

CUMBRIA POLICE AUTHORITY AND THE RESTRUCTURING OF POLICE FORCES IN ENGLAND AND WALES

SUMMARY

Since 19 September 2005 the Home Secretary has been unwavering in his resolve to reduce the number of police forces in England and Wales. This report provides the background to Cumbria Police Authority's position on that policy.

The Home Office has argued for change on the basis of Denis O'Connor's "*Closing the Gap*" report published by Her Majesty's Inspectorate of Constabulary (HMIC) on 16 September. Along with other forces and authorities, Cumbria has considered how it should respond to weaknesses in 'protective service'¹ provision identified in that report.

The guiding recommendation of "*Closing the Gap*" advocates the creation of a smaller number of 'strategic' police forces with a minimum head-count of 6,000 people, inclusive of 4,000 police officers.

Initially the Home Secretary invited police authorities to select a preferred option for merger by 23 December 2005. However, in the absence of sufficient information and assurances on key points, Cumbria Police Authority decided on 15 December, that it would not submit a preferred option for voluntary merger by the Home Office deadline and instead adopt the APA position statement of 7 December 2006

In accordance with a separate Home Office deadline for them also of 23 December, Cumbria Constabulary submitted outline business cases on options for merger with o force(s) in the North West.

On 6 February 2006, the Home Secretary responded to the business cases put forward. Home Office (in conjunction with HMIC) analysis concluded that merger with Lancashire was the best option for Cumbria.

On 14 February the Home Secretary wrote to all North West constabularies and authorities dismissing federation and any option other than one consisting of a configuration of three forces in the North West (Cumbria + Lancashire, Merseyside + Cheshire, Greater Manchester stand-alone). He also asked that

¹ Protective services; serious, organised and cross-border crime, major crime (eg. homicide) homicide, critical incidents, counter-terrorism and extremism, civil contingencies, public order, strategic roads policing

debate about any other possible options for protective service provision should be brought to an end.

The Home Secretary went on to set a new deadline of 24 February for police authorities to volunteer for merger in four selected government regions (Wales, North East, West Midlands and North West).

This report updates members on a variety of factors relevant to making a decision as to whether volunteering for merger with Lancashire best serves the policing needs of Cumbria.

A chronology of significant events relating to the police structures issue from 16 September 2005 to the present is set out in Appendix A.

FOR DECISION

That members consider whether Cumbria Police Authority will today volunteer for merger with Lancashire Police Authority.

DETAILED BACKGROUND

- 1.0** The legal position relating to merger
 - 2.0** Police Authority decision 15 December 2005
 - 3.0** Developments following on from the APA position statement 7 December
 - 4.0** Key points for consideration
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APPENDICES

- Appendix A** Chronology of events relating to police re-structuring since 16 September 2005
- Appendix B** APA Position Statement 7 December 2005
- Appendix C** Legal position
- I. APA legal guidance
 - II. Home Office legal advice
- Appendix D** Significant effects of the Police and Justice Bill on governance and accountability (published January 2006)
- Appendix E** Background documents
- I. Written Ministerial Statement - 6 February 2006
 - II. Letter from Director General to Cumbria Police Authority Chair - 9 February 2006
 - III. Letter from Home Secretary to all Chiefs and Chairs in North West – 14 February 2006

DETAILED BACKGROUND

1.0 THE LEGAL POSITION RELATING TO MERGER

The legal position on merger remains the same as advised to members on 15 December 2005. The Police Act 1996 allows the Home Secretary to impose merger without any need for further legislation.

More detailed legal guidance provided by the APA and the Home Office is attached in Appendix C.

The basis of the Home Secretary's power regarding imposed alteration of force areas is dependent on the Home Secretary justifying change in the interests of "efficiency or effectiveness".

2.0 CUMBRIA POLICE AUTHORITY'S POSITION

15 DECEMBER 2005

On 15 December 2005 Cumbria Police Authority gave full consideration to Cumbria Police Authority's position with regard to:

- The HMIC report by Denis O'Connor "*Closing the Gap*" published on 16 September and Cumbria Constabulary's capacity for providing 'protective services'
- The Home Secretary's speech to Chiefs and Chairs on 19 September
- The Home Secretary's letter to Chiefs and Chairs 22 September
- The position statement of the Association of Police Authorities (APA) 7 December (Appendix B)
- Section 32 Police Act 1996; the legal position of police authorities in relation to voluntary or imposed amalgamations (Appendix C)
- The outline business cases of the options for Cumbria in relation to other North West Constabularies (at that time due to be submitted to the Home Office 23 December)
- The current professional advice of the Chief Constable that, although both options provided benefits for Cumbria; neither option had a substantially clear advantage over the other
- The results of consultation with the public, stakeholders, partners and community representatives carried out in October and November 2005
- Correspondence dated 6 and 7 December between the Home Secretary and the APA chairman.

The Police Authority decided to adopt the position of the APA of 7 December (Appendix B). Accordingly, the Police Authority did not submit a preference for merger with another policing area.

Resolution from Police Authority meeting – 15 December 2005

RESOLVED, that the position and reasons for that position set out in the Association of Police Authorities statement of 7 December 2005 be endorsed and adopted and no preferred option be agreed for submission to the Home Secretary by 23 December 2005.

