

# 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

Scottish Public Services Ombudsman

Title Mr  Ms  Mrs  Miss  Dr  Please tick as appropriate

Surname

Martin

Forename

Jim

### 2. Postal Address

4 Melville Street

Edinburgh

Postcode EH3 7NS

Phone

Email

### 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?**

No comment.

**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?**

No comment.

**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?**

No comment.

**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?**

No comment.

**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?**

No comment.

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

No comment.

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

No comment.

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

No comment.

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

In this consultation response I am restricting my comments to the area that directly impacts on SPSO. However, I would like to put on the record that in my view the voice of the ordinary member of the public has yet to be significantly heard in the debate about how the police should be overseen and this is a concern to me. I would urge the Government to take this unique opportunity to ask the public what model of policing oversight they want and what powers they would wish the various oversight bodies to have.

I reiterate below the key points from the responses I sent to the Cabinet Secretary earlier this year in response to his proposal that the functions of the PCCS be transferred to the SPSO.

### **Simplification and learning**

On the grounds of simplifying the process and landscape for citizens, the Sinclair Report makes powerful arguments for the SPSO as the final stage for complaints about all public services. I see a clear logic from the service user and service provider perspective in creating in Scotland a single final tier complaints handling body.

In a public service delivery environment where a complaint may cut across a variety of services, there are benefits in having one body with knowledge of a wide range of services and specialist expertise in complaints handling. It helps remove confusion for the public, and the SPSO's perspective across a broad area also allows valuable information to be collected and learning to be shared.

### **Greater powers to examine substance of complaints**

The SPSO has the relevant expertise to take on the two key functions of the PCCS. Section 35 of the Act that established the PCCS refers to the Commissioner's role as to 'examine the manner in which a relevant complaint has been dealt with'. Section 5 of the SPSO Act entitles the Ombudsman to investigate matters in relation to any action taken by relevant public authorities 'in the exercise of administrative functions of the authority', essentially actions that constitute maladministration and/or service failure. Therefore, if police forces and other relevant authorities were to be placed under SPSO jurisdiction, the level of scrutiny over them would be enhanced.

### **Standardising and improving standards in complaints handling**

There are also parallels between the duties of the PCCS and the role conferred on the SPSO under the Public Services Reform Act that requires us to develop standardised complaints handling processes for the public sector and to promote best practice in complaints handling. Section 42 of the PCCS Act provides the PCCS with a general duty to ensure that the police have efficient and effective complaints procedures. In this connection we responded to the PCCS consultation on statutory guidance on complaints procedures and made frequent references to similarities with our own consultation on model Complaints Handling Guidance. A transfer would allow standardisation of police procedures in line with procedures of other key and relevant sectors. There are clear benefits to this for both the service user and the service provider. The SPSO's statutory function of improving standards in complaints handling allows it to share best practice and set clear benchmarks right across the public sector.

### **Specialist knowledge**

SPSO has specialist knowledge and experience in handling complaints about a wide range of subjects. The SPSO handles complaints about diverse bodies in all areas of public service delivery – local government, the NHS, housing associations, the Scottish Government and Higher and Further Education. As far as police-related matters are concerned, the SPSO can currently take complaints about a wide range of bodies that interact with police services and vice versa (e.g. social work; local government and health boards including Joint Fire and Rescue Boards and the

Ambulance Service; prisons; the Scottish Court Service; the Parole Board and the Crown Office including the Procurator Fiscal).

### **Track record in managing transfers**

We have proven that we can manage transfers of complaints from other bodies whilst maintaining continuity and quality of service. On 1 October 2010, we successfully took on responsibility for complaints about Scottish prisons and on 15 August 2011 we assumed the complaints handling function of Waterwatch Scotland. On each occasion where we have been asked to widen our remit, we have ensured that the expertise and knowledge base gained by staff working in a particular field were not lost. This was the case with prison and water complaints, and equally could be the case with police complaints.

### **Potential efficiencies**

A key point made in the Sinclair Report was that moving complaints handling responsibilities from small organisations to larger complaints handlers means efficiencies from economies of scale. Prisons complaints and water complaints have shown this to be the case.

While it is not possible to quantify efficiencies to any extent without more detailed analysis, there are clear potential savings to the public purse through the sharing of services and efficiencies in process. Detailed estimated savings would be dependent on a number of key decisions and factors. However, I would expect that, while resources will be needed for transition costs, we would be confident of achieving annual savings within two to three years.

### **Independence**

For public confidence, final stage complaints should be, and should be seen to be, handled by a body that is apart from police structures. It is essential for the citizen that there is faith in the complaints handlers' independence; anything less will erode the public's willingness to complain and their faith in the outcome of any complaint. The SPSO, responsible to the Parliament and already dealing with a wide range of other key public services, is demonstrably removed from police structures. Its clear independence could provide reassurance for the public where non-criminal complaints are concerned.

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

No comment.

### **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?**

No comment.

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

No comment.

## **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?**

No comment.

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

No comment.

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

No comment.

**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?**

No comment.

**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?**

No comment.

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

No comment.

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

No comment.

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

No comment.

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

We welcome the consultation's emphasis on the importance of the fire and rescue system following the SPSO's principles and procedures for handling complaints as set out in 11.11.

We are also content to retain responsibility for overseeing how complaints are handled, as at present, as set out in 11.12

**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?**

No comment.

**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?**

No comment.

**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?**

No comment.

**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?**

No comment.

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

No comment.

**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.