

Supporting Police, Protecting Communities:

Report on the consultation responses

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INTRODUCTION

Acknowledgements

The Scottish Executive would like to thank all those who responded to the proposals set out in the consultation paper *Supporting Police, Protecting Communities: Proposals for legislation*. The responses to this consultation will contribute to the Executive's further development of policy and preparation of a Police Bill.

Responses to the consultation

In February 2005 the Scottish Executive Justice Department published the consultation paper *Supporting Police, Protecting Communities* which set out a number of proposals to enhance police effectiveness and promote community safety. The consultation document was published on the Internet (www.scotland.gov.uk/consultations/justice/sppcpl-00.asp) and in addition, 409 individual copies were sent out. The purpose of the consultation was to obtain views on a range of proposals on the following themes:

- Supporting the Scottish Police Service - the national delivery of services
- Knife Crime
- Football Banning Orders
- Marches and Parades
- Mandatory drug testing and assessment
- Police power to take fingerprints at a place other than a police station
- Date and place of birth
- Independent Police Complaints Body
- Incentives for providing information or evidence for use against others

67 responses were received to the consultation. 14 were from private individuals and 53 from organisations, including 12 local authorities, 11 football or football supporters' organisations, and 8 police or police authority organisations. 18 of the responses commented all the proposals covered in the consultation, 48 responded to one or some of the proposals, and 1 did not respond to any of the topics but made other comments about the Police Bill.

Except where confidentiality has been requested, the individual responses are available to the public in the Scottish Executive Library, K-spur Saughton House, Broomhouse Drive, Edinburgh EH11 3XD, tel 0131-244-4556, or at:

www.scotland.gov.uk/consultations/policebill/responses

The purpose of this report

This report provides a summary and analysis of the written responses received by the Scottish Executive on the proposals set out in the consultation paper. The aim of this report is to provide a numerical summary of the responses received to each question and to identify, without attributing them to individual respondents, some of the main issues raised. Readers who are not familiar with the consultation document may wish to refer to it to see details of the proposals, for those questions which are not self-explanatory.

SUMMARY OF RESPONSES

Supporting the Scottish Police Service - The National Delivery of Services

Question 1: Do you agree that a Service Authority should be created to maintain the Scottish Drug Enforcement Agency (SDEA) and provide the other common police services?

- 28 responses were received to this question; 27 agreed, 1 disagreed
- Not all respondents agreed with the distinction between maintained and provided services. 2 commented that SDEA should not be maintained, but should come into the direct governance regime of the Authority on the grounds that this would allow the authority to hire, discipline or dispense with the services of a director. However, they acknowledged that operationally the SDEA should retain independence from the authority.
- 4 respondents commented that the structure of the Service Authority should reflect that of existing Joint Police Boards and Police Authorities.

Question 2: Do you agree with the proposed division of responsibilities between the Director of the SDEA, the Service Authority and the Scottish Ministers?

- 25 responses were received to this question; 16 agreed, 6 disagreed and 3 commented without demonstrating a clear view.
- A number of respondents felt that Ministers should not set strategic priorities.
- 1 commented that they felt it important that the Service Authority 'properly governed' the SDEA. This would include the mandating of the Service Authority to oversee and scrutinise the risks apparent in the Agency and review the processes used to identify and mitigate them.

Question 3: Do you agree that, in certain circumstances, it is appropriate that the SDEA should be able to recruit officers directly?

- 25 responses were received to this question; 14 agreed, 10 disagreed and 1 commented without demonstrating a clear view.
- Several of those who disagreed accepted that there may be special circumstances where this may be necessary in order to avoid a specific crisis. However, overall, they felt the need for police constables to have a wide training, in line with current probationer arrangements, necessitated a recruitment process akin to that used by police forces.

Question 4: Have we identified all the initial functions to be provided by the new Service Authority?

- 20 responses were received to this question; 18 agreed, 2 disagreed.
- 1 suggested that the new authority should be tasked with introducing a new standard reporting and recording system for crime across all 8 police authorities.

- Another suggested that Identification Bureaux, Air Support, Marine Support, Computer Crime, Football Hooliganism, traffic policing and camera enforcement could all also be considered for central provision.

Question 5: Do you agree with the proposed division of responsibilities between the Service Authority and the Scottish Ministers for the provided common police services?