3.0 DEVELOPMENTS FOLLOWING APA STATEMENT 7 DECEMBER 2005

APA position statement: HMIC “Closing the Gap”

That the APA does not accept that HMIC’s Report “*Closing the Gap*” provides a complete or comprehensive business case for the creation of strategic forces and that the APA will urgently explore alternative models, such as a federated approach to establish if these offer a quicker, more cost effective approach to improve protective policing services.

Developments on HMIC “Closing the Gap” since 7 December:

To improve ‘protective service’ provision, the Home Secretary will not countenance any alternative form of approach such as federation or enhanced stand-alone for small forces. The Home Secretary set out the HMIC assessment of ‘protective services’ provision in his written ministerial statement on 6 February (Appendix E (I))

The Home Office deems the creation of larger strategic forces as the only option to improve protective services. The view in relation to the North West is set out in the Home Secretary’s letter to North West Chiefs and Chairs 14 February (Appendix E(III)), which also comments on the apparent lack of uniform regional support for the creation of such arrangements.

The Home Secretary remains resolutely committed to the HMIC’s “*Closing the Gap*” report and to HMIC’s conclusions on protective services drawn from the business cases submitted on 23 December.

APA position statement: Reassurances

That no police authority will submit a final business case and preferred option on 23 December until they receive the reassurances they need as set out below and have adequate time to complete consultation and business cases.

Developments on ‘reassurances’ since 7 December:

The business cases for Cumbria’s options were developed within the timescale permitted by the Home Office. Meetings between the two constabularies have taken place to develop the business cases further.

The Police Authority considered the consultation results on 28 November 2005, where significant levels of objection were voiced. At that time the strongest concerns expressed about merger were the potential for a reduction in local policing, local say and local control.

Consultation was considered sufficient. There is no evidence that further consultation carried out now would alter or ameliorate public concern about the possible effects of Cumbria Constabulary merging with another force.

APA position statement: Parliamentary debate

That police authorities wish to see a full parliamentary debate before any final submissions are made and look forward to this being confirmed.

Developments in Parliament since 7 December:

Policing structures have been subject to parliamentary debate on several occasions in the last three months. An opposition debate took place on 2 February. The Opposition lost the vote, with four of Cumbria's six MPs supporting the Government and two opposing.

APA position statement: Governance - Strategic Police Authorities

That key provisions on membership and functions of police authorities remain laid down in primary legislation. Confirmation that police authorities will remain precepting authorities

Developments on strategic governance since 7 December:

Provisions on membership and functions of police authorities are (in part) newly defined in the Police and Justice Bill, published January 2006 and summarised in Appendix D; some provisions will not remain laid down in primary legislation.

Responsibilities with regard to precepting remain untouched.

Subsequent to a meeting between representatives from Lancashire, Cumbria and the Home Office on 13 February the Home Office has indicated that membership of a new strategic authority (for Cumbria and Lancashire) could consist of 17 members from Lancashire and 10 members from Cumbria. Over time this number is expected to reduce to the Home Office advocated optimum of 23, although this has not been confirmed by letter which is the current maximum in the Police Act 1996.

APA position statement: Governance - Sub-Strategic Level

That Strategic Police Authorities will be made responsible for ensuring arrangements are in place for sub-strategic accountability/answerability, with flexibility to suit local needs

Developments on sub-strategic governance since 7 December:

Strategic police authorities will not be responsible for sub-strategic accountability as per the Police and Justice Bill.

The focal point for basic command unit level accountability will be the relationship between CDRPs and local authorities. More detail on the new forms of accountability is set out in Appendix D of this report.

Parts of the Police and Justice Bill relating to police authorities and crime and disorder partnerships (CDRPs) have been shaped by the government's wish to form accountability structures that bring local authorities and partners closer together. The Police and Justice Bill will have a marginalising effect on some present police authority activity.

The police restructuring debate has been accompanied by other Home Office policy activity. January 2006 saw the publication of:

- Findings from the review of the partnership provisions in the Crime and Disorder Act 1998
- The Respect Action Plan
- The Police and Justice Bill

The above documents will have direct or indirect effect on the role of police accountability at the local and strategic level; effects occurring regardless of the immediate or long-term outcomes of the police restructuring debate.

Under proposals in the Police and Justice Bill the accountability to the public for the delivery of reductions in crime, disorder, behaviour affecting

the environment and substance misuse will be a joint responsibility of CDRP partners.

The CDRP partners will be held to account by local authority community safety overview and scrutiny committees. The relationship between CDRPs and overview and scrutiny will be the central relationship between delivery and accountability.

The public will be represented by councillors on committees, and where necessary through their own elected councillor if any issue is raised through the new “community call for action”. There are also expected to be moves creating face-to-face briefings between CDRPs and citizens.

The findings of the review of the Crime and Disorder Act 1998, the Police and Justice Bill and the Respect Action plan effectively forge a new joined-up governance and accountability which develops the government’s wider partnership agenda.

Accountability at basic command unit level will not be the prime responsibility of police authorities, although it is evident that their role in holding chief constables to account will be firmed up in some elements. This fits with a move to a more strategic role for authorities, even in the absence of merger.

APA position statement: Finance

Start-Up and Transitional Costs: that Central Government should meet all start-up & transitional costs on an invest to save basis, including proper funding for police authorities and that authorities should not be expected to finance change through borrowing.

