JUSTICE 2 COMMITTEE

AGENDA

24th Meeting, 2004 (Session 2)

Thursday 9 September 2004

The Committee will meet at 2.00 pm in Committee Room 2.

1. **Item in Private**: The Committee will decide whether to take item 4 in private.

2. **Prisoner Escort and Court Custody Services Contract**: The Committee will consider a paper by the Clerk.

3. **Fire (Scotland) Bill**: The Committee will take evidence on the general principles of the Bill from—

   Ian Snedden, Head of Fire Services Division, Jill Clark, Bill Team Leader, Robert Marshall, Solicitor, Scottish Executive and Brian McKenzie, Assistant Inspector of Fire Services

4. **Fire (Scotland) Bill**: The Committee will consider written evidence received and consider who to invite to give oral evidence on the Bill at Stage 1.
Agenda item 2 – Prisoner Escort and Court Custody Services Contract

Note by the Clerk

J2/S2/04/24/1

Agenda item 3 and 4 – Fire (Scotland) Bill

Written Submissions received – sent hard copy only but available electronically if required
Summary of written evidence received
J2/S2/04/24/2
Proposed areas for questioning
J2/S2/04/24/3
(PRIVATE PAPER – MEMBERS ONLY) – to follow
The Scottish Fire and Rescue Service: Proposals for Legislation – Consultation Analysis Report
J2/S2/04/24/4

The following papers are enclosed for information only

• Letter to Convener from Mary Mulligan of July regarding Stage 3 amendments
• Post Council report of meeting 19 July 2004

Forthcoming meetings:

• Tuesday 14 September 2pm – Justice 2
• Tuesday 21 September 2pm – Justice 2
• Tuesday 28 September 2pm – Joint meeting with Justice 1 followed by Justice 2

Gillian Baxendine / Lynn Tullis
Clerks to the Committee
Tel 0131 348 5054
Background

1. At its meeting on 8 June 2004, the Committee took evidence from Tom Riall, Geoff Cooper and Campbell O’Connell of Reliance Custodial Services, Tony Cameron, Willie Pretswell and Bill McKinlay from the Prison Service and Cathy Jamieson, the Minister for Justice.

2. At that meeting the SPS agreed to provide information on membership of the project board and the implementation board. Additionally the Committee noted that ACPOS was leading a multi-agency review into problems with the current system of dealing with outstanding warrants, due to report in the summer and that the Auditor General had been asked to bring forward his report on the audit of the award of the contract.

3. A letter from Tony Cameron dated 18 June detailing membership of the project and implementation boards was circulated to Members for the meeting on 28 June. Clerks have since been advised that the report of the ACPOS led review is not likely to be available to Ministers before the end of August and therefore not likely to be available to the Committee for some time thereafter. The Auditor General’s report is not expected until some time in September.

Subsequent Roll-Outs

4. On 19th July, the Minister wrote to the Convener advising that phase 2A of the contract (covering Dumfries and Galloway) would be rolled-out from 22 July.

5. On 2 August the Minister wrote to the Convener advising that phase 2B of the contract (covering Argyll and Bute, Dumbarton and Ayrshire) would be rolled out from 4 August.

6. On 16 August, the Minister wrote to the Convener advising that phase 2C of the contract (covering HMP Glenochil, the custody units of Central Scotland Police and the Sheriff and District Courts of Alloa, Falkirk and Stirling). Formal statements of assurance/readiness from the Chief Executives of the Scottish Prison Service, Crown Office and Procurator Fiscal Service and the Scottish Court Service and from the relevant Chief Constable were received by the Minister in respect of each of these roll-outs.
For Decision

7. It is suggested that the Committee notes the present position and comes back to consider this matter further so soon as either the report by the ACPOS-led group or the report by the Auditor General is available, at which time the Committee may wish to take further evidence from particular witnesses, including the Minister.

Clerk to the Committee
August 2004
JUSTICE 2 COMMITTEE

FIRE (SCOTLAND) BILL

SUMMARY OF EVIDENCE

The summary of evidence has been prepared by Michael Moore, the adviser to the Committee on the Fire (Scotland) Bill. This sets out the general points in relation to the Bill followed by specific comments on parts and sections.

The first evidence session on the Bill will take place on 9th September with the Scottish Executive Bill Team. Witnesses have been invited to two further evidence sessions on 14th September (CACFOA, FBU, Retained Fire-fighters Union) and on 21st September (HM Fire Services Inspectorate, Scottish Fire Services College, COSLA). There is scope to schedule two additional sessions on 28th September and 5th October should the Committee wish to do so. The Deputy Minister has advised that he would be available to give evidence on 28th September, but would not be available to meet with the Committee on 5th October.

General Comments

Most of the submissions welcomed and supported the bill.

Fire Authorities and Chief Fire Officers
The submissions from the Fire Authorities and Chief Fire Officers Association had a number of issues regarding:

Ministerial Powers:
- The need to have a clear understanding on when ministerial powers will be implemented and accountability and responsibility that will attach to Scottish Ministers in those circumstances.
- The legislative proposals related to the removal of ministerial power in favour of an increased accountability and responsibility for Fire Authorities. They are concerned that the bill does not seem to support this role.

Governance:
- They are seeking a clear understanding of the responsibilities of Fire Authorities, Scottish Ministers and Brigade management teams in relation to provision and management of the Fire Service.
- They emphasise this importance especially given the current uncertainty in relation to the provision of Control rooms, Common Services Agency, and abolishing of SCFBAC.
• They generally accept the abolishment of the SCFBAC providing it is replaced by an appropriate body. Thoughts on how this could be achieved were submitted by Lothian and Borders Fire Authority.

Fire and Rescue Authorities:
• Existing legislation FSA 1947 S12 (2) makes arrangements for the Firemaster to report directly to the Fire Authority. They indicate that the same provision should be maintained within the bill.

Schemes to constitute Joint Fire and Rescue Boards:
• They recommend that provision should be made to allow for the development of voluntary combination schemes as well as the mandatory schemes that can be developed by Ministers under the new provisions.

Strathclyde Fire Board
Strathclyde Fire Board considers the under noted to be relevant for consideration and inclusion in the bill,
• An offence of falsely holding oneself as an employee of the relevant Authority.
• Provision for assisting overseas Fire and Rescue Authorities and charitable bodies.
• Changes in legislation that remove the anomaly whereby diesel fuel is subject to duty.
• Powers of Fire Authorities to raise charges for attendance to automatic alarm calls which are a consequence of mechanical failure, poor maintenance etc.

The Chief Officers Association
The Chief Officers Association supported the duty on employers to undertake Fire risk assessments however they emphasise that in their experience of the Workplace Regulations that awareness and compliance varies considerably across the business sectors and workplaces. They consider it essential that guidance is provided to ensure consistency is achieved across Scotland and it is comparable with the guidance issued by the ODPM. This is further underlined in another submission that questions the competency of employers and other assessors in the field of risk assessment and training requirements of these assessors.

Her Majesty’s Fire Service Inspectorate for Scotland
Her Majesty’s Fire Service Inspectorate for Scotland also emphasises the importance of training to achieve as close as possible one standard for Scotland.
The Fire Officers Association
The Fire Officer's Association urges the Scottish Executive to collaborate with the ODPM to ensure the potential for common approach is maximised.

Edinburgh District Council
The submission from Edinburgh District Council expresses concerns regarding the implications of Fire Safety Enforcement given the implications of the bill in particular with Houses of Multiple occupancy. Presently the requirement sits with them. When the bill becomes statute the responsibility for enforcement is passed to the fire Authority. HMO legislation is not alone and there are other Licensing Authorities who will be in the same situation.

Unison
The submission from Unison mentions some of the concerns already indicated. However they have other concerns as follows:
- Concern that the Scottish Executive is merely following the decisions taken by the ODPM and not reviewing what is necessary for the Fire Service in Scotland
- Concern over the entering into contracts with others to provide services in the execution of their services, i.e. contracting out some services.
- There is a need for further clarification on issues and targets that will be included in the national framework document.
- Concerns over third party access to operational equipment during industrial action.
- Concerns about the use of Integrated Risk Management and possible reduction in Fire cover.
- Abolishment of the SCFBAC permits Ministers to consult with such persons as they consider appropriate. Consultation may be inadequate without statutory duty to consult Fire Service bodies including trade unions.
- Removal of Fire certification may release staffing resources for deployment elsewhere. Further clarification on this issue is sought and the involvement of trade unions in any discussion. This is also supported by STUC.

The Scottish Regional Chair of the FBU
The submissions from the Scottish Regional Chair of the FBU question the commitment of Fire Officers to Multi tier entry and accelerated entry into the service. and also indicates that the bill has not addressed Provision for Appointment and promotion and ranks, a section to deal with complaints against the service and no provision for financial eventualities.
**STUC**
The submission from the STUC is concerned about no references to “Recognised Trade Unions” throughout the bill and “such persons as they consider appropriate” should be replaced by this term.

Concern is also expressed that the bill appears to intend to dis-apply Section 1 of the Health and Safety at Work Act 1974 a piece of legislation they feel protects workers health, safety and welfare of employees. The Scottish Executive should also ensure that there be no deterioration in the present service provided and standards of Fire cover in particular with IRMP during the modernisation process.

**COSLA**
The submission from COSLA suggests the key strategic and political issues are:-
- Maintaining local democratic control of the Fire Service
- Establishing appropriate roles for national and local government
- The need for Community planning partnerships
- Ensuring the national framework for the service is not prescriptive
- Opposition to ministerial powers of intervention, and
- Reservations about the establishment of the Common Fire Service Agency
Specific to parts and Sections of the bill

Part 1: Fire and Rescue Authorities

Section 2 (1)
Concern is expressed about the wording of this para. in particular the use of the word “appears” and that it should be rewritten as “where there is evidence”

Section 8 Fire fighting
Recommendations from a number of submissions that this heading should be changed to “Dealing with Fires” and an addition should be added to include Offshore and Firefighting at sea. If Offshore and Firefighting at sea is included consideration should be given to further defining the borders of Authorities along their coastlines.

Part 2: Fire and Rescue Services

Section 9
Clarification is requested on the partnership arrangements and powers of Authority in the prevention of road traffic accidents.
Recommendations from a number of submissions that a new section should be added to include “Urban search and rescue” as a specific role for the fire service.

Section 11(1) Emergency directions
A number of submissions questioned the need to include this provision in the bill as ministers have such powers in terms of the Civil Contingency Arrangements

Section 12 Power to respond to other eventualities
It is suggested that there may be a conflict with the powers of environmental legislation and this should be confirmed.

Clarification is also requested on whether 12(2) included commandeering vehicles.

Sections 20 to 22 Fire Hydrants
Several submissions requested the responsibilities to secure water supplies, hydrants, maintenance etc to be transferred to the appropriate water authority. (This is presently the Fire Authority responsibility under FSA 1947 Section 14).

There is no provision for accessing water supplies in private property as per FSA 1947 S. 15 (2). with an exemption from prosecution but liable for reasonable reparative costs.

The marking of hydrants to be flexible to accommodate new technology.
Section 23 Powers of Authorised employees
This section should be extended to include penalties for attacks on Fire fighters when carrying out their duties.

Recommendation for inclusion within this section that “the Senior Fire Officer has sole charge and control of all operations for extinguishing fires”. (FSA1947 Sect 30 (3)) This was also cross referenced with Section 11 emergency directions and powers of Scottish Ministers

Section 24 Powers of Constables
One submission questioned the retention of this section as it may place a constable who is not trained in Fire techniques, in a dangerous position.

Section 27 Investigating Fires
One submission considered this section too narrowly defined and requested it be expanded to include outdoor fires and vehicles.

Section 28 Securing of premises
Presently fire service referred the security of premises to the police or arranged for the local authority to make the premises secure. Submission indicates that waiting for relevant organisations can result in appliances and staff being unavailable for further calls.

Section 33 Assistance from other relevant Authorities
Submissions indicate that this limits availability of assistance to those employing fire fighters and will hamper fire-fighting operations where helicopters or forestry workers are required.

Section 35
Opinion was expressed in several of the submission in the need for this provision because of the provisions and obligations arising from the Local Government (Scotland) Act 2003.

Section 36 Framework.
Scottish ministers should take a wider focus on consultation. Requests for an additional section be included reflecting that as well as the Firemasters direct reporting link to appropriate authority their responsibilities for IRMP, IPDS risk assessment and effective and efficient management of the service should be included.

Section 39 Inspectors of Fire and Rescue Authorities.
One submission considers the Audit Scotland is the best place to conduct the fire and rescue audit but can accept that the Inspectorate could retain its current role if more vigour were applied to the audit and reporting process.

Section 44 Central institution and other centres for Educ. & Training
Several submissions commented on the inclusion of 1(b) local training centres, which the Scottish Executive would require to take responsibility. They are recommending that 1(b) be deleted.
Section 46 (1) Guidance
Submissions question the direction to “Guidance of Scottish ministers”. Would negotiating bodies not therefore be independent and autonomous?

Section 47 Prohibition of employment of Police
Several submissions expressed concern on the non-employment of police especially in remote areas where they can operate as Volunteers or Retained Fire-fighters.

Part 3: Fire Safety

Sections 49 to 50 Duties of Employers to Employees
These sections refer to the responsibility of the employer. The question of Competence in Risk Assessment is not mentioned.

Section 51 3(d)
Clarification is requested on the term “adapting to technical process”.

Sections 53 to 54
Submissions were made regarding the need for making regulations and provision of Codes of practise.

Section 56 (6) Enforcing Authorities
Comment on the competence of local authority inspectors carrying out Risk assessment and ensuring their training is consistent with that of the Fire Authority inspecting officers.

Section 57
Consideration should be given to the inclusion of definitions stated at S57 2 (d) & (e) in its wording as this would increase the actions that must be carried out in the presence of the relevant person.

Section 58 (3)
Concerns about the word “Anything” which may prevent the employer presenting an opposing view. Submission is requesting that this should be changed to reflect the aspects of fire safety within the bill.

Section 59
Submission recommends an amendment to provide authorities to withdraw an enforcement notice where it is deemed that any steps taken are sufficient to warrant withdrawal of that notice whether or not any specific requirement has been met.

Section 60 (5) Alteration Notice
Submission recommends that “Any increase in number of people who occupy the building” should be added to this list.

Section 60 and 58
Submissions request guidance on the definition of “Serious Risk” as it applies to both these sections.
The reason for the alteration notice in Sub Sect (4) is unclear as the Fire authority may already be aware of any change.

**Section 73 (1) Lines 17 to 24**
Submissions are requesting clarification, as this appears to exclude Fire Brigade personnel who should be Relevant persons within their properties and implies an inappropriate exemption.
## Fire (Scotland) Bill

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SUBMISSION FROM UNISON SCOTLAND

Introduction
This Bill is the continuation of the Scottish Executive’s plans to ‘modernise’ the Fire Service and sees many of the issues in earlier consultations being put into legislation. Therefore it may be useful to look at UNISON Scotland’s responses to these earlier consultations. These can be found at:

http://www.unison-scotland.org.uk/responsefirerescue.html

UNISON Scotland's response to Scottish Executive Consultation on The Scottish Fire Service of the Future :July 2002
http://www.unison-scotland.org.uk/response/fireservice.html

Background
Before looking at the main objectives of the Bill it may be worthwhile examining the motive for this legislation.

The Scottish Executive highlights that one of the main motives for this Bill is to update current legislation relating to the Fire Service which dates back to the Fire Services Act of 1947 (the 1947 Act). Although the Fire Service has evolved and developed since then the Scottish Executive believes it is now time to introduce new primary legislation covering the role and functions of the Fire Service. However the Policy Memorandum states that the 1947 Act could be amended by secondary legislation and the use of guidelines yet the Scottish Executive still want to produce a new Bill which basically re-enacts a lot of the powers within the 1947 Act.

The Policy Memorandum also seems to indicate that a driving motive for new legislation comes from a similar move in England and Wales to replace the 1947 Act and a concern that updating the existing legislation would ‘do little to progress the modernisation agenda’. There is a concern here that the Scottish Executive is merely following the decisions taken by the Office of the Deputy Prime Minister (ODPM) and is not reviewing what is necessary for the Fire Service in Scotland.

The Scottish Executive also lists a number of problems which may arise without a reform of existing legislation. Amongst these is the concern that without reform certain operational matters would continue to be referred to Scottish Ministers rather than decisions being taken at a local level with the benefit of local knowledge and expertise. However this contradicts another of the Executive’s consultations on the Fire Service namely their proposals to reduce the number of fire service control rooms and effectively lose the benefit of local knowledge and expertise.

Defining the Role of the modern Fire and Rescue Service
UNISON Scotland has concerns with the section in the Bill which extends the existing powers in the 1947 Act for Fire and Rescue authorities to enter into contracts with others to provide services in the execution of their functions – i.e. contract out some services. Although fire-fighting duties can only be carried out by other fire and rescue authorities (or other private companies who employ fire-fighters), this is not the case with other services. For instance, an example would be an agreement where a relevant authority contracts with a local authority to promote fire safety within its schools.

UNISON Scotland is concerned about the potential for current duties to be outsourced to external agencies and the impact this will have on fire service staff.

National and Local Priorities and Objectives
Although Scottish Ministers need to consult on the drafting on the National Framework, and any subsequent revisions, there is too little detail of what service issues will be included to provide an adequate response at this stage. There is a need for further clarification on the issues and targets that will be included in the national framework document.

UNISON Scotland has concerns over third party access to operational equipment during industrial action. This could result in untrained personnel accessing specialist equipment and could result in damage or extra maintenance requirements before the equipment could be fully utilised.

The Bill does not specifically provide details on local priorities and objectives and is only concerned that fire and rescue authorities ensure that service provision falls within the national framework.

Improving the Protection offered to local communities
The Policy Memorandum of the Bill indicates the abolition of section 19 (of the 1947: the Ministerial role in the decision making process affecting issues such as the closure of fire stations) will improve local decision-making. There is very little in the Bill which specifically addresses improved protection to local communities.
However in devolving such powers to local fire boards (and their respective local authorities) UNISON Scotland is concerned that the local structures that oversee fire station closures will be unaccountable and that communities will not be able to lobby the Scottish Executive. This could lead to similar problems as has been experienced with Health Boards, whose decisions have angered many communities but who have nowhere to turn to regarding issues such as hospital closures. UNISON Scotland would not support any development which lessened public scrutiny and accountability in the provision of public services.

The Bill does not provide much detail on issues relating to the protection of local communities as mentioned in earlier consultations. For instance the plans to replace existing Standards of Fire Cover with Integrated Risk Management Plans are simply not mentioned.

As UNISON Scotland stated in an earlier consultation response, we are concerned about the use of Integrated Risk Management (IRM) and the possibility that this might result in a reduction in fire cover. There is a concern that IRM has not been piloted in any area and as such there is no evidence that it can provide an improvement over current standards. UNISON Scotland is also concerned that a shift to IRM will take place before there are any pilots or evidence to suggest it will provide superior standards of fire cover.