- 24 responses were received to this question; 17 agreed, 7 disagreed.
- There was concern from several respondents at the role of Ministers setting strategic direction. However, 1 of these respondents accepted that this may simply be a question of language and underlined the importance of clarity of language.
- Another commented that the Service Authority should have responsibility for, and ensure effective delivery of, all the provided common police services, including the SDEA.

Question 6: Do you agree that there should be a senior strategic director for the provided common police services?

- 25 responses were received to this question; 20 agreed, 5 disagreed.
- 3 advised that the Directors Forum (i.e. the forum of directors of the individual common police services) should be able to secure policy co-ordination and to act as a driver for continuous improvement.
- A number of respondents who supported the proposal felt that there should be minimal scope for Ministerial influence over the postholder.
- 1 respondent commented that the strategic director should have no line management responsibility in respect of the management or functions of the SDEA.
- 1 respondent stated that they see it as essential that a senior strategic director is appointed and also suggested that a professionally qualified financial officer should be appointed to ensure systems are in place to ensure effective accountability and transparency for public money.

Question 7: Do you agree that the Service Authority Board should comprise representatives from ACPOS, Police Conveners and lay members, and do you have any views on the proposed composition of the Board?

- 26 responses were received to this question; 18 agreed, 8 disagreed.
- In general respondents agreed the proposed format of the board, although there was opposition to the proposal for there to be a lay chair and lay membership of the board. 1 commented that lay members would not have sufficient experience and that the chair of the board should be a convenor of a police authority.

Question 8: Do you agree that the legislation should include an enabling provision to allow functions to be added or removed?

- 27 responses were received to this question; 25 agreed, 2 disagreed.

- Of the 2 who disagreed, 1 thought there is already provision within S 59 of the Police and Magistrate Courts Act 1994. The other considered this to be a politicisation of the police and advised that decisions on changes to operational matters should be taken where knowledge, expertise and experience exist.

Question 9: Do you agree that the SDEA's budget should be simplified, provided on a 50:50 basis by central and local government and that Ministers should be able to direct additional funding if necessary?

- 23 responses were received to this question; 20 agreed, 2 disagreed and 1 commented without demonstrating a clear view.
- 1 respondent was concerned that this method could put additional pressures on local authorities if SDEA costs were to rise at greater than the rate of inflation, with implications for the other services provided by LAs.
- Another respondent considered that the proposal to top-slice force budgets to fund the centralised service would diminish the ability of Chief Constables to spend their budgets to meet local needs.

Question 10: Do you agree that the Scottish Ministers should directly provide the whole of the funding for the provided common police services?

- 23 responses were received to this question; 14 agreed, 9 disagreed.
- Several of the opposing responses proposed that the provided services should be funded in the same manner as that proposed for the SDEA on the grounds that this would encourage a shareholder philosophy rather than a stakeholder one and would promote an awareness of local politics from the perspective of the Convenor members of the board.

Question 11: Are there any other comments you wish to make with respect to our proposals to create a single Service Authority which maintains the SDEA and provides common police services where police powers are not exercised?

- 11 positive responses were received to this question. Several of these questioned the proposals for a lay chair and lay membership of the board.

Knife crime

Question 12: Do you agree with the proposal to double the maximum penalty for carrying a knife (or other articles with a blade or point)?

- 33 responses were received to this question; 23 agreed, 4 agreed in part, 3 disagreed and 3 commented without demonstrating a clear view.
- There was broad support for aligning the penalties for carrying a knife in public with those for carrying of an offensive weapon.
- Those objecting suggested that increased penalties were not needed; some querying whether the current maximum was fully used by the courts.

Question 13: Do you agree with the proposal to give the police the power to arrest a person whom they reasonably suspect has committed or is committing an offence of carrying a knife (or other articles with a blade or point) or an offensive weapon?

- 34 responses were received to this question; 22 agreed, 4 agreed in part, 5 disagreed and 3 commented without demonstrating a clear view.
- There was general agreement from those supporting this proposal that it would support the message that knife crime will not be tolerated.
- Those objecting were mainly concerned that this would lead to innocent individuals being arrested simply for carrying a knife.

Question 14: Do you agree with the proposal to increase the minimum purchase age for knives (and other bladed and pointed objects) to 18?

