

REPORT TO: East Lothian Council

MEETING DATE: 23 April 2013

BY: Chief Executive

SUBJECT: Police and Fire and Rescue Services: Arrangements for Public Scrutiny and Engagement

1 PURPOSE

- 1.1 To present the Shadow Police and Fire & Rescue Board's recommendations for future arrangements for engaging with and scrutinising Police and Fire and Rescue Services following the establishment of the Scottish Police Authority and the Scottish Fire and Rescue Service on 1st April 2013.

2 RECOMMENDATIONS

- 2.1 Council agrees the recommendation from the Shadow Police and Fire & Rescue Board to adopt the new scrutiny and engagement arrangements outlined in paragraphs 3.28 and 3.29 and that the Council Standing Orders be amended in line with the above recommendation.

3 BACKGROUND

- 3.1 The Police and Fire & Rescue Reform (Scotland) Act 2012 which was passed by the Scottish Parliament in May 2012 created a national police force and a national fire & rescue service. It replaced local authorities' role as police authorities and fire and rescue authorities through the creation of the Scottish Police Authority (SPA) and the Scottish Fire & Rescue Service (SFRS). The Act includes a framework for the delivery of local scrutiny and engagement arrangements, which all local authorities and the new services will need to implement by April 2013.
- 3.2 The abolition of the eight Police Boards and Fire and Rescue Boards and their replacement by single national authorities changes the relationship between local authorities and councillors and the police and fire and rescue services. The Boards were made up of elected members from constituent authorities and received funding from these authorities. From 1st April local authorities will no longer have any direct involvement in the governance of the police and fire and rescue services. The new arrangements mean that local authorities and elected members will have no direct involvement in deciding policy, resource allocation or personnel matters. These duties and responsibilities will now be

carried out by the nationally appointed Scottish Police Authority and the Scottish Fire & Rescue Service.

- 3.3 Whilst the direct relationship between the elected members on the Police Boards and Fire and Rescue Boards and their respective services has been broken it should be noted that one of the key aims for the Scottish Government in introducing the reform is:

“To strengthen the connection between police services and communities by creating a new formal relationship with all 32 local authorities, creating opportunities for many more locally elected members to have a formal say in police services in their areas, and better integrating with community planning partnerships.”¹

- 3.4 Appendix 1 provides an outline of the responsibilities of local authorities under the new national arrangements brought in by the Police and Fire & Rescue Reform (Scotland) Act 2012. Councils will be able to:

- Contribute a local perspective on the Scottish Government’s strategic police priorities that will be the subject of consultations between Scottish Ministers and local authority representative bodies (COSLA)
- Comment on Scottish Police Authority and Scottish Fire and Rescue Service strategic plans
- Contribute to the preparation of the local plan for police and local fire and rescue plan and approve the plans
- Monitor the delivery of police and fire and rescue functions in the area and make recommendations for improvement
- Provide feedback to the police Local Commander and the fire and rescue service Local Senior Officer.

Shadow Scrutiny and Engagement Arrangements

- 3.5 In January 2012 the Council agreed to participate with Lothian and Borders Fire & Rescue Service (LBFRS) and Lothian & Borders Police (LBP) in the Local Scrutiny and Engagement Implementation Network. Further the Council agreed to form a Pathfinder with LBFRS and LBP to begin establishing local scrutiny and engagement arrangements in preparation for the implementation of the Act.
- 3.6 A follow up report in March 2012 provided a summary of the discussions with LBP and LBFRS, noted a proposed draft remit and role for a Community Safety Committee or Board and agreed that the Chief Executive would report back to the Council as soon as possible after the May Council elections with recommendations on the remit and membership of the Committee/ Board.
- 3.7 The ongoing discussions with LBFRS and LBP focussed on:

¹ Draft Strategic Police Plan; Scottish Police Authority January 2013

- The need to try to have new scrutiny and engagement arrangements in place as soon as possible after the Council elections in order to allow them to be piloted and bed in before the new national forces are established in April 2013
 - The new functions required to be undertaken by the Council to monitor delivery and engage with the Scottish Police Authority, Scottish Fire and Rescue Service and their respective local command arrangements
 - The establishment of a Community Safety or Police and Fire Committee or Board to undertake the scrutiny and engagement functions and possible membership
 - The relationship between the new monitoring and engagement arrangements and the Community Planning Partnership
 - Possible alignment and future integration with arrangements for Midlothian
- 3.8 In June 2012 Council established the Shadow Police and Fire and Rescue Board as an interim arrangement for the period running up to the establishment of the national bodies (April 2013). The Shadow Board was tasked with considering and bringing forward recommendations for the permanent scrutiny and engagement arrangements to be put in place in April 2013.
- 3.9 The report establishing the Shadow Board highlighted that further consideration needed to be given to certain issues before a permanent arrangement could be established, including:
- whether the remit of a Police and Fire Committee would extend to broader community safety issues, including anti-social behaviour, violence against women, drugs and alcohol and adult and child protection and fire and home safety
 - the relationship between the new arrangements and the Community Planning Partnership
 - whether membership would include lay representatives and, if yes, how they would be selected or elected.
- 3.10 The Shadow Board met four times – 10th September 2012, 12th November 2012, 14th January 2013 and 4th March 2013. It considered a number of reports including updates on the establishment of the national arrangements for police and fire and rescue, the draft Fire and Rescue Plan, the draft Local Police Plan, performance monitoring reports, a report on Community Wardens and a report on Lothian and Borders Police Lay Diversity Advisers.

Options for Permanent Scrutiny and Engagement Arrangements

- 3.11 At its last meeting the Shadow Board considered a report outlining the possible options for permanent scrutiny and engagement arrangements from which it would make its recommendation to the Council.

- 3.12 It is important to bear in mind that the scrutiny and engagement arrangements the Council establishes will need to fulfil two distinct roles. Firstly they will need to provide the Council with the means to scrutinise and influence the police and fire and rescue services in East Lothian; secondly, they should ensure that the services and new arrangements integrate with Community Planning.
- 3.13 The Council has consistently stated that the new national arrangements for police and fire and rescue should not put at risk the very positive contribution that both police and fire and rescue services make in East Lothian towards achieving key Single Outcome Agreements. It should be noted that the Police and Fire & Rescue Reform (Scotland) Act 2012 and the draft Scottish Police Plan include provisions to try to ensure that the structures for delivery of police and fire and rescues functions are fully integrated with community planning.
- 3.14 The East Lothian Community Planning Partnership has undertaken a review of its structure and governance arrangements. The Community Planning Partnership Board has agreed in principle that the existing seven Theme Groups (including the Community Safety Theme Group) should be replaced by three new strategic Partnerships. One of the new Partnerships will have responsibility for Safer and Vibrant Communities including Community Safety related outcomes and would work closely with police and fire and rescue services.
- 3.15 Also, it should be noted that although it was originally envisaged that the Shadow Police and Fire and Rescue Board would consider possible alignment and future integration with arrangements for Midlothian this is no longer considered a viable option. The structural and local command arrangements for both police and fire and rescue services are based on areas that cover East Lothian, Midlothian and Scottish Borders for the fire and rescue service and that grouping with the addition of West Lothian for the police service. These arrangements mean that, although there are key areas of partnership working between East Lothian and Midlothian (e.g. Adult and Child Protection arrangements) there is no real benefit in considering establishing a joint or integrated scrutiny and engagement arrangement for police and fire and rescue services.
- 3.16 The Shadow Board considered three options for permanent scrutiny and engagement arrangements:
- 1) Council performs the scrutiny and engagement function
 - 2) The scrutiny and engagement function is delegated to a new Council Committee or the Cabinet
 - 3) Council allows the new Community Planning Partnership Strategic Board for Communities to undertake scrutiny and engagement arrangements with respect to community safety matters reflected in the Single Outcome Agreement