Advice
The Bill abolishes the Scottish Central Fire Brigades Advisory Council and allows Scottish Ministers to consult any such persons as they consider appropriate. UNISON Scotland is concerned that such consultation may be inadequate without a statutory duty to consult professional fire service bodies, including trade unions, in the operation of the Fire and Rescue service in Scotland.

Employment
There are a number of employment related concerns within this Bill. These include the arbitrary power of Scottish Ministers to establish a negotiating machinery and the composition of such a body for the fire and rescue service in Scotland. UNISON Scotland has concerns that statutory body can decide which conditions of service should be negotiated locally rather than nationally.

UNISON Scotland is in favour of equal opportunities and diversity within the workplace but would like to see more detail on how the Executive propose to achieve this. UNISON Scotland would also like to see the Executive address the issue of equal pay within the fire service. In general UNISON Scotland regards such human resource issues as primarily the concern of fire authorities, their employees and the relevant trade unions.

There is also some concern that provisions within the Bill remove the obligation for the certification of premises and staffing resources which would have been required for this would be available for deployment elsewhere. UNISON Scotland would like further clarification on this issue and the involvement of trade unions in any discussion on the re-deployment of any staff.

Financial Issues
The Financial Memorandum of this Bill appears to be contradictory in that is states the Bill largely builds on the existing arrangements under which the fire service is structured and that the arrangements under which the funding is provided will essentially remain unchanged. However the same paragraph then goes on to explain that dependant on whether Scottish Ministers exercise their new powers this may give rise to additional costs. It also highlights that other issues such as the attempt to maximise efficiencies and developing collaboration as well as changes in the fire safety regime, will all have financial implications.

The Financial Memorandum goes on to raise the issue of fire service control rooms, where it states that there are a range of costs and benefits, quantifiable and non-quantifiable, relating to maintaining or reducing the number of control rooms. The report then produces estimates of the possible savings, presumably including the non-quantifiable costs and benefits!

UNISON Scotland would more clarification on the costs of implementing this Bill, especially in relation to the additional statutory duties to be undertaken and on the staffing and resource implications of the Bill.

August 2004
SUBMISSION FROM THE CHIEF FIRE OFFICERS’ ASSOCIATION (SCOTLAND)

INTRODUCTION

The Fire (Scotland) Bill was introduced in the Scottish Parliament on 28 June 2004.

The stated policy objectives of the Bill are:-

- To define the role of the modern Fire and Rescue Service;
- To ensure that the Fire and Rescue Authorities have clear national and local priorities and objectives;
- To improve the protection of our communities;
- To revise fire safety legislation.

The purpose of this paper is to present the views of the Chief Fire Officers’ Association (Scotland) – to the Justice 2 Committee.

The Chief Fire Officers’ Association (Scotland) welcomes the publication of the Fire (Scotland) Bill. The provisions of the Fire (Scotland) Bill are substantially those that were identified in the earlier consultation paper (The Scottish Fire Service of the Future). The Chief Fire Officers’ Association (Scotland) had in general expressed its support for the proposals for legislation and consequently the provisions of the Bill are broadly welcomed.

There are, however, a number of issues and concerns, which the Chief Fire Officers’ Association (Scotland) wishes to raise. There are areas of strategic comment; areas of operational dimensions; and a range of detailed points. These are contained in appendices 1-3 attached.

In respect of the ongoing governance of the Service, the clarity of the provision, S19(2) of the 1947 Act should be maintained in respect of responsibility to fire authorities.

Appendix 1

STRATEGIC ISSUES

Ministerial Powers

There are a number of provisions within the Bill that give new powers to Scottish Ministers in relation to the provision of the Fire Service.

Whilst it is recognised that there are areas where this is a correct and proper arrangement for the overall governance of the service there needs to be a clear understanding provided of when such responsibilities will be implemented and on the extent of the accountability and responsibility which will attach to Scottish Ministers in those circumstances. This will have implications for the management of the Fire and Rescue Authorities. Part of the debate in bringing forward the legislative proposals related to the removal of ministerial power in favour of an increased accountability and responsibility being given to Fire Authorities; the Bill now published does not seem to support that point.

Governance

There needs to be a clear and unambiguous understanding of the responsibilities of Fire Authorities, Scottish Ministers and Brigade Management in relation to the provision of the Fire Service; otherwise there will be a potential diminution in the governance standards which currently operate.

This is particularly important given the current uncertainty in relation to the structure of the Service, the provision of control rooms and the proposals in regard to the Common Fire Services Agency.

Underlying all of these concerns is the aim of providing a more efficient and effective service in accordance with Best Value principles.
Control Rooms
The Executive published their Consultants report on the future of control rooms in Scotland on 8 July 2004. Crucially governance, command and control and operating arrangements will be critical in regard to ongoing efficiency and effectiveness in whatever model is finally decided by Ministers.

Common Fire Services Agency
These proposals were included in the Executive's earlier consultation paper in regard to a Common Fire Services Agency. The Chief Fire Officers’ Association (Scotland) view was that existing arrangements of governance and practical operation of joint working would allow the objectives of Ministers to be met without the need to create an additional layer of bureaucracy within the service. Any additional bureaucracy would have clear governance and financial consequences.

The Chief Fire Officers’ Association (Scotland) view remains that existing governance and operating arrangements will better deliver economy and effectiveness by maintaining ownership within the Fire Service. This could be achieved by the establishment of project/management teams from within brigades, reporting to a strategic board comprising Convenors and Firemasters. This, in turn, would form the link to existing fire authorities. An important element would be the provision of a performance reporting link to the Scottish Executive. We would be happy to amplify this outline proposal. This could be enhanced legislatively by providing a statutory responsibility on Fire Authorities to collaborate effectively.

Appendix 2

OPERATIONAL ISSUES

Section 2 – Schemes to Constitute Joint Fire and Rescue Boards
Existing Legislation makes arrangements for the Firemaster to have a direct responsibility to the Fire Authority for the effective management of the Service, specifically S19(2): the Chief Officer of the fire brigade…shall be directly responsible to the fire authority…The same provision should be maintained within the Fire (Scotland) Bill to ensure that appropriate professional advice is provided directly to all Fire and Rescue Authorities. This is consistent with and will support the Executive sponsored principles of integrated risk management planning.

Section 8 - Firefighting
It would be helpful to receive a legal definition of the extent of each Fire and Rescue Authority area to allow proper consideration of the provisions which it must make for fire and rescue including firefighting at sea.

To ensure consistency with the principles of integrated risk management planning Section 8 (1)(a) would be better defined as ‘Dealing with Fires…………’

Reference should also be made to the Service’s responsibilities regarding the protection of the environment.

Proposed New Section 9(a) – Urban Search and Rescue
Provision should be made within the Bill for Authority responsibilities regarding urban search and rescue activity. This should be identified as a specific role for the service.

Section 11 (1) – Emergency Directions
We question the need to include the provision for emergency directions in the Fire (Scotland) Bill. Ministers already have such powers in terms of Civil Contingency Arrangements and the inclusion in the Fire (Scotland) Bill seems an unnecessary additional element.

Sections 20 – 22 – Fire Hydrants
Whilst recognising the Service’s responsibility to secure water supplies, it is the view of the Chief Fire Officers’ Association (Scotland) that responsibilities in relation to provision of hydrants etc should be contained within the Water (Scotland) Act. Responsibility for the provision of said hydrants should lie with the water undertaker.
No provision is made in the new Bill for accessing water supplies on private property. Authorities should be exempt from possible prosecution in these circumstances, but liable for reasonable reparative costs.

In terms of providing water supplies for firefighting, a minimum provision should be determined as being reasonable in the circumstances. The costs of providing these supplies should be defrayed to the water undertaker or developer through possible planning initiatives and not to the fire authority.

Section 23 – Powers of Authorised Employees in relation to Emergencies
The clarity of the provision in S30(3) of the 1947 Act in respect of responsibility of the senior fire service officer for control of all operations for the extinction of fire should be maintained.

Whilst welcoming the provision in relation to obstruction or interference with authorised employees we consider that this section should be extended to include attacks on firefighters. The penalties should reflect those contained within the Emergency Workers Bill.

Section 36 – Framework Document
We would advocate that when enacted, and if applied, that Scottish Ministers should take a wider focus for consultation which would be consistent with the requirements placed upon Fire and Rescue Authorities in context of the integrated risk management planning process.

The Bill should reflect that Firemasters are directly responsible to Fire and Rescue Authorities for the effectiveness of the service which they provide. The retention of the clarity of the provision in S19(2) of the 1947 Act, in respect of direct responsibility to the fire authority, would achieve this. It is suggested that an additional section be included reflecting, that as well as the Firemasters direct reporting link to the Fire and Rescue Authority (see earlier comment), their responsibilities for integrated risk management planning, IPDS, risk assessments and the efficient and effective arrangements for the Fire and Rescue Service, should also be included.

Section 49 – Duties of Employers to Employees
We support the provision for the imposition of a duty upon employers to undertake and review fire risk assessments and to take necessary fire safety measures to ensure compliance with their general duty. It is our particular experience of the workplace regulations that awareness of, and self-compliance with, such regulations varies considerably across business sectors and workplaces, and these factors underpin our comments in relation to awareness and inspection matters below.

Sections 53 and 54 – Risk Assessments and Power to make Regulations
We note that Ministers may make regulation in relation to the carrying out of risk assessments and fire safety. CFOA(S) considers that it is essential that such guidance is provided to ensure consistency is achieved across Scotland and that it is compatible with guidance issued by the Office of the Deputy Prime Minister for England and Wales. Furthermore, we would strongly emphasise the role and need for the Scottish Executive to publicise the requirements of the regulations.

Section 56 – Enforcing Authorities
CFOA(S) supports the Bill’s intention in respect of enforcement agents/agencies of the new fire safety arrangements.

CFOA(S) would draw attention to the fact that the new responsibilities that fire authorities are being given may have financial implications but it is too early to evaluate the full effect of these new arrangements.

Section 78 – Abolition of Scottish Central Fire Brigades Advisory Council
We note that it is proposed to abolish the Scottish Central Fire Brigades Advisory Council.

We can support this provision on the basis that there should be an appropriate replacement body and that appropriate consultation will take place in that regard.

A model to achieve this could be based on the creation of appropriate and effective communications links between brigades, employers and Ministerial levels. We would be happy to amplify this outline
Appointments Regulations
The Bill does not make any reference to appointments and promotion regulations. We assume that this is an omission which will be corrected as the Bill proceeds.

Appendix 3

OBSERVATIONS

Section 2 – Schemes to Constitute Joint Fire and Rescue Boards
Provision should be made to allow for the development of voluntary combination schemes, as well as the mandatory schemes which can be developed by Ministers under the new Bill provision.

Section 9 – Road Traffic Accidents
Clarification is sought on the definition of the preventative role in partnership with other agencies and any powers which would derive to Fire and Rescue Authorities.

Section 15 - Charging
We welcome this provision and look forward to contributing to consultation on the proposed charging order. We recommend that provision be made for charging for inappropriate activation of automatic fire alarm equipment. This is necessary to ensure that Fire and Rescue Authority resources are properly directed and to provide an incentive to premises operating automatic fire alarm systems.

Section 20 (2) – Fire Hydrants
This should be amended to ‘identified hydrants would be marked in an appropriate way’; this would allow the use of all mediums including those derived from new technology.

Section 27 – Powers of authorised employees in relation to investigating fires
Clarification will be required on certification of premises within this section.

Section 35 - Direction
We question the need for this provision given the provisions and obligations arising from the Local Government (Scotland) Act 2003.

Section 44 (1b) – Central Institution and other centres for education and training
This provision seems contradictory to the responsibilities being proposed for Fire and Rescue Authorities; we can understand the need to establish a Central Training Institution but do not understand the reference to local training centres and suggest that this be removed as this appears to be a direct lift from the existing Fire Service legislation. If it were to be implemented then clearly the Scottish Executive would require to take responsibility for the training of all Fire Service personnel. This would include accountability for those arrangements.

This would also duplicate the provision of Section 14.

Section 47 – Prohibition on employment of Police
Whilst this provision is contained in existing legislation we question its necessity given the working frameworks within which Scotland now operates. This could cause particular difficulties in remote areas where special constables may also operate as volunteer or retained firefighters. We suggest that this be removed from the Bill.

Schedule 4 – Repeals
Does not make any reference to the Fire Services Act 1959.

Section 45 - (Scottish NJC for all Staff)
We welcome the inclusive nature of this section providing equity of status for terms and conditions for all fire service employees particularly in light of single status and IPDS.

August 2004
SUBMISSION FROM COLIN E HANNIGAN BSC (HONS); DIP SYS PRAC; MIFIREE

Part 1
Section 5 (1)- wording of paragraph difficult to comprehend.

Part 2
Section 7(2)(b) in particular (ii)- may be a need to differentiate ‘advice, on request’ from ‘consultancy service’ so that expected extent of provision should not be misconstrued.

Section 9(2)(e) - seriously jeopardises the extent to which officers may act to rescue if they think cutting through and taking apart vehicles (standard practice to create space and movement) is liable to be misconstrued as ‘deliberate damage’ and liable to civil action etc through the courts.

Section 12 (1) - is there a conflict here with the powers of environmental legislation e.g. those invested in Environmental Health departments or SEPA.

Section 12 (2) - the extent of these powers need more clarification e.g. does this include power to commandeering vehicles.

Chapter 3 Water Supply:
General: the opportunity should be taken to make Scottish power responsible for the provision of hydrants as part of its infrastructure in the same way as telephone providers must provide the 999 call system. The tax payer is in effect paying through a third party for hydrants and these would be provided at source a part of the water network, installed owned, operated tested and maintained by Scottish water, available to the Fire Authorities free of charge at no notice or to third parties at whatever charge is deemed appropriate to Scottish water and under such terms and conditions as they determine.

Section 18, 19, 20 etc; Use of the term Scottish Water is likely to quickly date the legislation as the term is non generic. e.g. Scottish water its self has only been in existence for a short while, and like many companies is prone to name change. Suggest the term Statutory water Undertaker would be a better term.

Section 21: Previously the responsibility rested with the water undertaker to initiate action with respect to obstructing hydrants, I am still unclear whether this has now been transferred to the relevant fire authority for enforcement and action.

Chapter 4:
Powers of employees and Constables:
Section (23) - Terminology is very vague “authorised employee on duty.” could be misinterpreted as any Fire authority employee (janitor, typist notwithstanding), and makes no regard to appropriate control structures or who has ultimate authority. “If the employee reasonably believes” seems to leave all actions open to interpretation of individual employees, where as a clear command structure is essential. Need to carry around authority in writing is a further impractical burden in certain circumstances, and would tend to infer if the Senior Officer present forgot his / her ID card then they would no longer have authority and control, despite their presence. paragraphs in the 1947 act were much clearer. Suggests “The Senior Fire Brigade Officer present of the relevant authority has power to...”

Section (24)- Appears to give police constables the same powers and authority but does not clearly indicate the limits and boundaries of each occupation if both present.

Section (34),(35), (36), (37): gives impression of a distinct privatisation agenda and drive to reduce number of Fire Brigades and to bring them under Ministerial Control with local authorities footing the bill. Not much indication of local or parliamentary accountability.

Section (46) (1) - Negotiating bodies will not therefore be independent or autonominous?
Part 3

Fire Safety Duties:

Chapter 1

Section 50 (1) Reference should be made to section (72) and (73) on first usage of term ‘relevant premises’. I further suggest terms used as meanings are indicated by commas or italics or similar to distinguish them.

Section 50 (3) - not readily comprehensible.

Section 55 - Should perhaps include limited exemptions for prisons and other secure units, where the risk to the person freely escaping is greater than the risk of their confinement until released under control e.g. dementia units. This would bring into line current provisions under the Technical Standards to the Building Regulations, and advice issued in Health Technical Memoranda.

Chapter 2

Section 56 (5): I do not understand the provision or the reason for its inclusion?

Section 62(1): Utilisation of the HMI as an arbiter may prove over onerous, not least upon the inspectorate.

Section 66: (1) (2) Need clarification, are these enactments dissolved along with all their provisions i.e. statues, and as a consequence are fire Certificates no longer a requirement? If so why does this section not form part of the repeals annex.

Chapter 4

Section 69 - why not in my experience its quite often the deliberate or intentional act of an employee that has bought about the problem despite clear procedures, training and instruction by the premises management, especially in the case of hotels.

Chapter 5

Section 72: Does not allow interventionist and enforcement action in shared domestic premises e.g. the Act should also seek to protect Communal areas where premises are not regarded as HMO’s e.g. The staircases of existing tenement and similar buildings where little control or authority currently exits although fires in these situations tend to are responsible for a great number of operational difficulties, injuries and deaths due to a current lack of detection, passive or active protection, ventilation, separation or any outright authority to quickly have removed voluntary or otherwise combustible items which pose a threat to occupants e.g. accumulation of rubbish, motor cycles, disposed of furniture.

Section 73: Line 22 onwards needs reworded to make it clear its referring to Subsection (2) of Section 73 and not subsection (2) of Section (50).

Section 73 (2) - not readily comprehensible.

Section 79 - Seems a strange place to situate the provisions for false alarms. The end of Chapter 1 appears at first glance a more suitable location.

Section 81(3) - appears to be the only constitutional safeguards.

Section 82 (1) and (2) : refer to comments in Section 66 above.

Many thanks for the opportunity to provide evidence to the Justice Committee on the above Bill. Given that this is a local government service, COSLA has a keen interest in the progress of the Bill and ensuring that and proposals for change are based on the experience we have of running the service.

I attach for the information of the Committee a copy of COSLA’s response to the consultation paper which was prepared by a cross-party Task Group comprising elected members with direct experience of running the fire service and also those with a wider locus of community safety. We have established a further Task Group to consider the detail of the Bill and make recommendations to Council Leaders on the positions that should be adopted by COSLA as the Bill proceeds through Parliament. We hope that by the time we give evidence, the first meeting of that Task Group will have taken place and we will be able to update the Committee where appropriate. However, the attached consultation response will form the basis of any further developments in our position.

I should stress that COSLA will focus on taking a position which reflects our role as a political organisation and therefore looks at the strategic issues the Bill raises for local government. In terms of the technical and operational detail, we are likely to rest on the views of Firemasters.

As you will see from the attached response, the key strategic and political issues for COSLA are:

- maintaining local democratic control of the fire service and therefore any proposals for structural change to the Board structure must be evidenced in terms of improved service delivery and improved local accountability;

- establishing appropriate roles for national and local government which mean that the strategic direction of the service is set jointly and that elected members have maximum flexibility to determine needs and solutions for their area;

- a need for recognition that the fire service cannot make a difference to community safety on its own and that as with crime, health and social inclusion, it needs to be integrated within Community Planning partnerships;

- ensuring that any national framework for the service is not prescriptive; that there is joint work to set national priorities (not central priorities); and that the outcome is not league tables of performance;

- opposition to Ministerial powers of intervention and direction;

- reservations about the establishment of a new Quango in the form of a Common Fire Services Agency.

