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**From:** Ferguson, Anne [  
**Sent:** 03 May 2005 15:05  
**To:** Police Bill; 'ik'  
**Subject:** Supporting the Scottish Police Service - The National Delivery of Services - Response



ERC - Combined  
Comments 3rd Dr...

I attach the response from East Renfrewshire Council in respect of the above.

Kind regards.

<<ERC - Combined Comments 3rd Draft.doc>>

## **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 SDEA and provide the other common police services?

**Answer:** Potentially this aligns all of the related police services into a single entity under common control and will offer greater co-ordination and joint policing opportunities. The proposed structural arrangements appear to be flexible and could facilitate the addition of related service areas should the need arise in the future.

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

**Answer:** The proposal to distance Ministers from the SDEA's operational policing work and (at the same time) put in place arrangements which acknowledge the need for the Director of the SDEA to be fully accountable to the Service Authority for the performance and the efficient/effective running of the SDEA is well founded.

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

**Answer:** There are many officers with a particular enthusiasm and knowledge which the SDEA would benefit from. It is therefore appropriate that they recruit directly over the timescale predicted and for the reasons stated. However if such posts are filled from serving police officers then Chief Constables may need to fill the resultant void. Close liaison between the Director of the SDEA and Chief Constables (before staff are recruited to/from key areas of specialism or in significant numbers) would avoid the potential for a detrimental effect at an operational level in either agency.

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

**Answer:** It may prudent to consider whether it would be economically beneficial to incorporate a central procurement function which could be tasked to facilitate the provision of all common goods, services and materials (uniforms, vehicles, communication equipment – 'back office functions' etc.) used by all Scottish police forces? Emphasis should be placed on how the new Authority will interact with Local Authorities particularly with regard to joint and cross-agency training, sharing of information intended to stem criminal activity and developed links with local anti-social behaviour strategies and plans.

**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?

**Answer:** The proposed arrangements appropriately facilitate the need for ministerial involvement at a strategic policy level.

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

**Answer:** The arguments for the single strategic director are well founded. However if the primary role of the senior strategic director is one of coordination (to ensure effective efficient operation across the whole Service Authority) it follows that he/she should oversee the Directors of all 'constituent parts' of the organisation including (at least to a certain extent) the Director of the SDEA. In doing so it would be easier ensure the overarching strategic aims/policy of the Service Authority are achieved, particularly in circumstances were the view/outlook of the Director of the SDEA did not accord with those of the Service Authority. Close liaison between key individuals could also ensure that the related benefits were obtained without impinging unduly on the operational independence of the Director of the SDEA.

**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?

**Answer:** It is proper that the three parts are represented on the service authority board. However, since the inception of partnership working initiated in the mid 80's Police authorities have worked more closely with local authorities. Membership to the board, in addition to lay membership, should be open to designated local authority members.

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

**Answer:** Proposing that there is a need to react to new circumstances and enabling provision would allow functions to be removed or added. The arrangements put in place need to have sufficient flexibility to ensure they can be adapted and applied in circumstances that are currently in development or perhaps even unknown. In short they need to be as future proof as they can be. This is particularly relevant in the case of technologically based crime (use of the internet for illicit purposes etc) which is a constantly changing area.

**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?

**Answer:** The parallel with the former Scottish Crime Squad is very apt although clarification would be useful in the context of whether or not the local government funding is seen as being supplied by individual local authorities as opposed to the Scottish Executive. The current arrangements should be maintained if they represent the most operationally efficient spending plan. Given the unpredictable nature of the work of the SDEA it is appropriate that Ministers are able to provide additional funding to meet unknown operational requirements as they arise.

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

**Answer:** **Local authorities are not in an ideal position to contribute to such a national venture. Ministers should continue the present arrangement and extend it to incorporate both revenue and capital costs. Particularly costs associated with future capital works projects e.g. the proposed new forensic laboratory.**

**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?

**Answer:** **No further comments**

## **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)?

**Answer:** **Appropriate level(s) of penalties should be determined by appropriately qualified judiciary professionals and be based on an assessment of all relevant factors.**

**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?

**Answer:** **Yes**

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

**Answer:** **Yes**

## **FOOTBALL BANNING ORDERS**

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

**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?

**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?

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

**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?

**Answer: (15-19) Criminal justice professionals in liaison with representatives from the football community are best placed to determine the measures that need to be in place to ensure the implementation/maintenance of appropriate public safety measures and the protection of the environment and property.**

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

**Answer:** Typically football supporters can travel throughout Scotland/Europe. It may therefore be operationally beneficial to arrange for an agency with Scotland wide responsibilities (such as the proposed Service Authority) to administer banning orders. Associated benefits from such central administration being the ability to centrally compile, analyse, disseminate and share the data between all Scottish Police Forces and other relevant agencies.