- 32 responses were received to this question; 23 agreed, 4 agreed in part, 3 disagreed and 2 commented without demonstrating a clear view.
- There was broad support for aligning the purchase age for knives with that for alcohol and fireworks.
- Those objecting were concerned about stigmatising young people and the impact on those living in their own households.

Football Banning Orders

Question 15: Do you agree that football banning orders... are an appropriate and effective response to the problem of football-related violence and disorder?

- 32 responses were received to this question; 26 agreed, 3 agreed in part, 2 disagreed and 1 commented without demonstrating a clear view.
- 1 respondent saw merit in the proposals as part of a tailored approach to sentencing and a way of addressing the cause of offending behaviour.
- 1 respondent thought that extending the bans to certain public houses or town centres was particularly useful.
- 1 respondent felt that the proposals would be extremely meaningful to the police, helpful to football clubs and reassuring to the public.
- 3 respondents suggested extending the ban to include an area around the ground (perhaps a 2 mile radius) before and after kick off.
- Of the 2 who opposed the proposal, 1 did not agree that the problem of football violence was as substantial in Scotland as in England and felt that the case for banning orders had not been made. The other argued that banning orders are resource heavy, rely heavily on first rate intelligence and would work best if a Scottish Football Intelligence Unit was established alongside them.
- 5 respondents noted that the proposals would need to be sufficiently resourced in order to be effective.

Question 16: Do you agree that courts should be able to impose banning orders on conviction for a football-related offence and on summary application by a Chief Constable?

- 33 responses were received to this question; 25 agreed, 7 agreed in part and 1 disagreed.
- There were some concerns over the imposing of banning orders on summary application, with 1 respondent opposing this, 1 suggesting that there should be a presumption against imposing orders in this way and 1 suggesting that they may only be appropriate for cases of violent conduct.

Question 17: Do you agree that the courts should be able to make a banning order if they are satisfied that it would help reduce football-related disorder, specifically the stirring up of hatred against others or threatening, abusive or insulting behaviour at or in connection with a football match?

- 33 responses were received to this question; 25 agreed, 4 agreed in part, 2 disagreed and 2 commented without demonstrating a clear view.
- 3 respondents noted that this would build on work already being done by football clubs.
- 1 respondent thought the orders should apply in particular to those who commit offences aggravated by religious hatred.
- 1 respondent thought this would be difficult to prove.
- 1 respondent thought that orders should apply equally to everyone who act in this way (or not be applied at all) and that resources should not limit the application of the orders.
- 2 respondents noted that fans often act in the heat of the moment and felt there should not be an overreaction in enforcement. Another agreed that orders should not be made against everyone who acts in this way at matches due to “the potential strain on resources and the perception of over use of authority”.
- 1 respondent agreed that a demonstration of a pattern of behaviour over time should be enough for an order to be granted on these grounds.

Question 18: Do you agree with the proposed length of a banning order and the proposed penalty for breach of a banning order?

- 30 responses were received to this question; 22 agreed, 4 agreed in part and 4 disagreed.
- 1 respondent felt that the proposals should prove an excellent deterrent.
- 2 respondents thought the maximum lengths of banning orders was too long and should be 1 year, 3 years and 5 years respectively. Another thought that 1 year should be the maximum for banning orders imposed on summary application.
- 1 respondent suggested a life ban for the most serious offences.
- 2 respondents felt that provisional bans should be put in place for those who were arrested for football-related offences and were awaiting trial.

Question 19: Do you agree that banning orders should apply to all competitive and friendly games involving the Scottish national team and SPL and SFL clubs? If not, which games do you think they should apply to?

- 30 responses were received to this question; 24 agreed, 4 agreed in part and 2 disagreed.
- 2 respondents suggesting limiting the extent of the orders further than was proposed (one suggested “high-risk games” only and one suggested Premier League and national team games only).
- 3 respondents suggested including junior league games and one also suggested amateur games.
- 1 respondent suggested “any football-related event” and 1 suggested that the orders should cover any sporting event.

Question 20: Do you agree that the Scottish Police should take on the administration of the banning orders?