The issue of rationalisation of control rooms is the subject of a separate consultation by the Scottish Executive. COSLA has not yet responded but I attach for your information a copy of a recent report on this issue which has been deferred for further consideration by Leaders.

I hope this information is helpful for members of the Committee in advance of our evidence session and we look forward to being able to clarify and expand upon it during the oral evidence session.

Barbara Lindsay
Business Manager
COSLA’s response reflects themes raised by Leaders over the course of 2003 such as promoting the value of local democracy, safeguarding local government services, and reinforcing appropriate roles which mean that the Executive works with us in setting priorities nationally but that local government is then left to deliver locally. This is a local government service and should remain with local government. COSLA would take this opportunity to strongly reinforce the added value of local democratic control of services.

There appears to be little direct reference to the Local Government in Scotland Act 2003 in the response, particularly with regards to Community Planning, Power of Wellbeing and Best Value. In order to achieve the Ministerial vision as set out in the White Paper, we consider that the fire agenda needs to be embraced in a similar way to crime, health, social inclusion, etc. within local Community Planning priorities and partnerships. The Fire Service cannot make a difference on its own, indeed we see Community Planning as a major partnership platform.

There are a number of references in the consultation paper to Ministers taking powers. It is clear that there are a variety of reasons for this. COSLA is not in favour of Ministers taking powers of intervention and/or direction. Where such powers are absolutely necessary, we would want to be involved in jointly agreeing their scope and ensuring that they are exercised in a transparent way.

The Executive proposes a renaming to ‘The Fire & Rescue Service’ and ‘Fire & Rescue Authorities’. COSLA believes that the proposed new name places an undue emphasis on intervention and does not adequately reflect the prevention and community safety aspects of the work of the service.

The consultation paper states that a National Framework will be introduced to provide strategic direction and set out the Executive’s expectations of the service. In line with the model which exists for education, this will place a duty on both Ministers and Fire & Rescue Authorities in relation to improvement; enable Ministers to set national priorities for improvement; and enable Ministers to define and publish measures of performance which provide for a uniform measure of progress across the country.

COSLA will want a close involvement in any national framework to ensure that it is not prescriptive and sets an agreed broad strategic direction only which has been determined in partnership with COSLA. Reflecting national priorities in a framework does not mean setting down central priorities. This is a local authority service and in establishing a strategic direction, the emphasis must be on joint discussion and agreement which takes on board the respective interests of central government and local government. In setting such a strategic direction, we would want to ensure that local elected members have maximum flexibility to determine needs and solutions for their area. In addition, COSLA would stress that while we support the publication of performance information, we do not want to see it presented in the form of league tables.

As a more general comment, the language used in the consultation paper is not positive. Its emphasis on ‘performance’, ‘inspection’ and ‘audit’ does not set a tone of development and continuous improvement of the service.

It is proposed in the consultation paper that reserve powers of direction would be taken to ensure that delivery of the priorities in the national framework is not undermined. These would be exercised through a notice and direction procedure. COSLA has already opposed powers of intervention in a number of service areas; this stance should be maintained and we will oppose powers of direction for the fire service. The Executive already has sufficient powers to intervene in the service if it wants to but these powers have never been used. If the emphasis for the future of the service is on continuous improvement, then reserve powers would never need to be used.

Existing structures to advise Minister are reviewed in the consultation paper and it is proposed that a new strategic group will be put in place to advise on the overall direction of the fire service with a Practitioners Forum involving COSLA and CACFOA. Ministers will be aware of the push from COSLA to secure joint political dialogue with Ministers on important service areas which then directs the work of officers. This has been achieved through structures such as those in the partnership priority areas – a Joint Political group; a high level officer implementation group and a practitioners forum. We would therefore want to return to the issue of consultation and involvement structures in direct political discussions with Ministers as the consultation progresses.

The consultation paper outlines 5 core duties for the service which will be included in the proposed legislation – fire prevention; fire fighting; responding to road traffic accidents; responding to other serious non-fire emergencies; and being the enforcing authority for the new fire safety legislation. There will also be
a requirement for Fire & Rescue Authorities to have Integrated Risk Management Plans for their areas. These would reflect a move from an emphasis on property in the existing standards of fire cover to a more balanced approach.

COSLA wishes to see a balance struck between wording which is sufficiently broadly defined to encompass a wider community safety and prevention role and the need to include sufficient detail to ensure that funding follows for activities which the service would see as core activities. As a result, COSLA proposes that the words “non-fire” should be deleted in order to better reflect community safety work. We also propose that since the Integrated Risk Management Plans will be the key plans for the service, the definition of integrated risk management should be considered. This would be with a view to ensuring that it is not too narrowly defined and capable of encompassing wider work with the community to improve community safety and reduce the incidence of all emergencies not just fire – for example, the work of coast guards and mountain rescue services.

Here again, COSLA would emphasise the significance of the fire authority role in Community Planning in order to deliver on community safety.

Lastly, the COSLA’s view is that if Ministers are taking powers to prescribe emergencies, then COSLA would want to be involved in the detail of drawing those powers up. We see potential for a clear difference of view emerging between what the Government might see as an emergency and what local communities might see as an emergency. Therefore, the involvement of COSLA and the retention of maximum flexibility locally are very important.

The establishment of a Common Fire Services Agency to undertake certain functions on a Scotland-wide basis is proposed in the consultation paper. COSLA has real reservations about this proposal seeing it as a diminution of local control and the first step on a route to centralisation and control of the service through a Quango. A number of points provide a robust counter argument to the proposed agency.

There are many recent examples of good practice in joint working between Brigades. These rest on collaboration and co-operation and have included purchase of uniforms, safety equipment, medical services and pensions management. A central purchasing agency would be another layer of bureaucracy.

This proposal for a central agency is in direct opposition to the principles of integrated risk management which seeks to provide local services to meet local risks.

Collaboration gives the same benefits as a central agency but maintains local flexibility. It means that decisions are rooted in the needs of the local area and not what central government thinks a local area will need.

This proposal duplicates measures already in place such as government approved provider lists (e.g. for computing) and not least the Duty of Best Value which already exists. In addition, it is important for the Government to appreciate that Best Value will not always be secured by restricting collaboration to fire authorities and the proposal for a central agency is not necessarily therefore the best route. For example, co-operation over purchasing services and goods may be most effectively delivered through collaboration locally between the fire authority and the local authority, the NHS, universities etc.

In summary, therefore, if the Executive has evidence of functions where efficiencies could be achieved through collaborative working, then we would certainly be interested in looking at this evidence. However, the emphasis should be on enabling fire authorities to collaborate voluntarily rather than the structural change of a proposed Common Fire Services Agency.

The Executive has stated that there will be a technical review looking at the potential for efficiency through combined control room operations and Ministers will take any necessary powers to implement new arrangements. In addition, there will be a review of the Executive’s earlier decision that no change should be made to the number or geographical coverage of the existing 8 fire brigades.

There may be a case for a fewer number of command and control centres but there has been no detailed researched evidence that proves that real efficiencies could be obtained in this way. In the light of this lack of evidence, there is no clarity on what the reduced number would be. Therefore while COSLA accepts that there may be value in having more discussion on this, our current position is that the case for fewer commend and control rooms remains unproven. Furthermore, these are “command” and control centres. There is concern that an amalgamation of control rooms will lead to a loss of direct control of resources by Brigade Commanders. Decoupling command and control in these centres to allow a smaller number of control centres to be established is a further issue that requires considerable discussion.
On boundaries, COSLA is aware that some work has already been carried out by consultants and we will want to see the Executive’s analysis of this work and then have joint discussion with Ministers about what it contains. Ministers will be aware of COSLA’s view from other policy areas that proposals for structural change must have clear objectives and be evidenced in terms of the improvements they will bring to the service. Local government’s objectives would reflect wider governance issues such as local democratic accountability over and above the Executive’s stated aims of Best Value. In addition, before embarking on structural change we must be clear that the intended benefits could not be delivered through fine tuning of existing structures. Lastly, our strong view would be that decisions about structural change cannot be made at the centre and then imposed.

Regarding the Best Value issue, we would urge the Executive to consider how the specific duties for Fire Authorities to secure Best Value sits comfortably with a prescriptive national agenda e.g. Common Fire Services or Fire Control amalgamation programme. If the Government dictates, via its powers, a way forward how can the Authority demonstrate Best Value.

The consultation paper advises that there will be a separate consultation with Fire & Rescue Authorities on the formula for distribution of funds and action will be taken in the Bill to allow any changes to be established on a statutory basis. This is a complex issue as it links to transitional funding issues arising from the pay settlement; the Integrated Risk Management Plan will mean a constantly changing situation which makes the connection to GAE difficult; and redistribution is a big issue for Brigades with a large number of retained firefighters.

COSLA has agreed a number of principles in relation to this issue. There must be consultation with COSLA and not just with fire authorities. Any changes must not result in reductions to services – funding changes must be based on improving services and additionality of funding. Any proposals for funding changes must also take account of the additional costs of the pay agreement, including the issue of retained fire fighters. COSLA will be taking a very strong line on funding issues. We want to be clear at the outset that we will expect the requisite resources to be put in place.

Concern is expressed in the consultation paper that the NJC is unwieldy and Ministers have no formal role although they fund the pay settlements. However, from COSLA’s perspective, the issue of the Government’s involvement because they fund pay settlements is scarcely different than for other local government services and any changes here could set precedents. Discussions are currently ongoing between the LGA, COSLA, the FBU and other stakeholders as to a new constitution for the NJC and ACAS is involved. We need to see the detail of that review but whatever changes are proposed must allow for fair representation for Scottish brigades.

COSLA will be putting considerable efforts into these discussions. However, we are aware that the English White paper gives the DPM powers to impose arrangements including membership for the National Joint Council. COSLA would oppose any such imposition and we would strongly urge the Executive to do likewise. In any event, such a move would raise considerable constitutional issues as DPM has no jurisdiction over Scotland and we would urge the Executive to discuss with COSLA the implications of imposed arrangements for bargaining arrangements in Scotland. COSLA supports national agreements for the service but we would reconsider that position should the DPM choose to impose a set of arrangements for fire authorities in England & Wales.

The consultation paper provides for the introduction of an Integrated Personal Development System covering the skill and competency requirements of the workforce and provision of direction for the achievement of greater diversity in the workforce through the introduction of multi-tier entry and accelerated promotion. The necessary direction and delivery expectations will be incorporated in the National Framework.

COSLA agrees with the principle of greater diversity but not with its achievement through Direction. There are other and more appropriate routes to addressing the issues impacting on lack of diversity, including the Integrated Risk Management Plan which will start to change structures, working hours etc.
Consultation on The Mott MacDonald Report on: The Future of Fire Service Control Rooms in Scotland

Purpose of Report
This report informs Leaders about the proposals contained within the consultants report on control rooms and seeks a decision from Leaders on the terms of COSLA’s response.

Recommendations
Leaders are asked to:

i) note the contents of this report;

ii) discuss the broad direction of COSLA’s response and agree a position based on the options outlined in paragraphs 5 and 6;

iii) on the basis of decisions on ii) above, agree whether the status quo of 8 control rooms or the option of three control rooms is COSLA’s preferred solution for Scotland; and

iii) agree that the comments in this report form the basis of COSLA’s response to the consultation.

Background
The Scottish Executive has published the consultant’s report on the Future of Fire Service Control Rooms in Scotland. The report can be accessed on http://www.scotland.gov.uk/about/jd/fsep/00019077/page547378006.aspx Comments have been invited by the end of August 2004. The purpose of this report to Leaders is to outline the consultation proposals and seek approval of the proposed COSLA position. The debate about control rooms takes place against a backdrop of change and modernisation in the service as required as an outcome of the fire pay negotiations and as further set out in the recently introduced Fire Bill.

The Broad Direction of COSLA’s Response
The first issue that we would put to Leaders for discussion is to consider the broad direction of COSLA’s response. Do Leaders view the debate on control rooms as being about centralisation or greater efficiency? This needs a political judgement and it then points to a position on the actual number of control rooms COSLA should press for.

Leaders have considered a number of policy proposals over the past few years which we have taken the view have effectively constituted a centralising agenda. Whilst the Scottish Executive’s stated objectives for the rationalisation of control rooms are effectiveness, public safety and value for money, we need to be alert also to a wider backdrop of centralisation and the dangers of piecemeal changes such as this one leading to a more centralised service when taken alongside discussions about changes to the brigade structure, a Common Fire Services Agency, Ministerial Powers of Intervention, and a national framework for the service. A reasonable view to take therefore could be that the control rooms proposals represent the thin end of a centralising agenda and should be resisted.

On the other hand, an equally sustainable view politically could be that efficiencies that would not impact on the service could be gained as a result of rationalisation and indeed, we could press for the savings to be reinvested in the service. Local Government in Scotland Act 2003 places a duty on Fire Authorities in respect of Best Value. It is clear that the consideration of the future of Fire Service Control Rooms falls within that and that the issues of balance between the quality and cost must be fully and properly recognised. Moreover, local government is in the position of having to secure efficiency savings year on year and with the Gershon efficiency initiative as yet another layer, Leaders may consider that it would not be tenable to argue against fewer control rooms.

If Leaders agree a broad direction as outlined in paragraph 5, then COSLA’s response should press for the retention of 8 control rooms. If the discussion at Leaders takes us in the direction outlined in paragraph 6, then we would need to decide between the options in the consultation paper. These are as follows.
One Control Option
The is cheapest option and would result in maximum saving. However, it is not the consultant’s preferred option due to the significant risks involved. If this option were implemented the only back up would be an English control room. We would argue that the constraints of a single control room are incompatible with the accountability required in the delivery of this service within a devolved administration. Additionally, we believe that a single control room for Scotland would not provide the required resilience level and would introduce a large and unacceptable risk not only for the Fire Service in Scotland but for Scottish citizens as a whole.

Two Control Option
This is the consultant’s preferred option. However given the unique geography of Scotland we do not believe this to be the optimum option for Scotland.

Three Control Option
In the consultant’s report, this option only scored one point less than the two controls options when scored against the full range of criteria. We believe that, if Leaders are mindful to agree a direction for COSLA’s response which suggests fewer control rooms than at present, then COSLA should press for three controls which would allow more resilience and therefore a more stable and dependable solution for Scotland.

The geography of Scotland cannot be ignored when considering the location and number of controls. As noted within the consultants report, the geography and demography of Scotland introduce some special issues to mobilisation and incident control. Three controls based on a West-East-North distribution would allow more resilience, and a flexible, responsive structure. Additionally, the three-control solution would allow a control located within a region to handle an incident with the benefit of some local knowledge, whilst to some extent to be insulated against the higher demands of such an incident through the support provided by the other two controls.

We believe that if COSLA’s position is for fewer control rooms they should be managed by a board, which comprise of representatives of both local authorities and brigades within the geographical area. This would clarify accountability and responsibility without compromising the standardisation of procedures and methods, allowing greater collaborative work between brigades. This management structure would remove an additional layer of costs inherent within the establishment of a Common Fire Services Agency, thereby minimising costs and achieving Best Value.

Lastly, we consider that the option of 3 control rooms may well be the best option in terms of political and public acceptance.

Additional Considerations
The consultant notes that it may be advantageous for a new agency – a ‘Common Fire Services Agency’ - to manage control rooms in order that Fire Services can concentrate on their core functions. We do not agree that this would prove to be practical, and that the effective response to an emergency call could not be considered anything but a core function of the Fire Service. We do not believe that the separation of the management structure from the brigades, just because technology can facilitate it, to be anything other than adding a further layer of bureaucracy and distancing the control rooms from the brigades of which they are a part.

We have concerns that the report estimates staffing levels to cover the core functions of control rooms does not take into account the additional duties that they perform, thereby providing an unreliable estimate from which to take evidence.

On page 63 of the report reference is made to training costs for new staff, which is estimated to be approximately £900,000. These costs do not appear to be included in table 6/7 used to estimate potential savings. The capital costs in this table appear to include only building and system costs. We would therefore have some concerns about the financial information provided and would recommend in COSLA’s response to the Executive that costs are scrutinised more closely and clarified.

Conclusion
If Leaders political judgement is that the broader picture here is one of centralisation, then we would recommend that COSLA’s response argues strongly for the retention of 8 control rooms. If Leaders view is that this is imply an issue of securing efficiencies that would not impact on the service then COSLA’s
response should support the rationalisation. Under that set of circumstances, we would recommend arguing for 3 control rooms.

Claire Downs, Policy Officer

31 August 2004
This Department leads on HMO Licensing for the City of Edinburgh Council and has serious concerns regarding the implications for fire safety enforcement given the implications of the Bill. Since the introduction of Mandatory Licensing in 2000 a total in excess of 5,500 Houses in Multiple Occupation have entered the Licensing Scheme and have either been granted a licence or are in the process of obtaining a licence. A dedicated team with a full time seconded fire officer are actively pursuing landlords of unlicensed properties which we have identified through a city wide ward inspection programme. As a result the quality and safety of accommodation in the private rented sector has significantly improved over the past four years.

The recently published guidance from the Scottish Executive on the Mandatory Licensing of Houses in Multiple Occupation explains that if the bill is passed in its current form that responsibility for fire prevention and fire safety will be consolidated in the hands of the Fire Brigade. This will result in Licensing Authorities changing their procedures when the Bill comes into effect and will duplicate the effect of the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order with respect to Fire Safety.

It is my understanding that the implications of the Bill in respect of Houses in multiple occupation hinges upon the definition of ‘relevant premises’. Having examined the definition of ‘domestic premises’ in s.53.1 of the Health and Safety at Work Act 1974 Lothian and Borders Fire Brigade advise that any property that is caught by the HMO Licensing requirement cannot be considered as a ‘private dwelling’. Such a property is then by definition ‘relevant premises’, consequently s50 of the Bill applies : a fire risk assessment is required and the Brigade are obliged to enforce the duties of the person having control to carry out a risk assessment and to take all reasonable fire safety measures.

The conclusion arrived at that a tenanted house with two or three unrelated tenants is not a private dwelling and not domestic premises appears to be at odds with the position in the Building Standards (Scotland) Regulations 1990. In the regulations a tenanted flat with up to 6 unrelated people living together as a single household would constitute a dwelling. It would need to be licensed as an HMO, but it would still be a dwelling, and would be licensed by the local authority, with the fire brigade as a statutory consultee.

Is it the intention that all flats or houses occupied by two or more unrelated people should have a fire risk assessment carried out by the person with control, and that the brigade are then obligated to enforce the duty of that person in relation to those premises such as the fire safety measures are reasonable for him to take to ensure the safety of relevant persons in the event of fire? Is it correct that the definition of ‘domestic premises’ should be read in the way described above?

Consolidating enforcement by the brigade will remove existing powers available to Local Authorities to serve notices under section 162 of the Housing (Scotland) Act. This is an extremely useful enforcement tool which is frequently used to require landlords/managers to upgrade fire safety measures in the poorer standard accommodation at the lower end of the market and protect vulnerable groups.

27 August 2004
INTRODUCTION

The Fire Brigades Union Scotland welcomes the Fire (Scotland) Bill as a statutory vehicle to shape new Legislation for the Fire Service in Scotland that will meet the needs of the people of Scotland and Firefighters & Emergency Fire Control Operators alike.