### **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?

**Answer:** Yes

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

**Answer:** An exemptions list covering certain organisations (the Girl Guides, the Scouts, the Boys Brigade, youth groups associated with these organisations and the Salvation Army etc.) could be compiled/maintained at a local level.

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

**Answer:** In certain cases, it would also be beneficial to enable the views of others (individual members of the public and community representatives, elected members and community council representatives etc.) to be sought and taken into account as/when/if appropriate to do so.

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

**Answer:** Yes

**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?

**Answer:** As noted at 23 above it should be left to individual local authorities to determine appropriate consultation mechanisms.

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

**Answer:** Yes

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

**Answer:** Yes

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

**Answer:** It would be difficult to ensure that a single code of conduct (which covered a single police force area and many constituent local authorities) would be able to take account of - reflect local variations/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?

**Answer:** Yes

#### **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?

**Answer:** We would have concerns based on the individual's human rights and the blanket application of mandatory drug testing for all people arrested on suspicion of drugs or theft offences. Should an individual refuse to submit to a test, would further penalties apply? Equally, if someone provides a sample for testing and then is released without charge, is the sample destroyed or are results to be held on-file, which could in turn be considered a breach of civil liberties? Equally theft offences take many forms and as well as including eg: car theft and housebreaking, can include credit card and benefit fraud as well as shoplifting etc. The diversity of theft offences can therefore indicate a diversity of reasons for offending in this way.

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

**Answer:** Refer to answer to question 30; if charged, there could be a simultaneous referral to the Arrest Referral Scheme.

**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?

**Answer:** Those who test positive should be referred on to Arrest Referral Schemes – attendance or non-attendance is then used as part of the assessment process. Attendance would need to be voluntary until found guilty at which point attendance could be part of existing statutory provision eg: a probation order or DTTO.

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

**Answer:** See answers to questions above, particularly concerns raised regarding range of theft offences. Testing should be triggered by charge and not arrest and to widen the range of trigger offences could be to overlook drug-dependent offenders who commit offences outwith this prescriptive list.

**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?

**Answer:** Needs to be at the point of charge eg: when subject to bail and not arrest.

**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?

**Answer:** Age limit should be restricted to 16 being dealt with through the adult court system – to include children who would be dealt with normally in the Children's Reporters Departments could identify problem drug use at an early stage but would have greater concerns about children under the age of 16 being subject to mandatory drug tests via police referral when the Reporters' Administration should be more than capable of responding to this area of need.

**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?

**Answer:** Mandatory drug testing is not necessary for this – Arrest Referral Schemes have widened the access of drug misusing offenders to contact appropriate services at an early stage. Improved use of Arrest Referral Schemes by the police could in fact reduce the need for officers to refer suspects after mandatory drug tests.

#### **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?

**Answer:** Concerns would be held about implementing finger printing prior to an individual being charged and also the impact of this on upholding civil liberties.

**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?

**Answer:** We would have significant concerns that such powers could be misused, targeting certain groups and demographic communities, particularly concerned that spot checks rather than arrest could trigger finger printing and cross-checking for unsolved crimes – potential for breaching human rights of someone still considered innocent at this point in the process – issues regarding the premise in Scottish justice of requiring proof beyond reasonable doubt.

#### **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

**Answer:** Yes

#### **INDEPENDENT POLICE COMPLAINTS BODY**

**Question 40:** Do you agree that the proposed measures at paragraph 9.11 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?

**Answer:** The proposals are likely to present capacity issues that would need to be resourced.

**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?

**Answer:** Emergency service & judiciary professionals are best placed to respond to this matter.

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

**Answer:** N/A

#### **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 cooperation against other accused in return for a reduced sentence?

**Answer:** Information provided to the prosecutor resulting in a reduced sentence would most likely have to remain confidential in more cases than not, in order to maintain the safety of that offender and their family – declaring a split sentence in open court could place associates of the accused at greater risk of retaliation.

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

**Answer:**        **The features of the proposed system are likely to present those involved with a significant challenge in operational terms.**

**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?

**Answer:**        **Emergency service & judiciary professionals are best placed to respond to this matter.**

**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?

**Answer:**        **Emergency service & judiciary professionals are best placed to respond to this matter.**