Developments since 7 December:

The Cumbria business case (along with all other business cases) has been reviewed by consultants acting for the Home Office. It is understood that the consultants have confirmed to Home Office their opinion that a Cumbria Lancashire merger can be achieved for set-up costs at £20m compared to Cumbria’s central case of £21.5m and Lancashire’s of £19m, but they estimate a higher level of savings at £7m per annum (Cumbria had estimated £4.8m and Lancashire £5.2m). At the time of issuing this report, the details of this assessment had not been released, but if they are made available they will be reported at the Authority meeting on 24 February.

The Cumbria business case for a Cumbria/Lancashire merger suggested a payback period of just under five years (i.e. it would take 4.7 years for savings of £4.8m a year to pay off set-up costs of £21.5m). The

consultants' assessment would reduce this to a three-year period, assuming their figure of £20m set-up costs and annual savings of £7m was correct and are achieved. Whichever figures came to pass, there would seem to be a period of between 3 and 5 years before any gains were available for reinvestment in the policing service for the area. Bearing also in mind the cost to taxpayers, if they had to meet the set-up costs of merger, it is essential for the government offer support for the set-up costs involved.

The Home Office has set aside national funding of £50m in 2006/07 and £75m in 2007/08 from the annual capital grants programmes, and subsequent discussions have given cautious optimism on how much of this might be provided for a Cumbria/Lancashire merger. However at the time of writing, no formal proposal has been received. It is an added complication that the funding available is understood to be for capital expenditure, but the majority of the set-up costs are of a revenue nature. In addition, to the extent that any of the set-up costs are not met by government grant, it would be preferable to spread them over a period of years through borrowing rather than have them taken as a first call on any savings in the first few years; but again, borrowing can only be undertaken for capital expenditure.

Your Treasurer and the Chief Executive of Lancashire are exploring whether any rearrangement of the existing authorities' capital programme funding streams could solve some of these problems. The critical issue remains how much finance will be put on the table by the government in the first place.

APA position statement: Finance

Precept Equalisation: that Council tax payers are not disadvantaged and that the costs of equalisation should be met by central government.

Developments since 7 December:

Under existing finance legislation, a single authority must levy a single council tax. Because of differing levels of council tax for policing up and down the country, this means that mergers will redistribute the council tax burden between the merging Authorities, although the national total of council tax collected through Police Authority precepts will not change. (The Home Office appear to have dropped an original option to legislate to continue separate council taxes, not least because of the difficulty this would cause in operating a truly integrated service across the new area.)

A combined Cumbria and Lancashire Police Authority, using figures for 2006/07 budgets just set, would in that year have levied a common council tax of £126.74. This would have required a reduction in the actual Cumbria figure (£163.08) of £36.34 per annum or 22% and an increase in the actual Lancashire figure (£113.09) of £13.65 per annum or 12%. At the time of writing there is no further information available on how the government proposes to address this issue, but the choices essentially lie between letting the council tax impact happen immediately, or legislating to phase it in over a period, understood to be between 3 and 6 years.

For Cumbria tax payers a phasing-in at the longer end of the period being considered would likely lead to an effective freezing of the tax at approximately its current level until Lancashire caught up. This is because the phased reduction would likely be offset by a similar level of annual increase in the new base council tax assuming that future tax increases remain close to the current levels of 5%. Only a phasing in over a period closer to the shorter end of the range would produce an immediate reduction for Cumbria tax payers.

It is important too to remind members that the headline council tax figures being referred to here are the respective Band 'D' taxes of the two Police Authorities. In Cumbria's case we have always shown the impact also at Band 'B' which is taken to be the most typical property for Cumbria, Lancashire's being slightly less than this. At Band 'B' the difference in annual cost between a combined Authority council tax of £98.58 would for Cumbria (£126.84) be a reduction of £28.26 and for Lancashire (£87.96) an increase of £10.62.

APA position statement: Finance

Funding Formula: that the current funding formula should be reviewed to ensure that police funding is resilient, fair and adequate in all areas.

Developments since 7 December:

Government Grant Proposals

It is anticipated that there will be a formal offer of grant support issued to the Authorities in time to inform their decisions on 24 February. This will be reported and analysed as an Appendix to this report and issued as quickly as possible.

Future Annual Financial Settlements

Concern was expressed by Cumbria Police Authority, as by many others, on the on the newly introduced spending assessment and grant distribution formulae for Police Authorities in advance of merger arrangements. It is understood that the Home Office has recognised the difficulties caused by these new funding and distribution formulae and is to review them in time to introduce further new formulae for the first of the three-year Settlement periods due in 2008-09.

Other financial matters

Property

Members are reminded that the costs of addressing any property issues were to be disregarded as part of the business case as being 'neutral' in the longer term. However, in the shorter term there are likely to be associated property costs arising from a merger of the two Authorities and the rearrangement of the existing services on the scale proposed in the business cases.

4.0 KEY FACTORS FOR CONSIDERATION

4.1 The APA position

In response to the APA position the Home Office's resolve to create larger strategic forces has not abated.

The Police and Justice Bill presents significant changes to accountability and governance.

The APA has advocated that "one size to fit all" may not be appropriate, but the final decision is for individual police authorities as they see fit.