- 30 responses were received to this question; 23 agreed, 3 agreed in part, 3 disagreed and 1 commented without demonstrating a clear view.
- 1 respondent noted that it “is not envisaged that the administration of Football Banning Orders will be an unwieldy administrative burden on the Scottish Police Service.”
- 4 respondents suggested giving the clubs and/or football associations a role in the enforcement/administration of the banning orders.
- 2 respondents suggested establishing a national agency to handle the administration, possibly as part of the proposed new common services organisation.

Other

- 1 respondent also suggested creating a new offence of racist or indecent chanting at a football match.

Marches and Parades

Question 21: Do you agree that organisers should be required to give local authorities and the police 28 days notice of their intention to hold a procession?

- 24 responses were received to this question; 21 agreed, 3 disagreed.
- Of those who disagreed, 2 felt that an even longer notice period should be given (6 weeks and 3 months respectively).

Question 22: Do you agree that the 28 days notice period should be dispensed with in limited circumstances?

- 25 responses were received to this question; 24 agreed, 1 disagreed.
- Of those who agreed, 9 qualified their view by stating that:
 - The period of notice should be dispensed with only in exceptional circumstances (5 respondents).

- There should be clear definitions for the circumstances in which the notice can be dispensed with .
- Circumstances for dispensing with the notice period should be at the discretion of individual local authorities (2 respondents).
- 1 disagreed stating that no case had been made of abuse of the current system so why change it.

Question 23: Do you agree that organisers of all marches and parades should give notice of their intention to local authorities and the police?

- 24 responses were received to this question; 19 agreed, 1 agreed in part, and 4 disagreed.
- Of those who agreed, 6 qualified their view by stating that:
 - Consideration needed to be given to ways of relieving undue bureaucratic burden on march organisers (5 respondents).
 - Additional funding will be required to implement this recommendation .
- One respondent suggested that notice should always be given to the police but not always to local authorities – for example if it is an organisation like the Scouts or Boy’s Brigade.
- The reasons for disagreement included:
 - The process will not provide value for money .
 - There was no case for imposing this condition .
 - The condition was too burdensome .
 - Local authorities need flexibility – the condition is too rigid.

Question 24: Do you agree there should be regulations setting out the key steps and timetable for taking decisions on notifications?

- 23 responses were received to this question; 18 agreed, 5 disagreed.
- Of those who agreed, 5 qualified their view by stating that:
 - The regulations should not be overly burdensome (3 respondents).
 - The regulations should only apply to troublesome marches .
 - The decisions should include consideration of the previous behaviour of march organisers and participants .
- The reasons for disagreement included:
 - The regulations were too burdensome (3 respondents).
 - The resource implications were significant (3 respondents).
 - National guidelines would be more appropriate .

Question 25: Do you agree that local authorities should be able to take into account wider views, including community views, when taking decisions on procession notifications and that they should put in place transparent procedures as to how those views will be considered?

- 25 responses were received to this question; 22 agreed, 2 disagreed, and 1 commented without demonstrating a clear view.
- Of those who agreed, 7 qualified their view by stating that:
 - Local authorities should have a free hand to decide what views are taken into account (3 respondents).

- Equal opportunities are paramount – for example the majority view does not always outweigh the minority interests .
- Clarification and guidance on what is meant by “community views” would be helpful (2 respondents).
- Method for view to be given on a confidential basis required to avoid intimidation or reprisals .
- Those who disagreed felt that:
 - Its unclear how community views will be assessed .
 - The cost implications are significant .
 - It’s impossible to overturn a decision to allow a march simply on the grounds of public opinion.
- 1 respondent did not give a clear view whether they were for or against the proposal, but raised issues about the cost of publicising the notifications and the number of frivolous objections they may receive. They proposed that the grounds for objections are restricted to those suggested in the report of the Review.

Question 26: Do you agree that local authorities should be able to take into account wider issues when taking decisions on procession notifications?

- 23 responses were received to this question; 22 agreed, 1 disagreed.
- Of those who agreed, 5 qualified their view by stating that:
 - “Wider issues” must relate directly to the application .
 - Wider issues should include impact on local businesses and public transport .
 - Wider issues should include the risk of sectarian abuse and intimidation .
 - Wider issues must be compatible with Human rights .
 - The burden of responsibility for contentious decisions should lie solely with the local authorities .

Question 27: Do you agree that local authorities should be able to impose wider conditions on procession notifications?