In commenting on the Bill we are anxious to point out both the merits and demerits of the proposals, as we see them, and as a means, not only inform the Committee, but also to offer the Committee issues they may wish to consider throughout this staged process.

We have also taken into account the observations and recommendations of the House of Commons Regulatory Reform Committee regarding Scotland, contained in paragraphs 32 to 38 of the Eleventh Report of Session 2003-4, in respect of the Proposals for the Regulatory Reform (Fire Safety) Order 2004 in England and Wales. We hope that the Committee & Ministers will similarly apply themselves to those observations and recommendations, so that a common and compatible system of Fire Safety Legislation exists across the United Kingdom.

The ultimate aim must be an Act that reflects the needs of the Parliament, employers, employees and finally and most importantly, the people of Scotland.

The Fire Brigades Union wishes to bring the following issues to the attention of the Committee:

PART 1 – “FIRE AND RESCUE AUTHORITIES”

Although many of these Sections have been rewritten from the 1947 Act, it appears from the outset of the Bill that there is a move towards Centralisation, giving wide ranging powers to Ministers, but without maintaining the same level of accountability. This seems to contradict the twin visions contained within the White Paper, of ensuring local decision making and local democracy.

Furthermore, in this part, as with all other parts, consultation issues do not refer to the recognised Trade Union, rather “such other persons that are deemed appropriate”

PART 2 – “FIRE AND RESCUE SERVICES”

CHAPTER 1 - PRINCIPAL FIRE AND RESCUE FUNCTIONS

It is our firm belief that if the Scottish Executive is truly committed to improving the appalling record of Fire Deaths that we endure as a nation, then as part of the Principal Fire & Rescue Functions of the Service, a ZERO tolerance policy to ALL fire deaths, must be adopted as the ultimate goal for the fire services of Scotland.

The inclusion in Sections 7 & 9 of Fire Safety Duties and Road Traffic Accidents as a Statutory Obligation is welcomed. These functions have been carried out for many years by Firefighters and it is right & proper that they are finally acknowledged and enshrined in statute.

The provision of other Services in Section 10 affords Fire Authorities to task Firefighters to carry out any function that they deem appropriate. Whilst Firefighters have always carried out a wide range of tasks & duties this provision has no checks & balances and opens the door to an infinite range of tasks at the whim of a Fire Authority. Does it, for instance, envisage the Fire Service should be involved where there have been acts of terrorism, radiation and chemical incidents, explosions, biological incidents, disease, epidemics, railway, aircraft and sea?

We are also concerned that without proper identification now of areas where the Fire Service can assist, it will be an ad hoc reaction with inadequate preparation, training and foresight for the relevant risk. In addition, whatever Scottish Ministers envisage, may involve reserved questions. The inter relationship between the responsibilities should also be clarified now rather than when it is too late.

For any incident the Bill does not deal with questions of co-ordination, direction and management of incidents. This is particularly so having regard to those who may be involved such as firefighters, police, emergency medical resources, military resources and outside agencies. Without such provision there is adequate scope for confusion with the consequent repercussion for fire safety and safety for any other functions envisaged by the Bill.
CHAPTER 2 - ANCILLARY FUNCTIONS

The terms of Section 15 will be contrary to Protocol 1 of the Convention and Prevention of Human Rights and Fundamental Freedoms Article 1. The provision does not make it clear, with sufficient clarity, that those likely to be affected by it understand it and regulate their conduct accordingly. It is indeterminate as to who may or may not be liable, the amount for which they may be liable and also as to the nature of the charge. The Scottish Executive and Scottish Parliament are in our view acting ultra vires insofar as this section is concerned.

CHAPTER 4 - POWERS OF EMPLOYEES AND CONSTABLES

We welcome the statutory recognition given to the Fire Service in Section 27, in the role of the Authority to investigate fires and acquire such goods and materials for testing & analysis. This will contribute greatly in expanding the knowledge & future development of Fire Safety measures.

CHAPTER 5 - MUTUAL ASSISTANCE ETC

Section 33 affords the ability for Fire Authorities to call on the assistance of others in carrying out duties on the fireground, which may be invaluable, particularly in the case of collapsed buildings and other similar emergencies. There is also no statutory protection under this section to ensure for the public, and those working with them, that such persons have the relevant experience and training.

Consequently, any such arrangement must ensure that assistance can be provided to the Fire Service at all relevant times and that the persons providing the assistance are properly trained in the duties and tasks that they may be expected to undertake under emergency conditions and may be clearly identified as providing such a service on behalf of the Fire Service, whom they are assisting. A clear line of command at incidents for such persons will also need to be established, both for their protection, the protection of relevant Authority firefighters, other emergency service personnel and members of the public.

Also, for authorised persons, while it may be clear as to which employees are responsible or authorised viz a viz an employer, the position is not necessarily the same where the public are concerned. Indeed this is the reason for uniforms. Given the severe penalties for non compliance by way of obstruction or interference, etc, these sections need further specification.

Section 34 affords a relevant Authority with the power to privatise part or all of the functions of the Fire Service, including the enforcement of fire safety duties under Part 3 of the Bill (Section 34(1) refers to section 56 which details the duties of enforcing Authorities for the purposes of fire safety enforcement). In the case of fire safety enforcement, they may therefore delegate the duties of an enforcing Authority to “any other person”. These proposed powers are contained within Section 34(1) supported by provisions in section 34(2)(a) and 34(2)(b).

Given the avowed intent of Ministers both in England, Wales and Scotland to move the Fire Service away from a culture of intervention to one of prevention and to fire cover arrangements based upon risk assessment in which fire safety enforcement will play a major and pivotal role, it seems most peculiar to allow the statutory potential for the Fire Service functions, both of intervention and prevention, to be hived off to bodies other than other relevant Authorities. No doubt Ministers will be able to explain their thoughts on this issue more fully to the Parliament and the Scottish people, when the Bill is debated.

It is also interesting to note that, by virtue of Section 35, Ministers may only direct two relevant Authorities to enter into arrangements under the Section 34 powers, yet a relevant Authority may hive off any of its functions to almost anyone, as long as, in the case of the relevant Authority’s function to extinguish fires, they employ firefighters.

CHAPTER 6 - CENTRAL SUPERVISION AND SUPPORT

The Framework Document, referred to in Section 36, is fundamental to the Bill.

It is unclear when the Framework Document will be published and, indeed, who is writing it. The Scottish Central Fire Brigades Advisory Council (which is to be abolished – see section 78) should be the body that produces, considers and advises the minister on this important document. This, however, is not the case.

It is still unclear what structure, if any, will replace the SCFBAC and who will be part of that structure. It is an integral and vital part of the accountability and transparency of the Ministerial role that the Minister has an appropriate structure in place.
to properly analyse, consider and advise him/her on matters concerning the Service. This is entirely necessary to properly and adequately inform, advise and report to (see section 38) the Parliament. This structure should be on a statutory basis and include the principles of Social Partnership.

Any new structure must be fully inclusive of the major stakeholders in the Service and must not be exclusive to one organisation or unelected/appointed advisors.

Such matters as the Framework Document will address are:

- Fire Prevention & Risk Management
- Working Together
- Effective Response
- Resilience & New Dimension
- Fire & Rescue Staff
- Workforce Development
- Finance
- Performance Management
- Research

Given that these vital areas will all form a major part of the Framework Document, it is essential that this is agreed with the recognised accredited Fire Service Trade Union Representatives, to ensure that they are both achievable and relevant.

If meanwhile Scottish Ministers have, or intend to take advice on the Framework Document, they should identify these bodies or persons, what their standing is, when the advice is obtained, its contents and potential interest. Such advice should be open and transparent and not rendered “behind closed doors”.

CHAPTER 7 - EMPLOYMENT

Section 45 affords Ministers the facility to establish a “statutory negotiating body” for the purpose of negotiating the conditions of service of employees of relevant Authorities in Scotland.

What is glaringly missing from this Section is the term “recognised Trade Union”. The explanatory notes state that the body should include “representatives of employers and employees (which may include a trade union)…”.

The section is silent on the existence & rights of a Trade Union, which contravenes the Convention of Human Rights. Given that the legitimacy of a Trade Union is underpinned by Legislation, the recognised Trade Union must be recognised in the Section.

It seems that any Scottish body would not reflect the agreed constitution of the present UK NJC. In fact there is no mention at all regarding what the constitution of this Scottish body would be and indeed how it might arrive at an agreement. The presumption is that the Minister will make all decisions regarding these matters, which would be entirely inappropriate.

PART 3 - FIRE SAFETY

In respect of this Chapter of the Bill, we must express our general concern over the way that this has been proposed. The basic proposal is to place all the powers and duties relating to fire safety within this Chapter and then use the powers given to Ministers to make regulations to define specific areas of responsibility. Despite previous pleas to the Executive from the Fire Brigades Union to reconsider their proposals to combine what is essentially two distinct and complex pieces of legislation into one statute, our advice was ignored.

As a result we have this strange approach to Fire Safety Legislation which does not currently share a common direction or approach with that proposed for England and Wales. In England and Wales the duties of Fire Safety Care will fall upon the “responsible person”, whilst in Scotland they will fall upon the employer, then in Section 50(10) we see them falling upon some strange undefined person who has control of the relevant premises.

In view of the paradoxes created by this strange and most unfortunate method of introducing what should be modern and all encompassing fire safety law into Scotland, this part of the Bill needs urgent scrutiny & review.
CHAPTER 1 - FIRE SAFETY DUTIES

Sections 49 & 52 deal with the duties of employer and employees. These sections fail to recognise the changing nature of the working environment and the replacement of traditional working relationships of employer/employee, by relationships which are ill defined or characterised by such terms as franchisees, licensees, self employment, temporary work, contract for services, agencies and casual labour. Such relationships are increasing. They will not be covered by Sections 49 and 52. This is a serious weakness in the Bill.

Section 50 also has weaknesses. It too fails to appreciate the changing nature of the working environment. It rests on the owner and landlord/tenant relationship. Working environments are more characterised by very short tenancies, short leases, licences and fleeting occupation. There is also a number of intermediaries and distance between the landlord/owner and the user of a premise. It is far from sufficient to rest such an important duty on such indeterminate and transitory relationships. They may not identify themselves as being responsible and those who do accept responsibility may have little legal power to enforce safety measures, not to mention the very real practical difficulties in identifying and keeping track of those responsible.

Section 49(1) is qualified by the term “reasonably practicable”. Sub-Section 2 provides for fire safety measures to be taken and compliance with the duty imposed by the duty in Sub-Section (1). In other words any safety measures are always qualified by the term “reasonably practicable”. The reference to Edwards -v- NCB 1949 1 All ER April (Explanatory notes and other accompanying documents) is an economic test and not contained in the Directives to which we refer below. Insofar as therefore this term is used to qualify any regulations seeking to implement the European Directive it would be a dilution of the Framework Directive. The Scottish Parliament and Scottish Executive are therefore acting ultra vires.

Similar problems arise with regard to Sections 56, 58, 59 and 60. Those charged with enforcement will also have difficulty in identifying and keeping track of those who may be responsible. In addition Section 60 depends upon alterations being notified in the first place. This begs the question whether the person or persons can be identified, even among themselves, to give notification of the changes.

In any event the Section is far too wide and will have the effect of demotivating employees who would otherwise be prepared to participate, assist and innovate in fire safety responsibilities. They may also defer to a superior to avoid responsibility.

Section 55 affords a temporary suspension of the Chapter 1 duties to enable the person listed in Section 55(2) to carry out their duties. We have to admit to being completely mystified by this provision as it allows the persons listed in Section 55(2) to suspend the operation of Chapter 1 duties for undefined reasons in pursuit of undefined duties.

CHAPTER 2 - ENFORCEMENT

Section 56 places a duty upon the enforcing Authority (which in the draft Regulatory Reform (Fire Safety) Order in England and Wales is quite clearly stated as being the Fire Authority) to enforce the Part 3 Chapter 1 duties. It does not however place a duty upon the enforcing Authority to inspect premises or indeed a duty upon the Minister or the Executive to ensure that they are carrying out their duties in a proper manner.

We are concerned that the powers of enforcement officers may not extend to regulations made under Section 55, as that Section gives Ministers powers to make regulations and unless the regulations in turn contain duties, it is not clear if they constitute duties under Chapter 1 to which Section 56(3) and Section 57(1) refer. This issue needs clarification and resolution.

In Section 58, which refers to Prohibition Notices, there has been a subtle and potentially dangerous change of wording from those contained within section 10 of the Fire Precautions Act 1971.

The wording in this section limits an enforcing Authority to only issuing a prohibition notice in respect of matters affecting the means of escape, rather than issues affecting the wider risk of fire, as allowed for in the original wording used in the 1971 Act. We would recommend that the wording in Section 58(3) be replaced with the wording contained in Section 10 of the Fire Precautions Act 1971.

CHAPTER 3 - MISCELLANEOUS

Section 65 disapplies Part 1 of the Health and Safety at Work Act 1984 and therefore, by implication, the regulations made by Part 1 of that Act, including the Provision for Use of Work Equipment 1992, Personal and Protective Equipment at Work
Regulations 1992, Manual Handling Operations Regulations 1992 and others. This is in effect the whole safety regime sourced from the Framework Directive 89/391/EEC and its daughter directives, for example, EEC Directive 89/656 (Personal Protective Equipment), EEC Directive 90/269 (Manual Handling). In attempting to do so, the Scottish Executive and Scottish Parliament will be in breach of Community Law and acting ultra vires.

Section 66 also seeks to disapply the Fire Precautions (Workplace) Regulations 1987 and also impliedly disapplying the Workplace Directive 89/654/EEC. The Scottish Executive and Scottish Parliament would also be in breach of Community Law and acting ultra vires.

CHAPTER 4 - OFFENCES

This section appears to be in contradiction to the Trade Union & Labour Relations Act and contravenes Article 11 of the Convention for the Protection of Human Rights & Fundamental Freedoms.

PART 4 - MISCELLANEOUS

Sections 74 & 75 deal with Inquiries. Inquiries are also referred to within Sections 37 and 39 of the Bill.

As we have stated the Scottish Ministers’ role is extensive. This is not only in relation to policy but in operational matters. Reference is made to sections 11, 15, 31, 36, 37, 41, 42, 43 and 44 of the Bill.

Given the Scottish Ministers extensive role in fire safety and other areas including detailed operational matters the difficulty lies where the Scottish Ministers are responsible for a defect in fire safety, wholly or partly, in so far as their actions or omissions have contributed to the fire (or other) safety problem in question. There is no accountability in the Bill and no mechanism by which any such failing can be identified or addressed. This is a serious failing in the Bill.

SUMMARY

It is overwhelmingly apparent to us that Scottish Ministers will be afforded an increased and more direct role not just in relation to policy making, but also with regard to the operational functions of the fire services.

Given that the long standing Scottish Central Fire Brigades Advisory Council is to be abolished with no obvious statutory consultative successor body proposed to replace it, and also taking into account the major role that the Minister and his/her civil servants will have, we consider that this is not adequately underpinned by a statutory obligation to ensure that they have the available expertise to advise on the duties especially in so far as they relate to the operational requirements which they impose in terms of the Act.

It is not in the interests of those within the Service, or the people of Scotland, for Ministers to be involved in the micro-management of the Fire Service.

This is all the more so given that there is no scope in the Bill for the accountability of the Scottish Ministers, where they may be wholly or partly at fault in complex areas of fire safety and other functions.

There are also serious weaknesses in the Bill by its failure to address modern working relationships and environments.

The Bill provisions, especially in areas of health and safety, are ultra vires by being in breach of Community Law and/or Contravention for the Protection of Human Rights and Fundamental Freedoms.

The Bill also fails to adequately deal with the question of additional functions, apart from road traffic incidents, and fundamental questions of co-ordination and management.

In general it seems that the Bill is very extensive in its powers, in many respects unlawful, but very short on content and accountability.

For the above reason we do not feel that the Bill satisfies the four objectives outlined in the Policy Memorandum.
Introduction

The Fire (Scotland) Bill was introduced in the Scottish Parliament on 28 June 2004.

The stated policy objectives of the Bill are:

- To define the role of the modern Fire and Rescue Service;
- To ensure that the Fire and Rescue Authorities have clear national and local priorities and objectives;
- To improve the protection of our communities;
- To revise fire safety legislation.

The purpose of this paper is to present the views of Fife Council (The Fire Authority) — to the Justice 2 Committee.

Fife Council notes, and in general terms welcomes the publication of the Fire (Scotland) Bill. The provisions of the Fire (Scotland) Bill are substantially those that were identified in the earlier consultation paper (The Scottish Fire Service of the Future). Fife Council had in general expressed its support for the proposals for legislation and consequently the provisions of the Bill are generally welcomed.

Fife Council will respond to the consultation document by exception. Where no comment is provided we generally support or concur with the approach adopted by the Executive. The areas that we would wish to make comment on are contained within the following subject headings: General Comments; Operational Matters and Further Observations. Where appropriate the relevant sections of the Fire (Scotland) Bill are identified.

General Comments

Ministerial Powers

There are a number of provisions within the Bill that give new powers to Scottish Ministers in relation to the provision of the Fire Service.

Although we recognise that there are areas where this is a sensible arrangement for the overall governance of the service there needs to be a definition provided of when such responsibilities will be implemented and on the extent of the accountability and responsibility which will attach to Scottish Ministers. This will have implications for the management of the Fire and Rescue Authorities. Part of the debate in bringing forward the legislative proposals related to the removal of ministerial power in favour of an increased accountability and responsibility being given to Fire Authorities; this part of the Bill now does not seem to support that point.

Governance

There needs to be a clear understanding of the responsibilities of both Fire Authorities and Scottish Ministers in relation to the provision of the Fire Service; otherwise there will be a potential diminution in the governance standards, which currently operate. This is particularly important given the current uncertainty in relation to the structure of the Service, the proposal for a reduction in the number of controls and the proposals in regard to the Common Fire Services Agency.

Controls

The Executive published their Consultants report on the future of control rooms in Scotland on 8 July 2004. It is imperative that governance, command and control and operating arrangements are clearly identified.

Common Fire Services Agency

These proposals were included in the Executive's earlier consultation paper in regard to a Common Fire Services Agency. This would have major governance and financial
consequences. Ministers have decided to investigate the proposal to investigate a Common Fire Services Agency with stakeholders. The Bill does make provision for the first step in this process: Provision of powers for Scottish Ministers to establish and maintain (or contribute to the establishment and maintenance of) a body to promote the economy, efficiency and effectiveness by the Fire and Rescue Service Authorities. Fife Council’s view is that the existing governance and operating arrangements will better deliver economy and effectiveness by maintaining ownership within the Fire Service.

**Operational Matters**

**Part 1 Section 2**
Existing Legislation makes arrangements for the Firemaster to report directly to the Fire Authority. The same provision should be maintained within the Fire (Scotland) Bill to ensure that appropriate professional advice is provided directly to all Fire and Rescue Authorities. This is consistent with the principles of integrated risk management planning.