4.2 Cumbrian opinion

Public consultation showed support for maintaining Cumbria Constabulary in its present form and high level of satisfaction with the service.

Concerns about local control, say and levels of local policing were widely expressed.

Stakeholders and partners demonstrated more support than the public.

Merger between Cumbria and Lancashire was the least opposed merger option.

4.2 Finance

The Treasurer has provided commentary in section 3.0 detailing the emerging approach of the Home Office to the business case, start-up costs, precept harmonisation; property and future annual financial settlements as compared to the APA positions statement 7 December.

4.3 Governance

It has been suggested that Cumbria representation on a new strategic authority could be 10 members from 27 for a transitional period, this has not been confirmed by letter. Of the 27, there would be 14 councillors, 9 independent members and 4 magistrates.

The Home Office has indicated (but not by letter) that following enactment of the Police and Justice Bill Cumbria's number would likely reduce to a pro-rata population based representation of 6 of an overall total of 23. The Police and Justice Bill would see the separate category of magistrates removed. Police authorities will still consist of a majority of councillors.

Membership of the shadow authority would be drawn from the pre-cursor authorities.

4.6 Accountability

Strategic police authorities will hold the chief officer to account at that level.

The Police and Justice Bill introduces new arrangements for local accountability at CDRP and local authority level.

4.7 Human Resources

The new authority in consultation with the chief constable, where appropriate, will determine the structure of the senior management team.

Discussions on senior officer and police staff issues are ongoing between the Chief Police Officers Staff Association and the Police Staff Council.

Discussions of police authority staff will be pursued by the APA and the Association of Police Authority Clerks.

4.8 Timetable – not confirmed by letter as at 21 February

Voluntary merger:

- Aim for merger to take effect from April 2007
- Amalgamation order to be made in early May 2006
- A new strategic police authority to be established in early June 2006
- Senior management team of new force to be in place by November 2006

Imposed merger:

- Amalgamation order would be put down in Parliament after the statutory period of four months in which to express objections.
- Uncertain timetable, amalgamation order likely to be made end June or early July
- New strategic authority unlikely to be formed before August

Clive Alcock
Clerk and Chief Executive

21 February 2006

Doug Thomas
Treasurer

Background Documents
See Appendices

Race and Diversity Implications:
None specifically identified to date.

Human Rights Act Implications:

Under the right to life, members of the public are entitled to the assurance of Protective (and other) Policing services designed and delivered to a reasonable standard adequate to protect that right.

- 29 Nov Westminster Hall debate on police structures**
- 30 Nov Constabulary submits further information to Home Office on ‘work in progress’ on the Option Analysis – ‘OBC Outline Business Case’ – but no formal indication from either Constabulary or Authority as to a preferred option**
- 7 Dec Letter from APA Chair to the Home Secretary and APA position statement (Appendix 2):**
- APA did not accept the HMIC “Closing the Gap Report” as a business case for the creation of strategic forces
 - APA asked for a full parliamentary debate on the issue
 - No final submissions to be made by any police authority on 23rd December
 - Reassurances sought on governance and finance
- 15 Dec Home Secretary’s letter to APA Chair**
- Offer of £50m 2006/07 and £75m 2007/08 police capital funding – top-sliced from policing budget and linked to capital usage.
- Cumbria Police Authority meeting**
- The Police Authority gave full consideration to Cumbria’s position with regard to:
- The HMIC report by Denis O’Connor “*Closing the Gap*” published on 16 September and Cumbria Constabulary’s capacity for providing ‘protective services’
 - The Home Secretary’s speech of 19 September
 - The Home Secretary’s letter dated 22 September
 - The position statement of the APA
 - Section 32 Police Act 1996; the legal position of police authorities in relation to voluntary or imposed amalgamations
 - The outline business cases of the options for North West Constabularies
 - The professional advice of the Chief Constable
 - The results of consultation with the public, stakeholders, partners and community representatives
 - Correspondence dated 6 and 7 December between the Home Secretary and the APA Chair

The Police Authority agreed to adopt the position of the APA of 7th December. Accordingly, the Police Authority did not submit a preference for merger with another force and authority,

16 Dec Letter from Cumbria Police Authority to the Home Secretary
Outlining support for APA position

23 Dec Letter from Home Secretary to APA Chair
Denying that the capital funding offer in his letter of 15th December was a “bribe”

Submission of outline business case for mergers to Home Office by Constabulary

10 Jan 2006 Publication of the Respect Action Plan
Emphasis on Crime and Disorder Reduction Partnerships and councils with regard to local accountability

16 Jan Letter from APA Chair to the Home Secretary
Informing the Home secretary of the APA lobby day of Members of Parliament

Home Office Questions - House of Commons
Police structures questions

20 Jan Letter from Director of Policing Policy to Chiefs and Chairs

- Confirmation that a working group to consider council tax issues was set up
- Confirmation that no new accountability bodies at the local level would be devised
- Circulation of Home Office legal advice regarding amalgamation orders

25 Jan Letter from Minister for Policing to all MPs
Explaining the agenda on restructure

25 Jan Prime Minister’s Questions – House of Commons
Questioned on police mergers

Publication of Crime and Disorder Act 1998 Review – the findings:

- Identified weaknesses in the operation of CDRPs and proposed measures to improve CDRPs' modes of working and performance
- Effectively put CDRPs and local authority 'scrutiny and overview committees' at the centre of local accountability

APA lobby day at Westminster

The Chair of Cumbria Police Authority met with four local MPs

ACPO position statement:

- Supported a restructure producing a smaller number of forces with guarantees on local policing
- Rejected federation as an option
- Sought answers to questions on finance, degree of integration and pace of change

Publication of Police and Justice Bill – the Bill:

- Reduces the role of police authorities significantly, including over public consultation
- Provides the Home Secretary with more flexibility on future role and composition of police authorities and CDRPs
- Substitutes statutory provision regarding the work and composition of police authorities with 'regulations' - the regulations will be subject of 'negative resolution', i.e. without parliamentary debate
- Introduces some new and significant methods of holding CDRPs (and in turn the police and police authorities) to account via council overview and scrutiny committees

The key effects of the Police and Justice Bill on Police Authorities are set out in Appendix D.

27 Jan

Meeting between Lancashire, Cumbria and the Home Office (Cumbria)

31 Jan

Letter from Home Secretary to all MPs

Update letter including leaflet on police structures review in context of the police reform programme

- 1 Feb** **Opposition debate on police amalgamations**
Government won the vote 311 to 235 (supported by 4 of Cumbria's 6 MPs)
- 3 Feb** **Letter from Minister for Policing to APA Chair**
Gives details of potential 43-member authority in Wales and more information on governance in general
- 6 Feb** **Letter from Home Secretary to all Chiefs and Chairs**
To accompany Written Ministerial Statement
- Written Ministerial Statement on Police Reform**
Update on police force re-structuring (Appendix 5A)
Details of the Home Office's initial selection of four regions for merger development - the North West, North East, Wales and the West Midlands
- Meeting between Home Secretary and all North West Chiefs and Chairs (London)**
Announcement of 24 February deadline for authorities in four selected regions to volunteer for merger
- 9 Feb** **Letter from Director General to Chair of Cumbria Police Authority (Appendix E (II))**
Further detail on merger funding. Anticipated that a new Cumbria and Lancashire Strategic Police Authority would have 23 members, *"but as a transitional measure the Home Secretary is ready to provide for a larger number where 23 would not provide sufficient places for every high tier local authority to be represented"* (NB. Cumbria and Lancashire has four top tier authorities). Expected to include (under current legislation) 12 councillors, 7 independents, 4 magistrates – selected from precursor police authorities.
- 10 Feb** **Letter from Director General to all Chiefs and Chairs in Yorkshire and Humber, East Midlands, Eastern, South East, South West and London Regions**
Further comment on Basic Command Unit and CDRP level accountability.
- 13 Feb** **Meeting between Lancashire, Cumbria and the Home Office representatives (Cheshire)**

- 14 Feb Letter from Home Secretary to North West Constabularies and Authorities (Appendix E (III))**
Dismisses federation and any option other than three forces in the North West (Cumbria + Lancashire, Merseyside+ Cheshire, Greater Manchester stand-alone). Asks that the debate on other possible configurations be brought to an end.
- 15 Feb Meeting between Lancashire and Cumbria representatives (Cumbria)**
- 20 Feb Emailed document (unsigned and undated) from Home Office to Cumbria Police Authority Chair**
- providing some detail on finance, precept equalisation, governance, human resources and timetable
- 21 Feb Meeting between Lancashire and Cumbria representatives**
- 24 Feb Special meeting of Cumbria Police Authority**



Appendix B

Association of Police Authorities

Police Structures: Position Statement of 7 December

At the APA Summit of Chairs of and Chief Executives of Police Authorities on 7 December, the following resolution was agreed:

- That the APA does not accept that HMIC's Report "Closing the Gap" provides a complete or comprehensive business case for the creation of strategic forces and that the APA will urgently explore alternative models, such as a Federated approach to establish if these offer a quicker, more cost effective approach to improve protective policing services.
- That no police authority will submit a final business case and preferred option on 23 December until they receive the reassurances they need as set out below and have adequate time to complete consultation and business cases.
- That police authorities wish to see a full parliamentary debate before any final submissions are made and look forward to this being confirmed.

Governance

Strategic Police Authorities

- That key provisions on membership and functions of police authorities remain laid down in primary legislation
- Confirmation that police authorities will remain precepting authorities

Sub-Strategic Level

- That Strategic Police Authorities will be made responsible for ensuring arrangements are in place for sub-strategic accountability/answerability, with flexibility to suit local needs

Finance

Start-Up and Transitional Costs: that Central Government should meet all start-up & transitional costs on an invest to save basis, including proper funding for police authorities and that authorities should not be expected to finance change through borrowing.

Precept Equalisation: that Council tax payers are not disadvantaged and that the costs of equalisation should be met by central government.

Funding Formula: that the current funding formula should be reviewed to ensure that police funding is resilient, fair and adequate in all areas.