- 23 responses were received to this question; 22 agreed, 1 disagreed.
- Of those who agreed, 6 qualified their view by stating that:
 - National/statutory guidelines should be given on what those conditions should be (2 respondents).
 - “Wider conditions” should not be unduly onerous .
 - Respect for human rights must be considered .
 - The conditions should include a ban on the consumption of alcohol .
 - The conditions should include a ban on all forms of sectarian singing, music, chanting, symbols, flags and clothing .
 - The conditions should require organisers to take out insurance and good behaviour bonds .

Question 28: Do you agree that there should be a code of conduct prepared by the police and local authorities?

- 22 responses were received to this question; 20 agreed, 2 disagreed.

- Of those who agreed, 4 qualified their comment by stating that:
 - There should be flexibility in the Code of Conduct (2 respondents).
 - The Scottish Police Service and COSLA should prepare the Code of Conduct .
 - A standard Scotland-wide code should be prepared and individual police authorities and local authorities should add local conditions to reflect local circumstances.

Question 29: Do you agree that organisers and participants in breach of the new statutory requirements remain subject to the same penalties as currently?

- 21 responses were received to this question; 20 agreed, 1 disagreed.
- More detailed suggestions included:
 - Penalties should be extended to the parent organisation of the march body .
 - Penalties should be extended to march participants.
 - Penalties should be reviewed as we learn more about marches and march organisers .
 - A breach of religious or racial prejudice should be more heavily punished .
 - Penalties should include a ban on participating in a march or parade for a fixed period .
- 1 respondent disagreed, preferring that the current penalties should be doubled.

Mandatory drug testing and assessment

Question 30: Do you agree that police should have powers to require persons arrested for certain trigger offences to undergo a drug test?

- 29 responses were received to this question; 15 agreed, 12 disagreed, and 2 commented without demonstrating a clear view.
- Of those who disagreed, most had concerns relating to practical issues such as whether or not there would be sufficient treatment facilities to support the policy; whether or not the coercive element might undermine engagement in voluntary treatment; and whether or not the policy may force into treatment non-dependent drug misusers.
- 1 respondent suggested that the policy is more appropriately a matter for the Courts, suggesting a positive drug test could lead to assessment as a condition of bail.

Question 31: Do you agree that drug testing should be applied to those arrested for certain offences rather than on charge?

- 21 responses were received to this question; 14 agreed, 7 disagreed.
- Only a few respondents provided any comments. One (who agreed) stated that a positive drugs test should not lead to a further charge under the Misuse of Drugs Act. Another response questioned sanctions for non-compliance with

the test and also stated the need for those administering the test (police officers) to be suitably trained and knowledgeable.

Question 32: Do you agree that powers should be taken to enable the police to require those who test positive for a class A drug to attend an assessment of their drugs use?

- 21 responses were received to this question; 10 agreed, 10 disagreed, and 1 commented without demonstrating a clear view.
- Of those that disagreed the majority did so on principle – i.e. that such a function should be delivered in a different way (through bail or the PF service) or because they questioned coercion into treatment. However 3 of these respondents seemed to be on the basis of a lack of clarity about, for example, possible sanctions for non-compliance or ECHR concerns – issues that would be clarified prior to implementation.
- Many – including those who supported the proposal – raised concerns about resources.

Question 33: Do you agree that theft and drugs offences should be the main trigger offences for testing? Should any other offences be included?

- 20 responses were received to this question; 13 agreed, 7 disagreed.
- A majority of respondents agreed that theft and drugs offences should be the main trigger offences. However, 9 of those who supported the suggested trigger offences, and 3 of those who said they opposed them, also said they would be in favour of a wider range of trigger offences or even a general power for mandatory testing following arrest for any offence.
- Specific suggestions for additional trigger offences included crimes of violence, breach of peace offences and soliciting/prostitution.
- A number of qualifications were provided, the main one being that it would not be appropriate to include all theft offences as many do not commonly have a drug related aspect. Theft is also a high volume offence and this may have implications for the police – particularly if a proportion were being tested unnecessarily. A number of respondents suggest specifying further those theft offences which should be included (for example, theft by housebreaking, theft by shoplifting etc).

Question 34: Do you agree that there should be a power for a senior police officer to authorise a drug test where there are reasonable grounds to suspect that the misuse of a Class A drug has caused or contributed to a non-trigger offence?

