Minister must be provided with information on the cost of an effective Fire and Rescue Service before funding settlements can be agreed. The identification of the cost of the service should be developed from the local engagement level upwards and must include a resilient incident command structure.

Q20. What are your views on our proposals for inspections and audit?

Angus Council considers that Audit Scotland still has an important role in the audit and scrutiny of all non operational aspects of the Scottish Fire and Rescue Service.

In addition enhancing the powers of the Scottish Fire and Rescue Advisory Unit to a role similar to the role of HMCIC (Her Majesty’s Chief Inspector of Constabulary) would enable Ministers to be fully appraised of the performance of the Fire and Rescue Service.

Q21. What are your views on our proposals for handling complaints?

Angus Council supports the introduction of a complaints system which follows the Scottish Public Services Ombudsman’s principles and procedures for handling complaints. This complaints system should involve the local Councils in the monitoring and scrutiny of complaints against the service within their geographic area of responsibility.
Q22. 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?

Angus Council considers this to be an extremely unsettling and uncertain period for all staff within the service who are concerned about their ongoing employment prospects within the Fire and Rescue Service. During this period of transition a commitment to no compulsory redundancies within the service would remove much of that uncertainty and would enable staff to fully focus on their roles within the service.

We also consider it important that the first Chief Officer of the new service should be appointed by the Scottish Fire and Rescue Service Board, subject to the approval of Scottish Ministers, following a fair and open competition, rather than by Scottish Ministers as proposed in paragraph 12.5.

Q23. 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?

Angus Council considers the current arrangements in respect of Section 51 of the Fire (Scotland) Act 2005 to be satisfactory.

Q24. What are your views on the benefits and/or disadvantages regarding the obligations to promote fire safety at local, regional and national levels?

Angus Council considers it essential that the Scottish Fire and Rescue Service has the responsibility to promote fire safety at the local, regional and national levels.

Q25. What are your views on our proposal 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 Services; 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?

Provided that any legal conflicts of interest can be resolved in relation to the Scottish Fire and Rescue Service potentially having to enforce legislation against the Crown, Angus Council has no other concerns in relation to this proposal. The enforcement of fire safety legislation within all premises covered by the legislation by a single authority will result in a greater consistency of approach. Angus Council considers the independent referral process to be appropriate and considers it appropriate for the Chief Inspector of Fire Authorities to consider the appropriateness of any referrals made.
Q26. Are there any other issues we should consider in creating the Scottish Fire and Rescue Service?

No.

Q27. The partial EQIA can be found at http://www.scotland.gov.uk/policeform or http://www.scotland.gov.uk/fireform. Do you have any comments on the partial EQIA? Are there any other potential impacts to consider?

No.

Q28. The partial BRIA can be found at http://www.scotland.gov.uk/policeform or http://www.scotland.gov.uk/fireform. Do you have any comments on the partial BRIA? Are there any other potential impacts to consider?

Some areas of Tayside have significant levels of unemployment and deprivation. Any restructure of the service which reduces employment opportunities in an area already suffering significant unemployment will exacerbate the situation. Fewer employment opportunities will have an extremely detrimental effect on the communities and the economy of the Tayside area.