Appendix C(I)

LEGAL GUIDANCE ON POLICE FORCE MERGERS ISSUED BY THE APA

Only police authorities can apply for voluntary merger, under s.32 Police Act 1996, not forces. The Police Act 1996 also allows the Home Secretary to impose merger without any need for further legislation. APA guidance states:

Amalgamations - Legislative and Parliamentary Procedures

1. Under the Police Act 1996 (sections 32- 34), the Home Secretary already has sweeping powers to amalgamate forces and to make appropriate transitional arrangements using secondary legislation (orders). There are two possible approaches which each entail different procedures.

- **Voluntary amalgamations** - the police authorities concerned request the Home Secretary to amalgamate their forces. NB Such a request can only be made by police authorities – not forces.

The Home Secretary simply lays an appropriate order before parliament – this order is subject to “negative resolution” – it would not be subject to a debate in either House unless a motion is laid against it by an MP or Peer.

- **Imposed amalgamations:** the Home Secretary can impose an amalgamation if he considers it expedient in the interest of efficiency or effectiveness.

In this case, the Home Secretary has to issue a formal notice setting out the proposed alterations and giving reasons for it to:

- The police authorities concerned;
- All local authorities (county, district, unitary, metropolitan district) in the areas concerned; and
- any other person he considers appropriate.

Each of the above then has a **statutory four-month period** in which to make any objections. If any such objections are made, the Home Secretary must then give a further notice saying whether or not he accepts the objections and, if he does not, his reasons.

The Home Secretary can then proceed to make an order for the amalgamations (which may differ from that proposed in the original notice) but these must be subject to “Affirmative Resolution” that is a debate and vote in both Houses of Parliament.

Whilst this approach does mean that there would be parliamentary debate on each and every order for amalgamation, it should be noted that the last time an “affirmative resolution” order was voted down was in 1969”.

Appendix C(II)
HOME OFFICE LEGAL ADVICE :
POLICE ACT 1996 - POWER TO ALTER POLICE AREAS BY ORDER

This note sets out the Home Office's view on the scope of the powers in sections 32 to 34 of the Police Act 1996 to make orders altering police areas in England and Wales. It is provided for the assistance and information of Police Authorities and police forces but should not be relied upon as a substitute for independent legal advice.

The test for Home Secretary initiated mergers under section 32(3)(b)

2. It is the Department's view that the test in section 32(3)(b) permits alteration to police areas where the Secretary of State considers that the alteration will improve efficiency or effectiveness in the new police force area when taken as a whole. It is not necessary to demonstrate that a precursor force is inefficient or ineffective, and the proposal to merge any forces should not be taken to suggest that those forces are positively inefficient or ineffective. Benefit rather than existing deficiency is the determining factor. The benefit would need to be established in respect of each amalgamation rather than in respect of any overall scheme of amalgamation across England and Wales. Therefore, the Home Secretary would need to be satisfied when making each amalgamation order that the amalgamation in question will be beneficial in terms of efficiency or effectiveness in the police areas of the precursor police forces being amalgamated.

Power to make supplementary and transitional provisions in respect of the membership of Police Authorities under section 34

3. Section 34 of the 1996 Act permits the Home Secretary to make such supplementary and transitional provision in an amalgamation order under section 32 as he thinks necessary or expedient. Transitional provision under section 34 could permit the creation of a strategic police authority alongside precursor police authorities. It could also permit the membership of that strategic police authority to be appointed by and from among the members of the precursor police authorities. Transitional provision under section 34 could also enable the Secretary of State to determine the membership of a strategic police authority where the precursor police authorities cannot agree.

Provisions to be included in amalgamation orders

4. Following legal advice, the Department believes that it would be possible to include the following supplementary and transitional provisions in an amalgamation order and would be minded to do so. (The following list is not intended to be exhaustive.):

- the date on which the amalgamation of the precursor police forces will take place and the new strategic force will come into being;
- consequential amendment to Schedule 1 to the 1996 Act;

- the establishment of the new strategic police authority before the date of amalgamation;
- supplementary and transitional provision regarding the appointment of members of that strategic police authority and senior ranks of the strategic police force;
- supplementary and transitional provision regarding the appointment by a strategic police authority of a clerk to that authority, in accordance with section 15 of the Police Act 1996;
- the dissolution of the precursor police forces and the precursor police authorities with effect from the date of amalgamation;
- the transfer, on amalgamation, of all property rights and liabilities (subject to any specified exceptions) from the precursor police authorities and precursor police forces to the strategic police authority and strategic police force respectively. This will include any monies in the police funds;
- the transfer of all pending legal proceedings from the precursor chief constables and the precursor police authorities to the strategic chief constable and the strategic police authority respectively;
- the transfer of members, special constables and police cadets of the precursor police forces to the strategic police force;
- transitional provisions in respect of the position of Deputy Chief Constables on amalgamation. (Section 100 provides that a Chief Constable of a police force which is altered under section 32 who is not appointed as Chief Constable of the resulting police force shall become a member of the resulting police force holding the rank of ACC (with the terms and conditions of a Chief Constable) for a period of three months. If at the end of those three months, the former CC has not accepted and taken up appointment in that force, he ceases to be a member of that police force. No similar provision is made in the 1996 Act for Deputy Chief Constables. Transitional provision, which may or may not be based on section 100, will be made for Deputy Chief Constables in each amalgamation order.);
- transitional provisions in respect of the filling of any Chief Constable or Deputy Chief Constable vacancies in the period between the making of an order and the date of amalgamation;
- the transfer of employees of the precursor police authorities to the strategic police authority;
- provision that anything done by a chief officer of a precursor force (e.g. a CSO designation under section 38 of the Police Reform Act 2002) is valid in respect of the new force;

- necessary transitional adaptation to provisions in primary and secondary legislation, such as the requirement to issue a 3 year strategy plan would apply from the year commencing with the day of amalgamation;
- consequential amendments to primary or secondary legislation which refer to specific police areas, police forces or police authorities which no longer exist;
- a general duty on precursor police authorities and forces to cooperate with shadow strategic police authorities.