- 20 responses were received to this question; 11 agreed, 9 disagreed.
- Some respondents suggested a need for clear guidance as to when this would be suitable.

Question 35: Do you agree that the minimum age at which these proposals take effect should be 16 or should a lower limit be set?

- 21 responses were received to this question; 10 agreed, 10 disagreed, and 1 further response was not clear but seemed to agree that individuals under 16 should be dealt with through other services.
- Of those respondents who did not support sixteen as the minimum age limit, the most common suggestion (made by 6 respondents) was that there should be no minimum age limit or that it should be the minimum legal age (i.e. 8). Only 1 respondent suggested a minimum age limit (18) higher than that in the consultation.

Question 36: Do you agree that mandatory drug testing will provide access to a key group of clients that might not otherwise engage successfully in treatment services?

- 23 responses were received to this question; 12 agreed, 8 disagreed, and 3 commented without demonstrating a clear view.
- Several responses, both in agreement with the policy and opposed to it, commented on the resources required to put this policy into practice.

Police power to take fingerprints at a place other than a police station

Question 37: Do you agree that the police be given the power to take fingerprints outside of a police station in order to confirm a person's identity?

- 24 responses were received to this question; 21 agreed, 3 disagreed.
- A number of supportive responses emphasised the importance of the safeguards proposed in the consultation paper.
- Those who disagreed felt that there was a risk that civil liberties might be infringed.

Question 38: Do you agree that officers should also be able to conduct on-the-spot checks, other than for identity verification, in specified circumstances?

- 24 responses were received to this question; 15 agreed, 9 disagreed.
- Some of those who disagreed felt there was a risk that the power could be misused, and in particular that it could be used disproportionately to target particular population groups.

Date and place of birth

Question 39: Do you agree that the police should be given a power to ask for date of birth and place of birth information from suspects?

- 25 responses were received to this question. In respect of date of birth, 24 agreed and 1 disagreed. For place of birth, 22 agreed, 3 disagreed.
- **Place of Birth information** – 3 responses disagreed with the proposal: 1 of these said that the information was of no relevance. The other 2 raised questions as to what information was expected, is it hospital, home address, town, country etc, what would happen if the answer given may not tie in with police officer's preconceived belief and where ethnic issues are involved may be construed as being racial
- 2 replies asked for further powers in relation to occupation information, suggesting that the police should be able to ask a question along the lines of:-

“Are you involved in any activity, paid or unpaid, that involves caring for, supervising or training of children or vulnerable adults?”

Independent Police Complaints Body

Question 40: Do you agree that the proposed measures ... are the most effective ways in which to raise the profile of the role of the Procurator Fiscal in investigating criminal complaints made against the police?

- 27 responses were received to this question; 22 agreed, 4 disagreed, and 1 commented without demonstrating a clear view.
- Those who disagreed felt that criminal complaints should instead be handled by a new Independent Police Complaints Body with a wider range of powers than those proposed in the consultation document, including its own investigatory capacity.

Question 41: Are you satisfied that the powers and duties outlined at paragraph 9.15 will be sufficient to allow the new body to play an effective role in ensuring that Scotland has a modern and transparent police complaints system?

- 27 responses were received to this question; 21 agreed, 5 disagreed, and 1 commented without demonstrating a clear view.
- Those who disagreed felt that the new body should have a wider role and wider powers, including a stand-alone investigatory capacity.

Question 42: If not, what alternative or additional powers do you think are needed?

- See above.

Incentives for providing information or evidence for use against others

Question 43: Do you agree that a statutory system should be established to seek to increase the number of accused who plead guilty and provide co-operation against other accused in return for a reduced sentence?

- 21 responses were received to this question; 14 agreed, 2 agreed in part, 4 disagreed and 1 commented without demonstrating a clear position.
- 1 respondent felt the laws should be used vigorously to ensure Scotland was not seen by criminals as having “lesser laws”.
- 1 respondent thought that it was better to formalise the process and be transparent.
- 2 respondents thought that sufficient additional powers already existed; 1 of these suggested that the policy had not been thought through and that it should be referred to the Scottish Law Commission before being enacted.
- 1 respondent raised a number of issues about how the proposals would work in practice and suggested that if the Scottish Executive is considering formalised plea bargaining there might then be merit in referring the topic to the Sentencing Commission for consideration.