Council

- 3.17 The Council's new responsibilities and functions relating to police and fire and rescue are outlined above (paragraph 3.4) and in Appendix 1.
- 3.18 The Council could fulfil all these responsibilities with relevant reports being considered at full Council meetings. This would allow all councillors to play an equal part in deciding Council policy with respect to police and fire and rescue services and scrutinising and monitoring the delivery of these services across East Lothian. This would ensure that one of the key aims of the reform introduced by the Scottish Government would be fulfilled: creating opportunities for many more locally elected members to have a formal say in police and fire and rescue services.
- 3.19 It should be noted that the Council will not have any powers to intervene in operational matters and consequently consideration of the policing and fire and rescue plans and the monitoring of delivery would be at the strategic level. The Council could request the police Local Commander and fire and rescue Senior Officer to attend meetings that consider the plans and monitoring reports.
- 3.20 The new Police Force has produced Ward policing plans alongside the East Lothian Local Police Plan. It is envisaged that the police will consult with Community Councils and the wider local community in each ward and that councillors for each wards would be involved in this consultation thereby giving them a direct input into influencing policing priorities in their ward. This approach would be aligned to the Council's intention to develop Area based local community planning.

Delegate to the Cabinet or a new Council Committee

- 3.21 The Council could delegate some or all of its responsibilities to the Cabinet or a new Committee of the Council.
- 3.22 Establishing a new Council Committee specifically to deal with police and fire and rescue service matters would allow the members of the Committee to establish experience and knowledge of these services. However, it could also be argued that delegating these important matters to a Committee would mean that the majority of councillors would not be engaged with, or have a direct input into, Council policy relating to police and fire and rescue services. Given the Council operates a Cabinet system with a minimum number of Committees it could be thought counter-intuitive to establish a Council Committee specifically to monitor services for which the Council does not have direct accountability.
- 3.23 An alternative approach could be for the Council to delegate all or some of its responsibilities for police and fire and rescue services to the Cabinet. The downside of this would be that only the Administration councillors on the Cabinet would be involved in deciding Council policy in relation to police and fire and rescue matters.

Community Planning Partnership – Safe and Vibrant Communities Partnership

- 3.24 The responsibilities in relation to Community Safety matters that were previously the responsibility of the Community Safety Theme Group of the Community Planning Partnership will become the responsibility of the new Safer and Vibrant Communities Partnership. The membership of the new partnership has still to be finalised but the Community Planning Partnership Board is recommending that it should include three elected members – two from the Administration and one from the Opposition – representatives from the Police and Fire and Rescue services and community representatives.
- 3.25 The new Partnership will have responsibility for the Single Outcome Agreement outcomes relating to Community Safety. Currently these are:
- Fewer people are the victims of crime, disorder or abuse in East Lothian
 - Fewer people experience antisocial behaviour in East Lothian
 - East Lothian's homes and roads are safer
- 3.26 One of the aims of the reform of police and fire and rescue services is to better integrate these services with community planning and strengthen their connection with communities. Therefore, Local Plans for police and fire and rescue services will need to show how the respective services are planning to meet their obligations to support Community Planning and the achievement of the Single Outcome Agreement.
- 3.27 The Council could decide to have minimal involvement in relation to scrutiny and engagement with police and fire and rescue services (possibly limiting this to considering and approving the local plans). Scrutiny and engagement with police and fire and rescue services could be integrated into and embedded within the new arrangements being established by the Community Planning Partnership through the new Safe and Vibrant Communities Partnership.

Recommended Option

- 3.28 Having considered these options the Shadow Board recommended that a combination of the first and third options should be put in place. The Council should have responsibility for all aspects of public engagement and scrutiny of police and fire and rescue services (as per paragraphs 3.4 and 3.18 above). Monitoring of Local Multi-member Ward Plans would take place at the area level with the active involvement of ward councillors.
- 3.29 The Community Planning Partnership's Safe and Vibrant Communities Strategic Partnership should have responsibility for ensuring the police and fire and rescue services are fully engaged with, and support the delivery of, outcomes and priorities included in the Single Outcome Agreement.
- 3.30 If the recommendation outlined in paragraph 3.28 is agreed the Council's Standing Orders would be amended to include in the remit of the Council the approval and monitoring of Police and fire and Rescue Service plans, in

accordance with Sections 46 and 113 of the Police and Fire Reform (Scotland) Act 2012.