**Part 2 Chapter 1 Section 8**
It would be helpful to receive a legal definition of the extent of each Fire and Rescue Authority area to allow proper consideration of the provisions that it must make including firefighting at sea. Reference should also include Fire and Rescue Services responsibility for environmental protection where appropriate.

**Urban Search and Rescue – New Section 9(a)**
Provision should be made within the Bill for Fire and Rescue Services responsibilities for urban search and rescue activity. This should be identified as a specific role for the service, particularly when one considers the service’s role at the recent explosion and building collapse in Grovepark Street, Glasgow.

**Chapter 2 Section 11 (1)**
We query the need to include the provision for emergency directions in the Fire (Scotland) Bill. Ministers already have such powers in terms of Civil Contingency Arrangements.

**Chapter 3 Water Supply**
Although recognising the service responsibility to secure water supplies Fife Council believe that responsibilities in relation to provision of hydrants etc should be contained within the Water (Scotland) Act. Responsibility for the provision of said hydrants should lie with the water undertaker.

**Chapter 6 - Central Supervision and Support – Section 36 (i)**
We would advocate that when enacted, and if applied, that Scottish Ministers should take a wider focus for consultation, which would be, consistent with the requirements placed upon Fire and Rescue Authorities in context of the integrated risk management planning process. The Bill also requires to reflect that Firemasters are responsible to Fire and Rescue Authorities for the effectiveness of the service, which they provide. We believe that it would also be prudent to include responsibilities for integrated risk management planning, IPDS, risk assessments and the efficient and effective arrangements for the Fire and Rescue Service.

**Part 4 Miscellaneous – Section 74**
We are unclear as to the circumstances in which this provision would be required. Existing legislative requirements make provision for enquiries into all aspects of the services operations.

**Section 78**
We note that it is proposed to abolish the Scottish Central Fire Brigades Advisory Council. We can support this provision on the basis that there will be an appropriate and adequate replacement body formed.
Further Observations

Section 9
Clarification is sought on definition of preventative role in partnership with other agencies and any powers that would derive to Fire and Rescue Authorities.

Section 15 – Charging
Fife Council welcomes this provision and look forward to contributing to consultation on the proposed charging order.

Section 20 (2)
This should be amended to ‘identified hydrants would be marked in an appropriate way’; this would allow the use new technology to mark and indicate hydrant location.

Chapter 4 – Section 27
Clarification will be required on certification of premises within this section.

Chapter 5 – Section 35 Section 34: directions
We question the need for this provision given the provisions and obligations arising from the Local Government (Scotland) Act 2003.

Chapter 6 – Section 44 (1b)
This provision seems contradictory to the responsibilities being proposed for Fire and Rescue Authorities; we can understand the need to establish a Central Training Institution but do not understand the reference to local training centres. If it was to be implemented then it appears that the Scottish Executive would require to take responsibility for the training of all Fire Service personnel. This would also appear to duplicate the provisions of Section 14.

Part 5 – Section 79 False Alarms
We suggest that a provision be made for charging for false automatic fire alarm calls. This would provide an incentive for reducing spurious activation of automatic fire alarm systems.

Schedule 4 – Repeals
Does not make any reference to the Fire Services Act 1959.

Conclusions
Fife Council welcomes the opportunity to comment on the proposed contents of the Fire (Scotland) Bill and hope that that these comments are found to be relevant and appropriate. However we have serious concerns on the potential use of Part 1 section 2(1) of the Bill which states “Where it appears to the Scottish Ministers that, for the purposes of this Act, it would be in the interests of greater economy, efficiency and effectiveness that the areas of two or more fire and rescue authorities be combined, they may by order make an amalgamation scheme for that combined area”. Particularly when read in conjunction with the Mott MacDonald report which states on page 55 (iv) Opportunities; This option does open the way to review the structure of the eight brigades in Scotland, and whether they should be rationalised into three. If one makes the linkage in these two, albeit, separate documents the inference could be drawn that there is a plan to rationalise the Fire and Rescue Services in Scotland. We strongly believe that the current structure and governance of Fife Fire and Rescue Service best meets the needs of the communities of Fife. We would therefore urge the Executive not to contemplate making any changes to the structures of Scottish Fire and Rescue Services.

August 2004
SUBMISSION FROM FIRE OFFICERS’ ASSOCIATION

Part 1

Section 1

We are content with the proposed change of name to “fire and rescue service” since it more accurately reflects the services that that informally been provided for many years. This bill’s proposed increase in statutory duties make the title change even more important.

Section 2

We must express some concern over use of the word “appears” in the first line of Section (2). It seems inappropriate that Ministers are not subject to the same Best Value principles and evidence-based decision making requirements that apply to local authority services. We believe that the Section might be better worded – “Where there is evidence that it would be in the interests of greater economy, efficiency and effectiveness that the areas of two or more fire and rescue authorities, the Scottish Ministers may order make an amalgamation scheme for that combined area.

Whatever the wording, we would prefer to see some requirement for the decision to make an amalgamation scheme to be based upon a process requiring appraisal of evidenced options.

Fire and rescue authorities themselves might be better placed to identify potential benefits of combination and we feel that it would be appropriate to make additional provision for fire authorities to voluntarily amalgamate. We would, therefore, suggest that an additional Section be added. Such provision might be; where two or more authorities consider that there is evidence that it would be in the interests of greater economy, efficiency and effectiveness, they should be able to request that Scottish Ministers make an amalgamation scheme for their combined area.

Part 2

Chapter 1

Sections 7 – 10

The fire service has long been seen as the organisation that will respond and deal with any emergency that cannot be dealt with by other services. Sadly, the call to assistance often occurs after other services have exhausted their options and some time may have elapsed during which a casualty’s discomfort continues more than is necessary. When called upon, the fire rescue service always responds but there are occasions where doing so raises questions over personal indemnity in situations that fall outwith the service’s area statutory function and where specific training provision is not made.

We are, therefore, content with the proposed statutory duties of the fire and rescue service. However, in relation to Section 9, Road traffic accidents, we feel absence of any responsibility for preventative work is a serious omission. Where fire and rescue service resources are, by statute, required to be deployed, there should be some accompanying responsibility to actively reduce or minimise the number of such deployment occurs.

In this case, the primary beneficiary of preventative work would be public safety but benefit would also be derived from reduced cost to the public purse. Leaving responsibility for prevention with other agencies does not make sense, particularly, in an age when partnership working between public services is encouraged. We feel that prevention should be divided between the fire and rescue service, police and possibly health services since we believe that close partnership between these organisations will be necessary to develop common demand reduction objectives.

Whilst we make specific reference to road accidents, the above principle should apply to other areas of responsibility since those bodies with an interest in reducing activity should be able to invest in initiatives geared towards prevention rather than intervention, much in the same way as the fire and rescue service is reviewing this balance in relation to fire-related incidents. The Community planning model might be considered where one body takes a leading role and others have a duty to participate in the planning process.
We would also like to see the inclusion of a specific duty to deal with incidents related to ‘New Dimensions’ such as incidents requiring mass decontamination. Inclusion of such a duty would place the provision of equipment and training on the same footing as other activities. It is recognised that ‘New Dimensions’ is currently a central responsibility but we would not foresee any difficulties from its delegation to fire and rescue authorities, bearing in mind the Scottish Ministers’ power to direct fire authorities on the use of resources.

The existing Scottish fire service is introducing equipment and training for dealing with ‘urban search and rescue’ incidents. We regard this as legitimate role for fire and rescue services and believe that it would be beneficial to include search and rescue from collapsed structures to the service’s statutory functions. This would ensure that all authorities, in terms of equipment and training, make provision for such incidents.

We trust that, even without our suggested additional responsibilities additional equipment and training are likely to be required if the service is to properly prepare for additional rescue responsibilities. It is hoped that the Scottish Executive will be sympathetic to the inevitable requests for additional capacity building funding.

We believe that proper funding will be required if the service is to effectively deliver all statutory functions. However, it would be much better if the Fire (Scotland) Bill’s enactment were accompanied by centrally funded support arrangements that remove the need for competitive local funding bids.

Dealing with emergencies in coastal areas

We feel that there is a need to clearly define the geographical area of a fire authority’s jurisdiction to ensure that provision is made for dealing with fire (or other emergencies) occurring at sea. This has long been a problematic situation as the existing Fire Services Act does not allow fire authorities to act outwith their immediate coastal area. Accepting that the service has not been empowered to operate at sea, it has been difficult to obtain a clear definition of where a local authority’s area ends. Different interpretations seem to have been taken, e.g. ‘within the arms of land’ or ‘the low tide mark.

Irrespective of the above definition, it is considered that the huge potential risk to life from fires occurring at sea has never been properly addressed. Some fire services have voluntarily dealt with offshore incidents whilst others make no provision. This is far from satisfactory, considering the amount of sea traffic through Scotland’s waters and recent increases in the numbers of cruise liners calling at Scottish ports.

The UK “Sea of Change” project seeks to address this situation and by April 2005 it is envisaged that there will be offshore firefighting capabilities within the Scottish fire and rescue service. It would, therefore, be helpful if the Fire (Scotland) Act anticipated this by defining powers and responsibilities in relation to offshore fire and rescue work.

Chapter 2

Section 11

We are concerned over the presence of this Section and its wording since it implies that the professional opinion and judgement of fire officers may be overridden at operational incidents.

We cannot see why it should be necessary for Ministers to interfere in the management of an individual emergency incident. Where there is no fire, we accept that other agencies such as the police service will have overall authority for incident management. However, the senior fire and rescue service officer present at an incident should remain the point of responsibility and accountability for the management of operational fire incidents.

We understand that it may, on occasion, be necessary to direct a fire and rescue authority as to how its resources should be employed. In such instances, the Scottish Executive might consider the provision of regulations or statutory guidance as a means to direct on the use of its resources, for example, where Ministers determine that all fire and rescue services should not send more than two appliances to an automatic fire alarm call.

We seek clarification of the purpose of this Section and greater definition of the circumstances in which it might be used.
If it is intended to retain this section then we must make the point that we would expect Ministers to be fully accountable for the consequences of any emergency direction.

Section 12
We fully support the inclusion of the power to respond to other eventualities as it allows the service to respond to much wider range of incidents, indeed anywhere life or the environment is endangered. This should remove any concern that exists over the services power to act in situations not specifically defined by statute.

Section 15
Subject to defined criteria, we believe that fire and rescue services should be empowered to levy charges upon occupiers/owners of premises to which the service repeatedly receives fire calls arising from faulty automatic fire alarm systems. Often the cause of these false alarms is poor maintenance or housekeeping. It is hoped that the proposed Section will result in the making of an order covering such circumstances as we feel that it would greatly assist the service’s drive to reduce unwanted fire alarm calls, freeing resources for more productive activities.

Chapter 3
Section 18 and Section 20
We are aware that under new water legislation, there will be a commissioner of water who is able to grant licences allowing companies to operate water tariffs. We are concerned that granting such licences may result in fire authorities having to negotiate several agreements for the supply of water. It might also be the case that licensees install non-standard fire hydrants and security devices.

If this is the case, it would be preferred that the Fire (Scotland) Act were to provide that any license issued includes a condition for the supply of water on the terms agreed between fire and water authorities. Such terms should also stipulate that any installation provided for fire and rescue service use should be subject to section 20 subsection (5) to ensure compatibility with fire and rescue service equipment.

Chapter 4
Section 23
The powers of fire service personnel appear to be in line with the 1947 provisions for firefighting purposes and we are content that this be so since the arrangements have worked well for almost 50 years.

In relation to powers for other emergencies, we believe that parallel powers are necessary to ensure that necessary intervention action can be taken and we, therefore, support the proposals of this Section.

We note that the proposed legislation no longer makes reference to the “senior fire brigade officer having sole charge and control of all operations for the extinction of fire”. Absence of this, or an equivalent phrase, raises concerns similar to those expressed in response to section 11, above. We believe that there is a need for clarity of jurisdiction and control at the various types of incident attended by the fire and rescue service.

Section 26
We consider that the wording of Section 26 may compromise the safety of constables who are not currently trained for firefighting or rescue from fire. Conferring powers similar to those of a fire officer may tempt constables to attempt firefighting or rescue activities beyond their capabilities. There are many examples of fire incidents where constables have become fire casualties as a result of attempting rescue from fire.

It is appreciated that a constable may be able to extinguish small fires or effect rescues at in the early stages of fire development but in most areas the fire and rescue service will respond quickly with
appropriately trained and equipped staff. However, this may not be the case in rural areas and it may be tempting for constables to intervene pending arrival of the fire and rescue service.

Consideration might be given to the provision of enhanced training for constables in remote rural areas or the introduction of a dual role as constable and volunteer/auxiliary firefighter.

In any event, it is considered that the proposed powers should be modified to include a proviso that the powers may only be exercised where a constable is satisfied that his personal safety will not be compromised or where a constable has received adequate training in assessing the risks to personal safety associated firefighting and rescue activity.

Section 28

The fire service has to date, referred the security of unoccupied premises to the police or arranged for the local authority to make premises secure. These arrangements appear to work well on the majority of occasions and we are not aware of significant problems having arisen.

Waiting for the relevant organisation to arrive can result in appliances and staff being unavailable for further calls but we do not believe that the fire and rescue service would knowingly leave premises insecure and every effort is made to trace the owner/occupier or arrange for the premises to be temporarily secured.

Making fire and rescue authorities responsible for security might seem sensible for incidents where no criminal acts are suspected. We envisage that, on many occasions, the premises affected will be local authority owned and the process of securing premises will be unchanged, however, with responsibility falling to the fire and rescue service we fear that local authorities may raise a charge for services rendered. In other cases, a private company may need to be called upon. In either event it seems likely that new costs will be incurred by the service and it is hoped that these are taken account of in the Scottish Executive’s funding assessment.

Chapter 6

Section 35 and 37

We do not consider that the provision of these sections are necessary provided the service is subject to same audit regime as local authorities, i.e. that the audit of Best Value is applied to the fire and rescue service. The intervention powers bestowed by the Local Government in Scotland Act should, in our view, be more than adequate to allow action to be taken against any poorly performing service.

In England and Wales, Comprehensive Performance Assessment of fire and rescue authorities is using seconded fire and rescue service staff to advise on technical aspects of the audit. We believe that similar arrangements within Audit Scotland would deliver a robust and objective audit.

Section 36

This Association welcomes the introduction of a Fire and Rescue Framework for Scotland as we believe that it will bring greater integration of fire and rescue authorities and their services. It is considered that the absence of a national agenda for the service has, perhaps unintentionally, allowed fire brigades to become insular and somewhat possessive of in-house systems. Recent years have seen some improvements in openness and information sharing across the service but examples of meaningful collaboration towards the creation of common systems and approaches remain limited.

All fire and rescue share the same core duties and we believe that this should result in very similar organisation service delivery objectives. We, therefore, consider that there is much scope for collaboration on the development of common solutions to common problems. This would avoid existing duplication of effort which we believe to be extremely wasteful of the services limited resources.

This argument goes further and we urge that the Scottish Executive actively seeks opportunities for collaboration with the Office of the Deputy Prime Minister and the devolved administration in Wales to ensure that potential for the development of common approaches is maximised.
As the reader might expect we ask that, in relation to subsection (6) paragraph (b), Scottish Ministers consider this Association as representative of employees.

Section 39

We are not convinced that the scrutiny role of Her Majesty’s Inspector of Fire Services has previously been effective. Long-standing failings have been known to many in the service and identified in reports, such as the Audit Commission’s “In the line of fire” and “The Future of the Fire Service: reducing risk, saving lives” in 2002. Had the Fire Service Inspectorates operated a robust audit and inspection regime, it might be expected that failings would have been reported and addressed. However, reports have consistently failed to identify key areas for improvement and we have seen a series of relatively minor recommendations which were accompanied by a requirement to produce corrective action plans.

We believe that our comments against sections 35 and 37 applies here, as the real test of performance will be management effectiveness in delivering against planned or expected outcomes. Knowledge of the service is not essential since the audit focus should be on the processes and management systems employed by each fire and rescue authority. However, as previously mentioned, including people with a service background in audit teams would help to cut through any ‘smokescreens’ that might be erected.

We consider that Audit Scotland is best placed to conduct the fire and rescue service audit but can accept that the Inspectorate could retain its current role if more rigour were applied to the audit and reporting processes.

Section 44

For some time, we have held concerns that some local fire service training facilities might not be primarily focused on developing the skills and knowledge of fire service employees. Indeed, we hold suspicions that training facilities are being used as a source of additional income where relative success feeds one-upmanship amongst chief officers.

We tend to favour consistency of approach towards common issues and training is no exception. We, therefore, support greater centralisation of the training function as the present arrangements tend not to recognise the commonality of fire service functions and individual responsibility for development of local training packages leads to duplication of effort. This is also true of training strategy. Several years ago we saw the introduction of a national strategy for competency-based training which failed to include direction on local implementation with the result that 58 fire brigades dedicated resources into the development of 58 different systems intended to deliver the same outcome.

We feel that, wherever possible, work in common areas such as training should be done once and shared between fire and rescue service. Since many of our members are involved in service development areas, we believe that this will help to reduce the pressures on staff during a period of initiative overload.

Chapter 7

Section 45

The Fire Officers’ Association holds strong views on the matter of national negotiating bodies as we consider that the present National Joint Council arrangements have been a major factor in bringing the service to a position where wholesale change has become necessary to bring modernisation to the service.

Many of the issues highlighted by the 2002 Independent Review of the Fire Service have been known about for many years. Indeed, as far back as the early 1970s, the Holroyd and Cunningham reports identified areas in need of improvements. Since then, as mentioned previously, the Audit Commission made recommendations for change and in recent years there have been tentative attempts to reform elements of conditions of service.

The voting and disputes arrangements within the NJC made it impossible to make change without the agreement of both sides and any attempt to introduce change has been met with opposition and threats of industrial action. It should be obvious to any observer that this style of adversarial forum is antiquated and unlikely to deliver meaningful progress when either side can effectively block initiatives of the other.
In our view, the 2002-2204 dispute clearly demonstrates the ineffectiveness of the present system. We cannot understand how, in the 21st century, the only way of resolving differences in the fire service is through confrontation and negotiation between two of the service’s stakeholders with no mechanism for considering alternative viewpoints or alternative solutions.

Now that the dispute has been settled, it would be relatively easy to maintain the status quo in terms of industrial relations and continue as before. However, despite agreement on central change issues, we believe that it would only be a matter of time before there is disagreement over a supplementary matter relating to modernisation which again stifles progress.

We support the recommendation of Sir George Bain that the new negotiating arrangements are required and that these should be inclusive of all stakeholders. A new format allowing full and open debate would represent real progress in that matters might be decided after considering several points of view rather than what often amounts to an exploration of common ground between two entrenched viewpoints.

In practice, debate does not currently occur as agreements tend to be made outside the NJC between the joint secretaries to be brought back to allow the membership to exercise block votes.