Police Reform Unit
Home Office
January 2006

Appendix D

SIGNIFICANT EFFECTS OF THE POLICE AND JUSTICE BILL ON GOVERNANCE AND ACCOUNTABILITY OF POLICING

Police authority membership

The Home Secretary will have power to vary membership of police authorities without the need for primary legislation.

The only details of new regulations on police authority membership known specifies that;

- There will be a majority of elected members on each police authority
- There will be no separate category of magistrate member

There is little indication of how regulations will set out the method of appointing independent members or chair.

Functions of police authorities

Police authorities will have a new statutory duty to hold chief officers to account, particularly with regard to human rights, co-operation with other forces and diversity.

Control over setting objectives and strategic direction

The Bill repeals the present obligation on police authorities to provide an annual policing plan, policing objectives, an annual report and a three-year strategy etc, instead:

- The Home Secretary will “require” police authorities to provide objectives, plans, reports etc
- The Home Secretary will have more power in determining the strategic direction of authorities and will publish priorities in a form seen fit, i.e. not necessarily in the format of a national policing plan

Best Value

Police authorities will not have a duty to:

- Ensure best value reviews of its functions
- Produce a best value performance plan for each year
- Produce an auditor’s report on best value plans

Technically police authorities will still be ‘best value authorities’, but there will be no obligation to provide the above.

The Crime and Disorder Act 1998 and the Local Government Act 2000

The Bill amends the Crime and Disorder Act 1998 and the Local Government Act 2000 to enable the following:

- The Home Secretary will have greater powers regarding membership of CDRPs – enabling membership to be widened without the need for primary legislation
- The scope of CDRPs will be widened to include behaviour affecting the environment and substance misuse
- Sharing of information between CDRP partners will be standardised
- The introduction of a role for council overview and scrutiny committees - it is anticipated that they will hold CDRPs to account
- A new “community call for action” will be introduced

Police authority accountability

- A new statutory power will be introduced allowing the Home Secretary to intervene where police authorities under-perform
- Joint inspection of police authorities by the new inspectorate (for justice, community safety and custody) and the Audit Commission shall take place
- A new accountability of police authorities through membership of CDRPs and the proposed holding to account of CDRPs by local authority overview and scrutiny committees and the ‘Community Call for Action’
- The potential to co-opt police authority member(s) onto overview and scrutiny committees

Public consultation duties

The Bill alters the requirement of police authorities to consult the public:

- Police authorities ‘may’ be required to obtain views; presently the Police Act 1996 states that arrangements “shall” be made for obtaining views (section 96)

Other possible changes as a result of the Crime and Disorder Act Review

The Crime and Disorder Act Review highlighted the following potential changes to CDRPs – some or all of which may be enabled through regulations;

- re-think on sizes of CDRPs
- split of strategic and operational role of CDRPs
- more use of the National Intelligence Model in CDRP work
- introduction of new national standards for the operation of CDRPs
- increased/improved public visibility of CDRPs
 - through the publication of material, face-to-face meetings with the public, name change – possibly to “community safety partnerships”
- firming up of relationship between CDRPs and LSPs
- ensuring that the local authority community safety portfolio-holder is a CDRP member

NOT PROTECTIVELY MARKED

WRITTEN MINISTERIAL STATEMENT**POLICE REFORM : UPDATE ON POLICE FORCE RESTRUCTURING**

I should like to make a statement to report progress on the review of police force structures which I announced in September 2005.

My vision is a police service which is close, responsive and accountable to the communities it serves, supported by larger forces with the capacity and specialist expertise to protect the public from wider threats such as serious and organised crime and terrorism.

My overriding concern, and that of those responsible for leading the police service across the country, is to ensure that the police service is capable of preventing and responding to crime and disorder at every level: local neighbourhood; borough or local authority; force; nationally; and internationally. Although there has been much progress at all levels, especially at the local level where we have made a clear commitment to roll out neighbourhood policing across the country by 2008, it is vital that we close the gap in policing serious crime and major incidents identified by HMIC last year.

I am grateful for the submissions received from police force areas on or before the 23rd December. These submissions put forward a range of options for improving police capacity to tackle serious crime and major incidents, and at the same time delivering and sustaining neighbourhood policing. It is striking that all involved are clear that the current structures are not capable of delivering effective policing to meet 21st Century challenges.

HMIC has considered each of the options put forward in those submissions against a range of criteria. Last week they gave me the first of their assessments — that is, the protective services assessments which assess options on the basis of the delivery of effective policing. I am also being provided with additional assessments based on affordability, organisational

resilience and impact on the CJS partner agencies. As I have said throughout, the decisions which I make will be clearly based on those professional assessments.