4 POLICY IMPLICATIONS

- 4.1 The establishment of the new arrangements will ensure that the Council has robust arrangements in place to engage with and scrutinise the new police and fire and rescue services.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 An Equality Impact Assessment has been carried out and no negative impacts have been found.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – no direct financial implications are associated with the recommendations made in this report although supporting the new arrangements may have staffing implications. Where such impact cannot be accommodated within approved budgets the action will be the subject of a future report.
- 6.2 Personnel – no direct implications on staffing associated with this report's recommendations although supporting the new arrangements may have staffing implications which would be the subject of a future report.
- 6.3 Other – none.

7 BACKGROUND PAPERS

- 7.1 Appendix 1: Summary of Implications of the Police and Fire Reform (Scotland) Bill for Local Authorities
- 7.2 Keeping Scotland Safe and Strong: A Consultation on Reforming Police and Fire and Rescue Services in Scotland; Scottish Government, September 2011
- 7.3 East Lothian Council's Draft Response to 'Keeping Scotland Safe and Strong: A Consultation on Reforming Police and Fire and Rescue Services in Scotland' – Report to East Lothian Council, 25th October 2011
- 7.4 Arrangements for Engaging with and Scrutinising Police and Fire and Rescue Services in Preparation for the Establishment of the Scottish Police Authority and the Scottish Fire and Rescue Service – Report to East Lothian Council, 27th March 2012
- 7.5 Establishment of a Shadow Police and Fire & Rescue Board – Report to Council, 26th June 2012

7.6 Agendas and papers for Shadow Police and Fire and Rescue Board meetings:

- 10th September 2012
- 12th November 2012
- 14th January 2013
- 4th March 2013.

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DATE	15 th April 2013

Appendix 1: Summary of Implications of the Police and Fire Reform (Scotland) Bill for Local Authorities

The Scottish Police Authority (SPA) and the Scottish Fire and Rescue Service (SFRS) will be under a statutory duty to ensure adequate arrangements for policing and fire and rescue services in all local authority areas.

The SPA will be under a statutory requirement to work in partnership with others to ensure policing is accessible to and engaged with local communities and promotes measures to prevent crime, harm and disorder. A similar statutory purpose for the fire and rescue service will be included in a new Fire and Rescue Framework under the Fire (Scotland) Act 2005.

Local authorities will have the right to have a say in the national strategic direction of the national services:

- Scottish Ministers will have a statutory duty to consult local authority representative bodies before determining strategic policing priorities
- The SPA and the SFRS will have a statutory duty to consult all local authorities on their strategic plans.

The Chief Constable will designate a Local Commander and the and Chief (Fire) Officer will designate a Local Senior (Fire) Officer for each local authority area, who will be accountable for local service delivery through the Chief Constable and the Chief Officer to the SPA and SFRS.

Local authorities will be able to directly influence the delivery of police and fire and rescue functions in their areas:

- The Local Commander and Local Senior officer will have a statutory duty to work with the local authority to set priorities and objectives for police and fire and rescue services in their local area
- The Local Commander and Local Senior Officer will be required to prepare the local plan for police and a local plan for fire and rescue that meets the needs of the local area for agreement with the local authority *{N.B. clarification is required as to what would happen if a local authority does not approve a local plan}*
- The local authority will have statutory powers to monitor the delivery of police and fire and rescue functions in the area
- The local authority will have statutory powers to provide feedback to the Local Commander and Local Senior Officer and to make recommendations for improvements.

The local plan for police and the local plan for fire and rescue, which will need to be reviewed and replace at least once every three year will be required to:

- Build on the principles set out in the national priorities and objectives for the services
- Incorporate the local priorities and objectives developed with the local authority

- Be prepared in consultation with the local authority and other interested parties, for the agreement of the local authority
- Set out the proposed arrangements for delivery of police and fire and rescue functions in the area, ranging from community policing and fire safety to incident response and provision of specialist capacity
- Identify outcomes against which the achievement of priorities and objectives may be measured
- Make clear how the arrangements for local service delivery will contribute to the outcomes identified through local authority community planning partnerships.

The Police and Fire & Rescue Reform (Scotland) Act 2012 includes provisions to ensure that the structures for delivery of police and fire and rescue functions are fully integrated with community planning. The Local Commanders and Local Senior Officer will have a statutory duty to participate in the Community Planning Partnership(s) for the local area(s) and they will be under a statutory duty to include information on community planning in the local plan for police and the local plan for fire and rescue.