We are pleased to see that the wording of this section provides for the inclusion of other bodies and we hope that the Scottish Ministers’ intent is to adopt a modern approach whereby decisions are based on evaluation of evidence and options received from several sources.

We respect management and employers’ right to manage and make decisions on the future direction of the service but we expect similar recognition of the need to engage the workforce and their representatives in the decision-making process. Disharmony in an organisation is in nobody’s interests and all parties in any negotiating machinery need to recognise that all available evidence must be considered in a mature manner. The Fire Officers’ Association works to the principle of working in partnership with other stakeholders and engaging in constructive dialogue to arrive at mutually acceptable solutions.

The Scottish (and UK) fire and rescue service has the opportunity to change its approach towards industrial relations by abandoning adversarial systems in favour of a system based on co-operation and consensus. We sincerely hope that this opportunity is not wasted.

In considering the introduction of negotiating machinery we believe that it would be in the interest of the UK service for Scotland to work in partnership with other UK administrations through the retention of a single UK negotiating body, provided that such a body supports the modern approach outlined above. We consider that separate bodies would lead to duplication and divergence of direction. The issues for individual fire authorities are very similar throughout Great Britain and co-operation would continue to provide the human and financial economies derived from common approaches towards development and problem solving.

Whilst we recognise that there may be political differences within and between employers groups and national administrations, we believe that the provision of effective and efficient fire and rescue services should not a political issue and that such differences should not affect evidence-based decision-making at national level.

**Section 47**

For the reasons stated in the third paragraph of our response to section 26, we suggest that the need for section 47 be reconsidered.

**Part 3**

We support the inclusion of Fire Safety Duties within the Bill, believing that it is beneficial to bring fire-related matters into a single piece of legislation. We have no specific observations to make on the content of this Part.
Part 4

Section 77

We favour a Practitioner Forum approach to the provision of advice to Ministers with specific issues being handled via ‘task and finish’ groups comprising practitioners in the subject area. Such groups being charged with research and development of options for consideration by the main body. In the case of the FOA many of our members currently serve on or chair CFOA committees and are heavily involved in service development. We therefore consider that the lead role on ‘task and finish group’ should not be the exclusive domain of CFOA who may propose our members as their representative. Partnership working within the advisory body would be encouraged by sharing responsibility amongst the constituent organisations where suitable people are available amongst those nominated.

Our opinions on Scottish arrangements for the provision of advice to the Scottish Ministers are essentially, the same as those given in relation to Section 45. We feel that there will be few exclusively Scottish matters arising in relation to fire and rescue service issues and we see no reason why advisory arrangements cannot be shared with the rest of the UK. If a Practitioner Forum approach is favoured, UK organisations would wish to select the best available person as their representative on any forum established and separate forums for Scotland, England and Wales could creates a large workload for this individual which might dilute their contribution. However, we think it more likely that each body would duplicate the efforts of the others and create unnecessary expenditure that might be better directed into development work.

Regardless of the body represented, persons nominated to sit on advisory bodies tend to have large individual workloads in their full-time employment and it would be preferred that any advisory meetings are combined but provision made for members to deal with any regional issues before or after the main meeting. Given the promotion of the Fire Service Colleges as centres of excellence we suggest that would provide appropriate venues for meetings.

Section 78

Whilst the FOA has not been involved with the Scottish Central Fire Brigades Advisory Council (SCFBAC) as constituent member. We have experience of the CFBAC and awareness that neither body has effectively delivered results. Many issues appear to have been dormant for long periods and we believe that matters would be more effectively concluded through adoption of a project-managed approach such described above. We therefore agree with the proposal to abolish the SCFBAC.

27 August 2004
SUBMISSION FROM THE HIGHLAND AND ISLANDS FIRE BOARD

Highland and Islands Fire Board welcomes the introduction of the Fire (Scotland) Bill as a basis upon which to build a modern, locally controlled fire service that works effectively with partners to provide a safer Scotland. The Board welcomes the recognition of the widening role of our fire services and the reform of fire safety legislation. The Board submits the following comments to assist in the development of the legislation.

General comment on Governance and Ministerial Powers

Whilst acknowledging that there is a place for central advice and guidance this Fire Board believes strongly that fire and rescue services are a local authority responsibility and wish to see this consolidated in the legislation.

There needs to be a clear and unambiguous understanding of the responsibilities of both Fire Authorities and Scottish Ministers in relation to the provision of the Fire Service; otherwise there will be a potential diminution in the governance standards that currently operate.

This is particularly important given the current uncertainty in relation to the structure of the Service, the provision of controls and the proposals in regard to the Common Fire Services Agency.

There are a number of provisions within the Bill that give new powers to Scottish Ministers in relation to the provision of the Fire Service. Whilst it is recognised that there are areas where this is a correct and proper arrangement for the overall governance of the service there needs to be a clear understanding provided of when such responsibilities will be implemented and on the extent of the accountability and responsibility which will attach to Scottish Ministers in those circumstances. Part of the debate in bringing forward the legislative proposals related to the removal of ministerial power in favour of an increased accountability and responsibility being given to Fire Authorities; the Bill now published does not seem to support that point.

Part 1 Section 1 Fire and Rescue Authorities
Existing Legislation makes arrangements for the Firemaster to report directly to the Fire Authority. The same provision should be maintained within the Fire (Scotland) Bill to ensure that appropriate professional advice is provided directly to all Fire and Rescue Authorities. This is consistent with the principles of integrated risk management planning.

Part 1 Section 2 Schemes to constitute joint fire and rescue boards
There appears to be no explicit route for the formation of voluntary combination schemes. Given the desire for local accountability this would appear to be an omission.

Part 1 Section 4 Joint fire and rescue boards: supplementary provision
There is no apparent right of compulsory purchase for fire authorities.

Part 2 Chapter 1 Section 8 Firefighting
It would be helpful to receive a legal definition of the extent of each Fire and Rescue Authority area to allow proper consideration of the provisions which it must make including firefighting at sea.

For consistency with the principles of integrated risk management planning the Section 8 (1)(a) would be better defined as ‘controlling and extinguishing fire in its area’. The reason for this is that on occasions extinguishment is not always the best way to protect life, property, land or the environment.

Reference should also be made to our responsibilities to protecting the environment.

Part 1 Section 9 Road Traffic Accidents
Where the authority is given a duty to attend road accidents it should also be given the power in partnership with other agencies to reduce such events happening in the same way that it is empowered to undertake fire safety initiatives.
Chapter 2 Section 15 Charging
The provision for charging is acknowledged and the Fire Board looks forward to future consultations regarding what can be charged for. In particular the Board feel it would be appropriate to allow charging whereby the Brigade is obliged to attend regular false alarms at premises due to neglect or disregard for Brigade advice.

Chapter 3 Water Supply
Whilst recognising the service responsibility to secure water supplies it is the view of this authority that responsibilities in relation to provision of hydrants etc should be contained within the Water (Scotland) Act. Responsibility for the provision and funding of said hydrants should lie with the water undertaker.

Chapter 3 Section 20 (2)
The marking of hydrants needs to be more flexible. New technology now allows for electronic identification which aids fire crews.

Chapter 4 Section 23 Powers of authorised employees in relation to emergencies
This provision replaces section 30 of the 1947 Act with the notable omission of Section 30 (3) where ‘the senior fire brigade officer had sole charge and control of all operations for extinguishing fire’. No similar provision is made in Section 23 of the Bill. This has the potential to blur the command and control element with the attendance of other agencies.

Subsection (3) Whilst welcoming the provision in relation to obstruction or interference with authorised employees we consider that this section should be extended to include attacks on firefighters. The penalties should reflect those contained within the Emergency Workers Bill.

Chapter 4 Section 27 Powers of authorised employees in relation to investigating fires
This power appears to be too narrowly defined and may not extend to outdoor fires including vehicles.

Chapter 5 Section 33 Assistance other than from relevant authorities
This section limits the availability of assistance for firefighting to those employing firefighters. This will hamper firefighting operations where the use of helicopters or forestry workers is required. It is this Board’s view that this must be amended.

Chapter 6 - Central Supervision and Support – Section 36 (i)
We would advocate that when enacted, and if applied, that Scottish Ministers should take a wider focus for consultation with the Framework document which would be consistent with the requirements placed upon Fire and Rescue Authorities in context of the integrated risk management planning process.

Chapter 6 Section 40 Functions of Inspectors of Fire and Rescue Authorities
This section directs Inspectors to inquire and report upon the state and efficiency of relevant authorities generally. It is felt that the main focus of the inspector should be effectiveness.

Chapter 6 – Section 44 (1b) Central institution and other centres for education and training
The need to establish a Central Training Institution is understood but not the reference to local training centres and suggest that this be removed. It appears to be a direct lift from the existing Fire Service legislation that applies to the UK rather than only Scotland. If it were to be implemented then clearly the Scottish Executive would require to take responsibility for the training of all Fire Service personnel. This would include being accountable for those arrangements.

Chapter 7 – Section 47 Prohibition on Employment of Police
Whilst this provision is contained in existing legislation we question its necessity given the working frameworks within which we now operate. This could cause particular difficulties in remote areas where special constables may also operate as volunteer or retained firefighters. We suggest that this be removed from the Bill.

Part 4 Miscellaneous – Section 74 Inquiries
We are unclear as to the circumstances in which this provision would be required. Existing legislative requirements provide for enquiries into all aspects of the services operation.
Section 78 Abolition of Scottish Central Fire Brigades Advisory Council
We note that it is proposed to abolish the Scottish Central Fire Brigades Advisory Council.

We can support this provision on the basis that there will be an appropriate replacement body which allows fire authorities and Brigades a mechanism to participate.

Schedule 4 – Repeals
Does not make any reference to the Fire Services Act 1959.

August 2004
SUBMISSION FROM HER MAJESTY’S FIRE SERVICE INSPECTORATE FOR SCOTLAND

I submit this evidence, not only in my capacity as Her Majesty’s Chief Inspector of Fire Services, but also as someone who has been employed in Local Authority Fire Brigades for over 37 years, the last 15 years of which was serving as Chief Fire Officer and Firemaster.

Overall I broadly welcome the Bill as the cornerstone of a number of changes that are required to improve the Service over the coming years. This Bill, and the accompanying National Framework, will be the first time that the Executive will have published its expectations of fire and rescue services and detailed how the Executive will support Fire Authorities in achieving those expectations. My specific comments are as follows:

- The Bill recognises the role of the fire and rescue service as going beyond the traditional aspects of fire fighting into a much broader service provider with, of course, for the first time associated statutory duties and/or powers. The emphasis upon fire safety and fire prevention is most welcome and will lead to improved protection for communities. This along with Integrated Risk Management will ensure that the correct resources are utilised in the correct manner at the correct time.

- I am aware that some stakeholders are disappointed that the new duty of Community Fire Safety did not encompass the broader community safety remit. However, the duty to engage in these activities is already in the gift of the service through the Local Government in Scotland Act 2003. The combination of this Act and the Fire Service Bill will be a powerful force for safer communities delivered through broad collaborations and opportunities to delegate functions where appropriate.

- I welcome the National Framework and would have liked to see its production in parallel with the Bill. However, the consultation document gave a good indication of its content. I do not believe that stakeholders should fear a perceived centralised approach. I believe it will be balanced. The powers of direction to Ministers are once again in danger of being over-played. They are no more than the powers Ministers currently have for other areas of essential public services. The removal of Ministerial approval being required in terms of variations to establishment schemes (Section 19 of the Fire Services Act 1947) is most welcome as it will allow for local variations to meet local needs.

- In terms of the structures of the service and national resilience issues, I believe that in order for Brigades to cope with the plethora of strategic and legislative changes they face on a day to day basis, it may be more effective to create larger strategic bodies in order to sustain capacity. The concern that this would erode local accountability and/or identity can easily be overcome not least of all through community planning groups and greater empowerment to the local service units.

The fears over Joint Fire Service Control Rooms are bordering on mythical when we consider that for many years now one control room in Scotland has handled almost 50% of all emergency calls which includes communities with differing dialects and street names that are repeated in many towns and villages ie High Street etc. The evidence is that this control is highly efficient, well regarded by those it serves and provides excellent career opportunities for its staff.

- The proposals for a Common Fire Services Agency are generating some concerns amongst stakeholders. However, whilst I accept that there is evidence of good collaboration to be found in various areas of the service, I also feel that some form of Ministers/Central steer or drive is essential for the service to truly achieve the full benefits of collaborations. This area should not be left to chance or continue in a well intended fashion but sporadic in terms of results.

- The new powers of investigation are most welcome and should be entered into wherever possible in a collaborative nature. The agreement of protocols between the relevant agencies ie police, Fiscals' office etc is essential.

- The revision to fire safety legislation is most welcome but we should not underestimate the workloads involved in achieving this. I also welcome that in most cases the Fire Authority shall be
the enforcing authority for fire safety. However, once again this is not without its challenges at a Fire Brigade level. In the past, evidence has emerged that inconsistencies exist across the different brigades when applying Guidance on Fire Safety. Clearly with an enlarged role to play in the new Bill it will be essential that staff are offered opportunities in training to achieve, as close as possible, one standard for Scotland. Failure to address this either through the Scottish Fire Service College and/or at Brigades’ level will soon lead to a loss of confidence from those receiving the service.

SCFBAC

- The proposal to dissolve the Scottish Fire Brigades Advisory Council is extremely welcome. However, it does require careful consideration. The prospect of replacing the SCFBAC with Forums similar to England and Wales would be very resource and staff intensive. Whilst I accept the SCFBAC is too large and has lost its focus ie “Advisory”, I also consider it could remain if:-
  - Stakeholder Groups are limited to one person at the meeting;
  - meeting should not be chaired by Ministers whose role it is to receive advice not do both;
  - allow for specialist attendees according to the agenda items;

I believe this arrangement would be more efficient and could be reviewed after 12 months.

In conclusion, I referred to this Bill as a cornerstone of the reformed fire and rescue service. It has to be considered along with the other changes that are occurring across the service at present ie Revision of Conditions of Service, Appointment and Promotion Regulations, Integrated Risk Management, Integrated Personal Development System, Medical Guidelines for the Service. It is only when all these pieces of the reform package come together that we begin to see the wider picture of improved protection for Scotland’s communities.

I would be delighted to enlarge upon the views I expressed in this paper or any other issues should the Committee wish me to do so.

JEFF ORD
HM Chief Inspector of Fire Services
25 August 2004
SUBMISSION FROM SCOTTISH BRANCH OF THE INSTITUTION OF FIRE ENGINEERS

Part 3
Fire safety

In the Policy Memorandum one of the objectives of the Bill was to revise fire safety legislation and there is no doubt that the content of the Bill does make some significant revisions. In the Memorandum there is also a mention (para 32) that the proposal for the Bill included the consolidation and rationalisation of much of the existing fire safety legislation as well as the enabling revision. In Part 3 of the Bill moves towards such consolidation and rationalisation can be seen. However, there is only a list of two of the current statutes that will be repealed, in part or wholly, by a new Act. This may be an insufficient list as there are many more parts of legislation that deal with fire safety. In the Memorandum also it is noted (pages 11/12) that subordinate legislation will, or may, implement various aspects of the listed EC directives. It is taken that in relations to the Fire (Scotland) Bill (Act) that such aspects will be confined to fire safety provisions. If this is so could this be made explicit in the Bill?

Chapter 1

Fire safety duties
Duties

s. 49 and 50 These sections give the clear message of the responsibility of the employer. There is no mention of the need for ‘competence’ in the person carrying out the risk assessment. Should the issue of competence be included?

s. 51 (3) (b) The word ‘evaluating’ appears at this point. Is it possible to incorporate a phrase that indicates that the outcome of an evaluation does not always result in works that need to be carried out but that the outcome could be a fire safety deficiency that is agreed to be an ‘acceptable deficiency’?

s. 51 (3) (d) Here there is the phrase ‘adapting to technical progress’. This phrase can be interpreted and applied in different ways. Where will some help in the interpretation be found?

Regulations

s. 53 (1) (2) The intended content of the Regulations is clear. What is not clear is the need for any Regulations. It is noted that in the Regulatory Reform (Fire Safety) Order (currently laying before the Houses of Parliament) it is stated that government will prepare some 12 guides that will help in the technical application of the proposed new fire safety regime. There is also the intention to harmonise the requirements of the new regimes in both Scotland and England and Wales. The introduction of Regulations that specify what is to be done is likely to be helpful to define the absolute minimum requirements but it is most unlikely that such Regulations will cover all aspects of fire safety with respect to the safety of the people in the event of a fire. Guides could be better, technically, than regulations.

s. 54 (2) Although this list is a list of aspects of fire safety about which Regulations may be made, it might be helpful if the list could be made into part of the proposed Act as most of the items may be of great importance in some situations but would not be covered by the general lists of provisions. Similarly, the list in s. 53 (2) could be made part so the mandatory requirements. However, in both lists there would need to be a statement to the effect that ‘all these aspects need to be considered but may be discounted if they can be shown to have no relevance to any specific premises’.
Chapter 2
Enforcement

s. 56 (2) Here there is a reference to ‘guidance’. Although this refers to the ‘duties’ of an enforcing authority perhaps the fact of using guidance for the enforcing authorities supports the need for guidance for the employers and not Regulations.

s. 56 (6) This section is to do with enforcing authorities and sports grounds. Can it be ensured that both the general and the ‘special’ enforcing officers receive the same level and extent of training? Similarly, the training of an s. 39 (1) (a) person needs to be similar to the ordinary enforcing officer.

s. 58 (3) The use of the word ‘anything’ may make it very difficult for the employer to present an opposing view to that of the enforcing officer. The scope of the relevant matters should be limited to those aspects of fire safety that are listed in the proposed Act and those that may be addressed in any Regulations from time to time.

s. 59 (c) There is a reference to 28 days as the time period for taking action. This could be a very short time for some aspects of fire safety to be improved. It may be helpful to an employer to reword the phrase as ‘a period of 28 days or a shorter or longer period as may be agreed between the employer and the enforcing officer’.

s. 60 (5) This sub-section is to do with changes. One change that is not listed but is very important is the change in the number of people who occupy a building. There are numerous examples of the increase(s) in the number of people to a level when the ‘escape capability’ of the building is far exceeded. Such a change is not regarded by Building Control people as a ‘material change’ and the Fire Authority may be persuaded to accept increases that could lead to dangerous situations. It is recommended, therefore, that ‘any increase in the number of people that occupy a building’ be added to the list.

s. 62 Determination of disputes

s. 62 (1) (b) Where there is a technical dispute the matter may be referred to an s. 39 (1) (a) person for determination. There can be no guarantee that such a person will be competent to make a determination. What is the alternative? Could the alternative be technical arbitration decided by a person (or 3 persons) who is agreed upon by both the employer and the enforcing authority? This suggestion has been included in several of the fire safety consultation documents in past years.

Chapter 3
Miscellaneous

s. 66 (2) Here only one Act and one set of Regulations are referred to. There are many other sections in various Acts that apply only to Scotland. Will these be repealed by the Regulatory Reform (Fire safety) Order or should the list in this section be much longer?