Question 44: Do you agree with the features of the system proposed?

- 22 responses were received to this question; 13 agreed, 2 agreed in part. 5 disagreed and 2 commented without demonstrating a clear position.
- 1 respondent thought that the co-operation may need to be kept confidential.
- 2 emphasised the need for the system to be open/transparent.
- 1 was opposed on the grounds that “plea bargaining is contrary to the cause of justice”. Another found it difficult to envisage any circumstances where a sentence would be reduced retrospectively and opposed any dilution of the principle that the Procurator Fiscal has no interest in sentence.
- 2 respondents thought that sentences should not be reduced to the extent that they appeared unduly lenient – justice should be seen to be done.

Question 45: Do you agree that the prosecutor in Scotland should be able to inform the trial judge in confidence of unrelated co-operation which an accused has provided in the past and for the judge to be able to take that into account in sentencing?

- 20 responses were received to this question; 11 agreed, 3 agreed in part, 5 disagreed and 1 commented without demonstrating a clear position.
- 1 thought this would be a significant bargaining tool for prosecutors. Another supported the proposal but considered that there must be proof/confidence that the co-operation is valuable.
- 1 questioned why the option of declaring past co-operation was not also open to the defence.
- Several thought that all circumstances should be taken into account to ensure that the interests of victims and the public interest were best served.
- 1 thought that only information relevant to the circumstances under review should be considered.

Question 46: Do you agree that the prosecutor's power to offer immunity from prosecution in return for co-operation should be put on a statutory basis and that the prosecutor should be able to commence or recommence proceedings where the degree of co-operation has not been provided?

- 20 responses were received to this question; 12 agreed, 2 agreed in part, 5 disagreed and 1 commented without demonstrating a clear position.
- 2 respondents thought that codification of the existing powers would be useful. Another considered that a power to recommence proceedings would be absolutely necessary.
- 1 respondent saw no reason to change existing procedures. Another saw no reason to put the arrangements on a statutory footing and opposed the proposal for the prosecutor to be able to commence or recommence proceedings.
- 1 respondent supported sentence reduction but not immunity as those who are guilty of crimes should be punished. Another believed immunity should only be offered for minor offences and a third believed no immunity should be offered for hate crime offences.

List of Respondents
(excluding individuals who requested that their names be kept confidential)

Organisations

Aberdeenshire Council
Airdrie Utd FC
Angus Council
Angus Drug and Alcohol Action Team
Arab Trust (Dundee Utd Supporters' Society)
Association of Chief Police Officers in Scotland
Association of Scottish Police Superintendents
#Ayrshire and Arran Alcohol and Drug Action Team
Bell College: Scottish Centre for Police Studies
Capability Scotland
CIPFA
Convention of Scottish Local Authorities (CoSLA)
#Dumfries and Galloway Police Authority
Dundee City Council
East Ayrshire Council
East Dunbartonshire Council
East Renfrewshire Council
ERIN Hibernian Supporters' Trust
Faculty of Advocates
Football Safety Officers Association (Scotland)
Forensic Institute
International Committee of Museums and Collections of Arms and Military History
Glasgow City Council
Grampian Joint Police Board
Greenock Morton Supporters' Society
Hibernian FC
Justice for Kevins
Law Society of Scotland
Lothian Buses
Midlothian Council
North Lanarkshire Council
Northgate Information Solutions
Nil by Mouth
#Rangers FC
#Rangers Supporters' Assembly
#Renfrewshire Council
Scottish Children's Reporter Administration
Scottish Drug Enforcement Agency
Scottish Drugs Forum
Scottish Football Association
Scottish Football League
Scottish Legal Aid Board
Scottish Police Authorities Conveners Forum
Scottish Police Federation
Scottish Premier League

Scottish Retail Consortium
South Ayrshire Anti-Social Behaviour Team
South Lanarkshire Council
Stirling Area Substance Forum
Strathclyde Joint Police Board
UNISON Scotland
Victim Support Scotland
West Lothian Council

- response not to be made public

Individuals

George Allan
Johann Bryant
John Campbell
Keith Cowan MBE
Stephen Coppinger
Rob Miller
Colin MacDonald
Allan McLeod
Denis W. Reid
Donald Thomson
Plus four others

**Scottish Executive Justice Department
June 2005**