It is noted that for the Fire Precautions (Workplace) Regulations only 1997 is mentioned. Should this be ‘1997 as amended’?

s. 80 (2) Would such changes in the provisions be subjected to the consultation process? If not, why not?

August 2004
WRITTEN SUBMISSION FROM JAMES SMITH

Section 24  Powers of constables in relation to fires.

This power was invested in constables in the Fire Services Act of 1947 because historically up till 1939 there were in the UK police/fire brigades under the direction of the Chief Constables. The only place in Scotland where this existed till that date (1939) was Lanarkshire County Council (that responsibility was replaced by the fire arrangements invoked for the second world war). This provision to enable the Council to meet its obligation for provision of fire cover in remote areas of Lanarkshire and presumably also as a back up for the burgh brigades.

It is 65 years since the cessation of physical involvement by the police in fire fighting in Scotland.

Because of constables’ inclusion in the 1947 Fires Services Act it has been necessary to instruct police recruits on their induction course at the Scottish Police College on their conduct and safety on the fire ground. This instruction being given by a Fire Brigade officer on invitation by the College. This is a fairly brief introduction to fire and the dangers of engagement in tackling fire lasting approximately two hours. Not much more instruction than would be given to any lay body.

The genesis for this lecture being given at the Police College was that because of the powers of the 1947 act invested in constables an incident occurred in Glasgow in the late 60’s early 70’s whereby two police officers entered a building on fire as they were allowed to do under the act. They were there within the fire area unbeknown to the fire brigade and were only discovered when the fire brigade officers in breathing apparatus stumbled over them. The Brigade were able to revive one officer but the other officer unfortunately died at the scene.

I lectured at the Police College for eight and a half years from 1985 to 1993 till my retirement from the Fire Brigade and felt whilst their it was my duty to dissuade constables from enacting the powers invested in them under the act as it was interpreted in 1947 and focussed my talk on their own personal safety and responsibility of their actions in current times.

I am surprised that the opportunity to review the powers of the 1947 act for the actions of constables at fire appears to have been missed or glossed over for whatever reason, particularly in the light of the changes since 1947 and the dangers of fire in domestic or industrial properties involving new products which produce intense heat and great volumes of smoke. (polyurethane furnishings)

We live in a safety conscious era and in a suing culture where your actions can be challenged and compensation retrieved from you if the wrong course of action is taken.

You can also sue your employer if action you are permitted to take places you at risk.

I don’t think that you can justify the bald statement within the Powers of constables in relation to fire (section 24) nowadays and I think that section 24 be removed. The constable neither has protection for engaging in opening up premises involved in fire. He does not have the training to engage in active fire fighting. He is placing himself the public and the premises at risk if he takes the wrong action.

The attendance time for the fire brigade is sufficiently robust to preclude the need for a constables involvement in fire and that he be confined to common sense action which we would expect from any member of the public without the need to specifically legislate for his actions. The danger In this legislation being that the constable perceives that he is required to do something.

9 July 2004
Response to the Justice 2 Committee

Fire (Scotland) Bill
Stage 1

August 2004
Contents

Introduction .............................................. Page 1
Appendix 1  Strategic Issues ......................... Page 3
Appendix 2  Operational Issues ....................... Page 7
Appendix 3  Detailed Observations ................... Page 11
The Fire (Scotland) Bill was introduced in the Scottish Parliament on 28 June, 2004.

The stated policy objectives of the Bill are:

- To define the role of the modern Fire and Rescue Service;
- To ensure that the Fire and Rescue Authorities have clear national and local priorities and objectives;
- To improve the protection of our communities;
- To revise fire safety legislation.

The purpose of this paper is to present the view of Lothian and Borders Fire Board to the Justice 2 Committee.

The Board welcomes the publication of the Fire (Scotland) Bill. The provisions of the Bill are substantially those that were identified in the earlier consultation paper (The Scottish Fire Service of the Future). The Board had, in general, expressed its support for the proposals for legislation and, from this perspective, the provisions of the Bill are broadly welcomed.

In particular we welcome the provisions relating to Fire Safety and the clarification of the broad role of a modernised fire and rescue service. However we urge the Scottish Executive to ensure that arrangements for discipline and appointments and promotions are properly maintained in this transitional period.

There are, however, a number of issues and questions which The Board wishes to raise, including areas of strategic comment; the operational dimension; and a range of detailed observations. These are contained in Appendices 1-3 (attached).
Appendix 1

Strategic Issues

Ministerial Powers

There are a number of provisions within the Bill which give new powers to Scottish Ministers in relation to the provision of the Fire and Rescue Service.

Whilst it is recognised that there are areas where this is a correct and proper arrangement for the overall governance of the Service, there needs to be a clear understanding provided of when such responsibilities will be implemented, and on the extent of the accountability and responsibility which will attach to Scottish Ministers in those circumstances. This will have implications for the management of the Fire and Rescue Authorities. Part of the debate in bringing forward the legislative proposals related to the removal of ministerial power in favour of an increased accountability and responsibility for Fire Authorities; the Bill now published does not seem to support this principle.

Governance

Again, there needs to be a clear and unambiguous understanding of the responsibilities of Fire Authorities, Scottish Ministers and indeed Brigade Management Teams, in relation to the provision and management of the Fire Service; otherwise, there will be a potential diminution in the governance standards which currently operate.

This is particularly important given the current uncertainty in relation to the structure of the Service, the provision of Control Rooms and proposals in regard to the Common Fire Services Agency.

Underlying all of these concerns is a collective aim to provide a more efficient and effective service in accordance with best value principles.

Common Fire Services Agency

Proposals were included in the Executive’s earlier consultation paper in regard to a Common Fire Services Agency. The Board’s view was that existing arrangements of governance and the practical operation of joint working would allow the objectives of Ministers to be met without the need to create an additional layer of bureaucracy within the Service. Any additional bureaucracy would have clear governance and financial consequences. Ministers have decided to investigate a Common Fire Services Agency with stakeholders.
The Bill does make provision for the first step in this process: Provision of powers for Scottish Ministers to establish and maintain (or contribute to the establishment and maintenance of) a body to promote the economy, efficiency and effectiveness of the Fire and Rescue Service Authorities.

The Board’s view remains that existing governance and operating arrangements will better deliver economy and effectiveness by retaining governance and ownership of the Fire Service with Fire Authorities. This collective aim could be enhanced by providing a statutory responsibility on Fire Authorities to collaborate effectively.

An illustration of how this could operate in overview is provided and attached on the following page.

We would be happy to give oral evidence in developing these arguments

**Finance**

The Brigade has been requested to submit its views on finance issues relative to the Bill to the Finance committee of The Scottish Parliament. A submission will be made accordingly.
Annexe A

Joint Authority Collaboration Model

Fire Authority

Fire Authority

Fire Authority

Conveners and Firemasters

(Strategic Overview)

Scottish Executive

(Performance Reporting)

Project Board

Project Board

Project Board

Project Board
Appendix 2

Operational Issues

Section 2

Existing Legislation makes arrangements for the Firemaster to report directly to the Fire Authority. That provision should be maintained within the Fire (Scotland) Bill to ensure that appropriate professional advice is provided directly to all Fire and Rescue Authorities. This is consistent with and will support the Executive sponsored principles of integrated risk management planning.

Section 8

It would be helpful to receive a legal definition of the extent of each Fire and Rescue Authority area to allow proper consideration of the provisions which it must make for fire and rescue, including firefighting at sea.

For consistency with the principles of integrated risk management planning, the Section 8(1)(a) would be better defined as ‘Dealing with Fires…….’ Reference should also be made to service responsibilities regarding the protection of the environment.

Proposed New Section 9(a)

Provision should be made within the Bill for Authority responsibilities for urban search and rescue activity. This should be identified as a specific role for the service.

Section 11(1)

We question the need to include the provision for emergency directions in the Fire (Scotland) Bill. Ministers already have such powers in terms of Civil Contingency Arrangements and the inclusion in the Fire (Scotland) Bill seems an unnecessary additional element.
Sections 20-22

Whilst recognising the Service responsibility to secure water supplies, it is the view of the Board that responsibilities in relation to provision of hydrants etc should be contained within the Water (Scotland) Act. Responsibility for the provision of said hydrants should lie with the water undertaker.

Section 23(3)

Whilst welcoming the provision in relation to obstruction or interference with authorised employees we consider that this section should be extended to include attacks on firefighters. The penalties should reflect those contained within the Emergency Workers Bill.

Section 36(1)

We would advocate that, when enacted and if applied, Scottish Ministers should take a wider focus for consultation which would be consistent with the requirements placed upon Fire and Rescue Authorities in the context of the integrated risk management planning process.

The Bill also requires to reflect that Firemasters are responsible to Fire and Rescue Authorities for the effectiveness of the service which they provide. It is suggested that an additional section be included, reflecting that, as well as the Firemasters’ direct reporting link to the Fire and Rescue Authority (see earlier comment), their responsibilities for integrated risk management planning, IPDS, risk assessments and the efficient and effective arrangements for the management of the Fire and Rescue Service should also be included.

Section 74

We are unclear as to the circumstances in which this provision would be required. Existing legislative requirements provide for inquiries into all aspects of the Service’s operation.
Section 78

We note that it is proposed to abolish the Scottish Central Fire Brigades Advisory Council.

We support this provision on the basis that there will be an appropriate replacement Body, and that appropriate consultation will take place in that regard. An illustration of how the replacement body could operate is attached on the following page.
A Three Level Approach to the Governance of the Scottish Fire Service

Ministerial Level ➔ Advice / Regulation / Legislation

Employer Level ➔ Negotiation / Agreement

Practitioner Level ➔ Consultation / Census
Appendix 3

Detailed Observations

Section 2

Provision should be made to allow for the creation of voluntary combination schemes.

Section 9

Clarification is sought on the definition of the preventative role in partnership with other agencies and any powers which would derive to Fire and Rescue Authorities.

Section 15

We welcome this provision and look forward to contributing to consultation on the proposed charging order. Care should be taken not to remove the services’ ability to trade and offer certain services on a commercial basis. We recommend that provision be made for charging for the reckless or careless use of automatic fire alarm equipment.

Section 20(2)

This should be amended appropriately to allow the use of all mediums including those derived from new technology.

Section 35

We question the need for this provision given the provisions and obligations arising from the Local Government (Scotland) Act 2003.

Section 44(1)(b)

This provision seems contradictory to the responsibilities being proposed for Fire and Rescue Authorities; we understand the need to establish a Central Training Institution.
but do not understand the reference to local training centres. If it were to be implemented then, clearly, the Scottish Executive would require to take responsibility for all of the training of all Fire Service personnel. This would include accountability for standards, arrangements etc.

This would also duplicate the provision of Section 14. We suggest that subsection (1) para (b) be removed.

**Section 47**

Whilst this provision is contained in existing legislation we question its necessity, given the working frameworks within which we now operate. This could cause particular difficulties in remote areas where Special Constables may also operate as volunteer or retained firefighters. We suggest that this be removed from the Bill.

**Schedule 4**

Does not make any reference to the Fire Services Act 1959.

**Section 57**

Subsection (6) should include (2) (d) & (e) in its wording. This would increase the actions that must be carried out in the presence of a relevant person.

**Section 59**

Subsection (3) the final sentence of this subsection gives the enforcing authority the ability to include ‘requirements relating to that workplace or those employees’. This is prescriptive and at odds with new fire safety and building standards direction – i.e. risk assessment and ability to show compliance. The following wording is therefore offered for potential inclusion at subsection (7).

‘Where an enforcing authority serves an enforcement notice, the authority may – (c) deem that any steps taken are sufficient to warrant withdrawal of the notice whether or not any specific requirement of the notice has been met.’
**Section 60 + Section 58**

These sections require clarity. Section 60 allows enforcing authorities to serve alteration notices on an appropriate person. The explanatory notes indicate that this would be done where ‘premises pose a serious risk to relevant persons’. Explanatory notes for section 58 suggest that a prohibition notice would be served ‘where there is serious risk to relevant persons’. Further guidance on the definition of ‘serious risk’ may be required to allow fire authorities to recognise the implied distinction between the two circumstances.

In addition, this section appears to give the fire authority the power to issue a notice requiring notice of change (ref subsection (4)) where the fire authority is already aware of that change. The purpose of the notice is therefore unclear.

**Section 73 (1)**

Lines 17 to 24

This area also requires clarification. It attempts to define relevant persons but states ‘but does not include an employee of a relevant authority carrying out functions of the authority…’ As it stands this would appear to exclude our staff who should be relevant persons within our properties and implies an inappropriate exemption.
SUBMISSION FROM STEPHEN J PENNY, TEAM LEADER & SEARCH MANAGER, TWEED VALLEY MOUNTAIN RESCUE TEAM, SELKIRK

Thank you for the opportunity to comment. The majority of Mountain Rescue teams have little direct interaction with the Fire Service. Mountain Rescue teams operate through the Police. However, many do have a fairly wide remit nowadays and for most this would include participation in certain major incidents which may mean working alongside all the key services although still primarily under the direction of the Police.

The one area that does sometimes have overlap is Line Rescue. Most MRT’s are equipped and trained to perform line rescue work in the natural environment (ie not buildings, cranes etc etc). In this area (Scottish Borders) we are aware that there has occasionally been some debate as to whether a particular rescue should have been performed by Fire Service Line Rescue or Mountain Rescue teams (ie steep ground by rivers etc).

I feel that this is more about communication and understanding the various capabilities on offer. There will always be a potential overlap at the boundaries of operating areas. We are doing our best in this local area to ensure that the various services are aware of the resource that is on offer through the voluntary Mountain Rescue (or Search and Rescue) Teams.

30 August 2004
SUBMISSION FROM RFU

The RFU sees the Bill as an opportunity for the first time to provide advocacy for Retained, Auxiliary and Volunteer firefighters in Scotland. This will end their second-class status, as well as providing an opportunity for these firefighters to contribute towards a more effective and efficient service to their local communities.

We are pleased to be able to give our views to the Committee on the general principles of the Fire (Scotland) Bill. The RFU broadly supports the reform of existing legislation and the approach that has been taken in the earlier consultation to deliver a modernised fire and rescue service. We have largely confined our submission to matters that directly relate to those that affect Retained, Auxiliary and Volunteer firefighting personnel in Scotland.

There are 3,680 Retained, Auxiliary and Volunteer firefighters in Scotland, some 40% of all fire service personnel, but they provide crews for 80% of all fire stations (314 out of 389). However, Retained and Volunteers cover over 98% Scotland’s land mass (source CIPFA 2003 Fire Service Statistics).

This is a very effective, efficient and economic way of providing a fire and rescue service. Typically, a Retained-crewed fire appliance costs one-fifteenth of the cost of a wholetime-crewed appliance. For Auxiliary and Volunteer-crewed appliances the cost benefits are even greater.

These statistics indicate that Retained, Auxiliary and Volunteer personnel are a vital element of fire and rescue cover to communities in Scotland, but they have largely been forgotten in a Service where the focus has been on full-time staff.

The Independent Review of the Fire Service in December 2002 said The relationship between retained firefighters and their whole-time counterparts must be modernised to remove the implication of a second class service and to allow retained firefighters to play their full-part in providing the service local communities need.

We believe the above statement applies equally to the just over 1,000 Auxiliaries and Volunteers, as well as the 2,600 Retained personnel. The report produced for the Scottish Executive Central Research Unit in 2002 by Lambda Research and Consultancy was based on questionnaires sent to these personnel, and interviews with fire service managers, and particularly focused on the reasons why Retained and Volunteers joined and left the Service. This is important when considering shortages and turnover, and although there are no separate figures for Scotland, the UK shortage of Retained and Volunteers in 20% and turnover is 10% annually.

The above Scottish Executive report raised a number of issues for further consideration, including:

- Provision of training specifically related to management of a volunteer resource
- Provision for Retained, Auxiliaries and Volunteers to contribute to brigade decision making
- Development of promotion routes beyond sub and station officer
- Advertising and selection processes should be reviewed and Retained, Auxiliaries and Volunteer units should be involved in the selection of recruits
- Anomalies in pay and conditions should be addressed
- Brigades should be more pro-active in encouraging local employers to release personnel to be Retained, Auxiliaries and Volunteers, and there should be public recognition for those that do encourage staff to serve
- Public sector employers should take a lead in releasing staff
- Employers who release staff should be given financial incentives
- Family-friendly policies should recognise the disruption to family life for personnel
- Training arrangements should be made clearer and Wholetime, Retained, Auxiliaries and Volunteers should train together to facilitate a team spirit and to dispel misconceptions
- Training delivery should be flexible, by using, for example, computers and distance learning

The concerns of rural and retained firefighters are focused around the extent to which their Brigades and other types of firefighter appreciate their commitment and contribution to the Service – Scottish Executive Research Findings 2002.
Some progress has been made in some of these areas, but we believe the Fire (Scotland) Bill offers opportunities for making further progress in the efficient, effective and economic use of Retained, Auxiliaries and Volunteer personnel.

Part 1-Fire and Rescue Authorities – we support the change in name and the provisions for combining authorities, subject to consultation.

Part 2-Principal Functions – we agree with all of the proposals for defining the functions of fire and rescue authorities, the arrangements for the provision of water supplies, powers of employees and constables, mutual assistance and central supervision and support.

Part 2-Chapter 6 The National Framework – we agree it is vital for Minister to set out their expectations of the Service, and to explain what they will do to support fire and rescue authorities. We support the proposed powers of intervention, in Section 37, if an authority fails to act in accordance with the framework. We believe it is also right for Minister to have to report to Parliament on the compliance of fire and rescue authorities with the framework.

Part 2-Chapter 7 – we support the power of Scottish Ministers to establish negotiating machinery for the fire and rescue services, and we would strongly recommend this provides for improved advocacy for Retained, Auxiliaries and Volunteer personnel. The current UK arrangements for the National Joint Council provide 27 employee representatives, and it is only in the past couple of years that one of these has been drawn from the Retained. This lack of advocacy is the single biggest reason for their second class status, as referred to in the 2002 Bain Review, and despite the fact that Retained, Auxiliaries and Volunteers comprise one-third of firefighting forces in the UK.

We support the proposals in Section 45 for an independent Chair, and we believe this should be extended to an independent secretariat.

We believe that recent events indicate that industrial relations and negotiating arrangements in the fire and rescue service are ineffective. They are adversarial, unwieldy and take little regard of the wider issues, especially during a time of major change. We support the powers for Ministers under Sections 45 and 46 to impose arrangements and for the negotiating body to have regard to Ministerial guidance. We believe this should include a fundamental review of industrial relations arrangements, rather than just tinkering with the number of seats that are allocated to representative organisations on a new body.

With regard to Section 47, and the proposed continuation of the prohibition of a member of the police force being employed as a retained (or auxiliary/volunteer) firefighter, we take the view that this unnecessarily inhibits the opportunity for police personnel to provide additional support to local communities, especially in rural areas. We do not see difficulties and confusion over roles at an incident. The RFU has been approached by a number of police officers over the years that want to be Retained or Volunteer firefighters and they cannot understand the need for this restriction. If police officers believe they could make this work and overcome these potential conflicts, then we believe the shortage of personnel and the needs of local communities would best be served by lifting this restriction.

Part 3-Fire Safety – we support all of the proposals.

Part 4-Miscellaneous – we support the continuation, in Section 77, of the power for Ministers to pay the expenses of any body established to offer advice. Arrangements for local consultation arrangements adversely affect Retained and Auxiliaries/Volunteers who are at a disadvantage when compared with all other fire and rescue service staff, as the latter are given paid leave, whereas the former often have to take unpaid leave or use their annual leave allocation from their primary employment, in order to participate in consultation arrangements.

We support the arrangements in Section 78 for the abolition of the Scottish CFBAC. We believe the new arrangements will provide increased opportunities for Ministers to take account of the views of Retained and Auxiliaries/Volunteer firefighters, which they have not had the benefit of in the past. This should address the issue of their second-class status.

Financial Memorandum – we note that funding arrangements will be unchanged, and that there are options for maximising efficiency and promoting collaborative working. We would support the use of any efficiency savings to promote improvements in Retained, Auxiliary and Volunteer support to their local communities.
communities, especially in pro-active fire and other safety initiatives, which have largely so far bypassed rural communities. We particularly note the excellent efforts made to upgrade Auxiliary and Volunteer units to the same standard as Retained units, by the provision of modern appliances, equipment and breathing apparatus, but there is still much to be done to provide a safe environment for both the fire service personnel and the communities they serve.

Walter Stewart QFSM, RFU National Officer, Scotland
Derek Chadbon, RFU National General Secretary
27 August 2004
SUBMISSION FROM RODDY ROBERTSON, SCOTTISH REGIONAL CHAIR OF THE FIRE BRIGADES UNION
(submitted in a personal capacity)

I have been a serving operational Firefighter for 22 years, I entered the service with the retained unit in Elgin and moved to full time and Aberdeen. I then transferred back to Elgin Day crews system, back to Aberdeen and ultimately to Paisley for the last 12 years.

I have felt compelled to submit my views as an individual to the questions posed as to whether the Bill meets the objectives and what areas have been omitted.

Has the bill met the objectives

This depends on whether you are asking if the Bill fits the objectives of the first consultation or the Bain review or the final consultation?

The Executives first consultation was on the whole welcomed by most in the service, however in order to understand the 2nd consultation then you must have knowledge of the Bain review.

The Bain review

The UK Government in an attempt to head off possible industrial action and for the first time in industrial relations history, tasked Professor Sir George Bain to chair an ‘independent review’ of the fire service.

The review was not asked for, commissioned by or reported to the Scottish Parliament, Scottish Central Fire Brigades Advisory Council or any other Scottish stakeholder. The review attempted to prevent the first national strike since 1977/78. They produced an interim report prior to the first date for industrial action. This added to the anger of Firefighters and was seen as being insulting.

The review took 3 months to complete and relied on management only evidence due to the dispute. As a result the review was neither independent nor a review. It has been used to push an agenda that is designed to remove the input of the workforce.

Fairness and Equality

An example of this is the removal of any reference to entry standards. I know of no Firefighter or Firemaster that wishes to see multi-tier entry or accelerated entry. I have only ever heard this from a very small minority of Individual Chief Fire Officers in England.

The Bain Review suggested that this would be good for the service, mainly to address skill needs of middle management and to reduce training commitments.

As if by magic and even after the Scottish Stakeholders had debated and agreed the priorities for fairness and equality in the Scottish service, in which multi-tier entry and accelerated promotion was never a priority, it appears in the consultation and in the Bill as the champion part of the Bill on Equality.

39. Employment in the Service is open to all members of the community but is sometimes seen as male dominated and exclusive. In December 2000, the Fire and Rescue Service, represented by CACFOA, CoSLA and the FBU, in partnership with the Scottish Executive, confirmed its commitment to equality and social inclusion by signing an “Equity for All” agreement developed by the Service’s Fairness and Diversity Forum. While the commitment is clear, practical and tangible steps are now required to ensure that the principles of the agreement are upheld.

40. This Bill repeals the power to make appointment and promotion regulations, allowing the introduction of multi-tier entry and accelerated promotion and thereby benefiting equal opportunities. Multi-tier entry will allow people to enter the Service at a level appropriate to their qualifications and experience, making a career in the Fire and Rescue Service feasible for people of all ages, salary and qualifications. The replacement of the current rank system with a role-based structure may attract
candidates previously put off by the militaristic undertones of the grading structure, while the expansion of statutory duties beyond firefighting may

It is no more than a crude method to cut conditions and wages.

**Accountability/Democracy**

The removal of the Scottish Central Fire Brigades Advisory Council from statute means that the direction and priorities will come from the Scottish Minister but that there will be no requirement to consult with any of the stakeholders and be left to the advice of the civil servants and the Inspectorate, the head of which is appointed by the head civil servant and the Scottish Minister.

Yet it is being projected as a Bill to put the decisions back to local democracy.

Much has been made about the removal of Section 19 of the 1947 Act, section 19 fully involved local democracy and it was only when an Authority went below the agreed national standards for fire cover that the Scottish minister would become involved. This would be on the advice of the Her Majesty’s Inspectorate of Fire Services. The same powers have been retained in various sections within the Bill.

What has changed is the approach to fire cover, which formally the SCFBAC advised the Minister and agreed the standards.

During the first consultation every respondent agreed with the move to the pathfinder project, which was a multi million pound study into fire cover. This project was destroyed by one short paragraph within the Bain review. In short what we have now is one half of the project, which is the categorisation of the risk. The second part, which detailed what resources were required, has been ditched. When you have no national standards their will be no accountability.

It is a proud boast of Firefighters that, the fire service is the only emergency service that has a requirement to attend when you call. The ambulance service and the Police have target times to try to make, where as we have times we must make. That is about to be removed in the name of local democracy. I disagree.

**Number of Brigades**

It is totally unfair to state that

The Scottish Ministers were disappointed that stakeholders did not take advantage of the opportunity presented to reconsider the structure of the Service.

Comments were made (again it would appear that this has come from the Bain review) that suggested that Scotland should look again at the number of Brigades. Were the *Scottish Ministers* disappointed because no one suggested a reduction of Brigades?

It is clear from the following sentence that the agenda to reduce the number of brigades to one or three is the desire of the fire branch/HMI/Scottish Minister?

However, the Bill makes provision for the combination of authorities in amalgamation schemes (the mechanism currently used and which will continue to be used to allow for joint fire boards operating on behalf of the majority of local authorities in respect of fire issues).

What they forgot to add was that the Minister will have the power to force an amalgamation within the Bill.

I fail to see how amalgamation into super brigades can enhance the local accountability and democracy.
Emergency Control Rooms

A report into Emergency Fire Control Rooms was ‘with the Minister’ for five months, it was published shortly after the Bill was published. The terms of reference were drawn up by HMI without consultation, the consultants chosen were the same consultants used south of the border previously in which they recommended a reduction in the number of emergency controls. Indeed this report was discussed by SCFBAC and no desire to follow was indicate by any member of the Council.

The report has been issued and only 8 weeks given for views. This report recommends a reduction from 8 emergency controls to one, two or three. It further concedes that it would be folly to have more than one brigade per control. Why was the report held and published after the bill was published?

Areas the Bill has not Addressed

Areas that I feel are missing from the Bill include, any provision for appointment and promotion and ranks.

If the Bill was truly about local democracy, openness and transparency, then why has the Bill no section to deal with complaints against the Service for the public to access, throughout the Bill there is little to allow access for accountability. Even a section to require the service to access its effectiveness with the communities it serves.

Given the nature of the increasing assistance offered globally both through humanitarian and learning situation, I find it surprising that no provision for either financial or legal eventualities has been made.

Summary

I started by giving you my service. A service that used to have some respect, so much so that last week I was given a long service & good conduct medal (given to us all after 20 years service) all be it 2 years over due. Then again we have all been a bit busy over the last few years.

For 20 years of my service I have represented Firefighters to Firemasters, the last 15 as a Scottish Official of the FBU. My union relies on a lay official structure and as such I have been operational the vast majority of that time. I have met and negotiated with people who have come and gone and I have looked forward to a Fire Services Act for Scotland. I did think that we had the chance to get it right in Scotland.

What I did not anticipate was the reaction to Firefighters asking for a wage rise. Whilst the dispute can not be ignored it should not be used as the backbone of the legislation. We have a dedicated, almost unique workforce, I am truly hope the Executive do not chose to follow the example of the political vindictiveness being shown to the service from Westminster and address the needs of the people of Scotland and the Service that cares for them.

August 2004
SUBMISSION FROM STRATHCLYDE FIRE BOARD

Introduction
Strathclyde Fire Board is pleased to offer comment on the proposals contained within the “Fire (Scotland) Bill”. As a Fire Board representing twelve of Scotland’s local authority areas with one of the largest brigades in Europe, we are broadly supportive of the document and see it as an excellent opportunity to ensure the sustainable development of a uniquely Scottish Fire Service, set within and supported by an overall UK framework, delivering a high quality service at local level.

Our comments upon this consultation are by exception i.e. where no comment is made Strathclyde Fire Board generally supports or concurs with the approach outlined within the Bill.

Part 1 – Fire and Rescue Authorities
The Ministers ability to take powers to amalgamate fire and rescue service authorities in Scotland are noted by Strathclyde Fire Board and we would co-operate as appropriate in the event of any review of fire and rescue service structures which assist in determining the optimum structure and number of brigades in Scotland. Strathclyde Fire Brigade continues to perform at the highest level and is an excellent example of the many benefits to be derived from larger, strategic authorities. The Board welcomes any proposals, which are in accordance with Best Value principles and meet the Executive’s expectations of delivering public services at a local level.

The Local Government in Scotland Act 2003 provides fire authorities with a “Power-of Well Being” statutory duty. We would have welcomed the incorporation of this element of “well being” into the new fire service legislation as an additional obligation placed on fire authorities to support the wider agenda of public safety, social inclusion and crime reduction.

Part 2 – Fire and Rescue Services

Chapter 1 – Principle Fire and Rescue Functions
The Board welcomes the intention to formalise community fire safety and the wider community safety role and responsibilities of Brigades and look forward to assisting the development of both proposals within a framework that allows the fire service to better influence the community safety agenda in Scotland.

In particular, we would wish to ensure that consideration is given to adequate funding of Fire Service community safety schemes that meet the aims and objectives of wider social reform. The key to the fire service continuing to develop and promote these issues in a sustainable way is by securing more direct access to existing funding streams.

Fire related crime in Scotland places an ever increasing burden on society and a significant drain on Fire Service resources. We therefore welcome the proposals to provide new powers to investigate the cause of fire, which will allow us to address the problem of wilful fire raising more effectively.

We also welcome the inclusion of the power to confer additional function orders. Where these orders outline new roles for the Service, appropriate central support and resources must be provided.

Chapter 2 – Ancillary Functions
The Board support in principle the proposal for Scottish Ministers to take “reserve powers” of direction as a means of securing service delivery in matters relating to national resilience. However, we remain to be persuaded of the need to extend such powers in the broader context of specific national fire priorities within the National Framework.
Chapter 3 – Water Supply
The Board would wish to see responsibility for fire hydrants in its entirety devolved to Scottish Water and contained within the Water (Scotland) Act 1980. This would require Scottish Water to install, own, inspect, maintain, repair and replace fire hydrants.

Chapter 6 – Central Supervision and Support
The Board supports the proposals to develop a new National Framework setting clear and consistent objectives for a locally delivered service throughout Scotland. Within the Framework we would support the principle of local provision being based upon Integrated Risk Management Plans and look forward to the process being supported with adequate resourcing from central government.

Existing inspection and auditing arrangements have evolved over a considerable period and involve three separate statutory bodies; namely Her Majesty’s Inspectorate, the Accounts Commission and the HSE. Strathclyde Fire Board considers that this opportunity to develop new, transparent inspection processes within a new National Framework should not be missed.

We also note the intention to take powers to impose a requirement on Fire and Rescue Authorities to use and maintain specified equipment and to prescribe what provision for equipment Fire and Rescue Authorities should be required to make. However, the taking of such powers must be supported by the provision of appropriate funding.

Chapter 7 – Employment
The Board has concerns over the prohibition on employment of police, as this may impact on our ability to recruit part-time firefighters in the more remote areas of the Brigade, and would therefore seek its removal from the Bill.

Part 3 – Fire Safety
The Board welcomes the opportunity to support and contribute to the rationalisation of fire safety legislation. However, in order to ensure a consistent approach across Scotland and indeed the UK, it is important to ensure that adequate guidance is not only given to businesses and commerce, but also to Fire Authorities.

Guidance will be required in such areas as the management, administration and enforcement of legislation.

The Board would also support the principle that the proposals should place a duty on the owner of premises having persons considered to be at high risk of serious injury or death from fire, to consider the fitting of a life safety sprinkler / fire suppression system as part of their risk assessment, with appropriate definition of persons who may be considered “high risk”.

Part 4 – Miscellaneous
The Board supports the proposal to abolish the Scottish Central Fire Brigades Advisory Council, on the basis that there will be an appropriate replacement body with consultation taking place in that regard.

Omitted Provisions
The Board considers the undernoted to be relevant for consideration and inclusion in the Bill, namely:

- Introduction of an offence of falsely holding oneself to be an employee of the relevant authority, covering misuse of uniform, vehicles / equipment, letterheads etc.
- Provision for assisting overseas Fire and Rescue Authorities and charitable bodies who seek second-hand equipment and goods – presently rely on Overseas Assistance Act.
- Changes to legislation that removes the anomaly whereby diesel fuel is subject to duty, bringing fire authorities into line with local authorities that are able to utilise tax-free fuel in certain items of plant and equipment, and we would contend that fire appliances
containing pumping equipment and / or hydraulically operated ladders should be classed as plant in this regard.

- Powers for fire authorities to raise charges for attendance to automatic alarm calls, which are made as a consequence of mechanical failure, poor maintenance etc.

**Conclusion**

In conclusion the proposals within the Bill interface appropriately with other, current considerations on the most effective and economic use of fire authority resources. The Board remains ready to work with the Executive in developing these concepts to the level of detail necessary for the successful implementation of new legislation and guidance.

30 August 2004
SUBMISSION FROM SCOTTISH TRADES UNION CONGRESS

Introduction

The Scottish Trades Union Congress is Scotland’s Trade Union Centre. Its purpose is to co-ordinate, develop and articulate the views and policies of the trade union movement in Scotland.

The STUC represents some 630,000 trade union members in Scotland, the members of over 40 affiliated organisations. We speak for trade union members in and out of work, in the workplace and in the community, as workers and as citizens. Our affiliated trade unions have members in every sector of the economy.

We welcome the opportunity to give our view on the proposals set out in the Bill, noting with concern that Scotland continues to suffer more fire deaths per head of population than other countries in the UK.

Effective fire and rescue services are vital to the safety and well-being of the Scottish population. All our members and their families rely on the work done by fire-fighters and emergency control staff. The way in which the fire service is organised and supported in the future will impact on us all.

As stated in our previous submission to the consultation “The Scottish Fire and Rescue Service: Proposals for Legislation” we believe that the main aim of legislative change relating to Scotland’s fire service should be to support the reduction to zero of the rate of fire deaths in Scotland.

We are aware that a number of our affiliated trade unions with a direct membership interest and representational role in the fire service will be submitting detailed written evidence and we strongly support their views. We have included a resolution, which was passed, at our most recent Congress and are in a position to expand on our written evidence orally.

Trade Union Recognition and Employment Issues

We are particularly concerned there is no specific reference to “recognised trade unions” when consulting issues such as a potential amalgamation scheme. This appears to be the case throughout the Bill a specific reference to trade could, in our opinion, supplement or replace the reference to “such other persons as they consider appropriate.”

There are a number of other general employment related concerns within this Bill. These include the arbitrary power of Scottish Ministers to establish a negotiating machinery and the composition of such a body for the fire and rescue service in Scotland. The STUC have concerns, along with our affiliates, that statutory body can decide which conditions of service should be negotiated locally rather than nationally.

Again, what is glaringly missing from Chapter 7 is the term “recognised Trade Union”. The explanatory notes state that the body should include “representatives of employers and employees (which may include a trade union).

The section is silent on the existence & rights of a Trade Union, which contravenes the Convention of Human Rights. Given that the legitimacy of a Trade Union is underpinned by legislation, the term Trade Union must be recognised in the section.

It seems that any Scottish Body would not reflect the agreed constitution of the present UK NJC. In fact there is no mention at all regarding what the constitution of this Scottish body would be and indeed how it would be agreed to. The presumption is that the minister will make all decisions regarding these matters, which would be entirely inappropriate.
The STUC strongly supports equal opportunities and diversity within the workplace but would like to see more detail on how the Executive propose to achieve this. We would also like to see the Executive address the issue of equal pay within the fire service. In general the STUC regards such HR issues as primarily the concern of fire authorities, their employees and the relevant trade unions.

There is also some concern that provisions within the Bill remove the obligation for the certification of premises. Staffing resources which would have been required for this would be available for deployment elsewhere. Further clarification on this issue is desirable and we would expect the involvement of the relevant trade unions in any future discussion on the re-deployment of staff.

**Health and Safety at Work Act**

The STUC is concerned that the Bill in appears to intends to dis-apply Section 1 of the Health and Safety at Work Act 1974, a piece of reserved legislation that we feel has been instrumental in protecting workers health, safety and welfare of employees since its introduction.

The Health and Safety at Work Act 1974 and subsequent regulations along with European Council Directive 89/391 were designed to ensure that all workers in the United Kingdom can expect minimum standards of protection to be applied. The European Directive also encourages minimum standards of improvement to be taken by employers across all Member States and in all business sectors.

The STUC is in particular concerned that the removal of any group of workers any Section of the Health and Safety at Work Act, to be replaced by powers in our devolved administration may be seen as a contravention of European Commission Directive 89/391/EEC and could be seen nationally as another example of fragmentation of the current consistent approach to application of health and safety law or enforcement in the United Kingdom.

**Composite H (41 & 42) Fire Services**

“That this Congress recognises the appalling record of fire deaths in Scotland - currently twice the national average.

“Congress notes the major changes to the Fire Service taking place with National Standards of Fire Cover being abolished and replaced with individual Brigade Integrated Risk Management Plans (IRMPs). Congress welcomes this move from standards based on property to standards based on life.

“Congress demands that the Scottish Executive ensure that during the current and impending fire service modernisation process and, in particular, IRMP there be no deterioration of any kind in the services currently provided under present standards of fire cover and that the whole process be used to secure a serious upgrading and improvement of the equipment and the training of firefighters, especially into remoter, rural areas of Scotland and, in particular, the Highlands and Islands. Congress is particularly concerned about the current threat to any of the 32 auxiliary/volunteer units which are seen as indispensable.”

“Congress calls on all affiliates to campaign with the Fire Brigades Union for the Scottish Executive to include in the forthcoming Bill on the Scottish Fire & Rescue Service, as its ultimate goal, the target for all Fire Authorities of ZERO fire deaths.”

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