I can tell the House that the protective services assessments undertaken thus far have set out clearly, for each region, which options are of greatest benefit from the policing perspective. These are the options which will go forward for further consideration.

There are four areas where the clear conclusion of the protective services assessment is that there is only one acceptable option. These are the North East, North West, West Midlands and Wales. I am therefore today meeting with representatives from forces and police authorities in those areas to invite them to engage closely with me to consider taking forward the option for policing which I believe will be of greatest benefit to their communities. Final decisions on how we proceed in these areas will of course be based on the full consideration of the implications for organisational resilience, affordability, precepting and the impact on the wider CJS.

I am also writing to the Chief Officers and Police Authorities in the other five regions to explain the process and timescales for further discussions on the position in their regions. In the next few weeks I intend to meet with those Chief Constables and Police Authority Chairs to discuss the subsequent assessments and if possible to agree a way forward. At the same time, we will address the concerns which have been raised by police authorities regarding issues of finance and governance.

The proposals involving London will be dealt with at a later date, once reviews of fraud and transport policing have reported.

I shall make further reports to the House about the detailed plans for all areas as options for each are refined.

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Merger of Staffordshire, Warwickshire, West Mercia and West Midlands

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9 February 2006

POLICE FORCE STRUCTURES REVIEW

The Home Secretary has asked me to thank you for coming to London for the meeting with him on Monday. The purpose of this letter is to set out how we plan to work with you over the next three weeks and to bring together in one place the current policy position on governance and accountability which I know are key issues common to all areas. As well as governance and accountability, I know you were concerned about funding and the timetable for the next few weeks. These are addressed below.

We entirely understand that, in order to make your decisions, you need clarity on funding; precept equalisation; human resources; and governance and accountability. We will be able to tell you more about these issues at the beginning of next week, following further work here. Ken Williams and Lorraine Rogerson will be arranging to visit your region next week and they will be happy to hold follow-up meetings as appropriate. Similarly, the Home Secretary and Hazel Blears will be happy to hold further meetings with you during the closing stages leading up to the 24 February deadline.

On funding, we will be able to tell you more because the financial analysis of the business cases will be completed by the end of this week. This will help us agree the costs to be met and their timing. It will form the basis of the advice put to the Home Secretary this week on how we make use of the £50m he has set aside for 2006-07 and the £75m for 2007-08 to support restructuring. To be clear, the £50m is from the 2006-07 budget and can only be available in 2006-07. We want to help you to close the gap and make policing at all levels better for your communities. We will be considering what other flexibility we



can find here to facilitate this process, and I am sure you will be doing the same at your end. That is why we need to work together to identify now what you need to make amalgamation work for your area. We will have the authority to discuss these issues with you next week. We will also be able to tell you more about precept equalisation and plan also to write to ACPO and APA colleagues within the next few days setting out the broad principles which will govern the treatment of individuals whose jobs will be affected by mergers.

Over the past few weeks, there have been helpful discussions with the Association of Police Authorities and exchanges of letters with Bob Jones which I believe have served to address the concerns about governance and accountability. That said, I am conscious that the full picture has not been articulated in one place, so I will seek to do so here.

First, we see a continuing vital role for police authorities to play as we move to strategic forces. Strategic police authorities would have broadly similar functions to those of their precursor authorities but it will be important that they focus on the really critical strategic issues, namely setting the overarching priorities for the force; appointing the chief officer (and other ACPO ranks) and holding him or her to account; setting the budget for the force and determining the level of precept. We are using the Police and Justice Bill to reinforce these core functions by placing the duty on the police authority to hold the chief officer to account on the face of the Police Act 1996. We are also taking the opportunities to add to police authorities' functions/duties by secondary legislation. This will enable us to implement the proposals in the *Building Communities, Beating Crime* White Paper, including by placing a duty on authorities to promote diversity and to ensure that their force cooperates effectively with neighbouring forces to tackle cross border crime.

In order to discharge their functions effectively, strategic police authorities must be of a manageable size, but they must also be sufficiently representative of their local communities to ensure democratic legitimacy, particularly when it comes to setting the precept. There can, of course, be a tension between these two principles. In most cases, we would expect strategic police authorities to have no more than 23 members, but as a transitional measure the Home Secretary is ready to provide for a larger number where an authority of 23 would not provide sufficient places for every higher tier local authority to be represented.

In Cumbria and Lancashire, where there are four upper tier authorities, we would expect the strategic police authority to have 23 members (12 councillors, seven independents, four magistrates). If you wished to appoint a slightly smaller authority (17, 19 or 21 members), the Home Secretary would be ready to accommodate this.

So that the existing authorities can play a full part in establishing the new strategic police forces, we propose that the members of the new strategic authorities be appointed by the precursor authorities from amongst their

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**Chief Constables and Police Authority Chairs
Cheshire, Cumbria, GMP, Lancashire & Merseyside**

'14 FEB 2006

RE: FORCE RE-STRUCTURING NORTH WEST REGION

I write in furtherance to our meeting on Monday 6 February, when I undertook to share details of the joint Home Office/HMIC assessments of the options for re-structuring within the North West region with you.

The documents available to me at the meeting took the form of Ministerial Advice on the salient issues and needed to be read in conjunction with the various business cases and the assessment methodology. To simplify matters I have therefore decided it would be more appropriate if I summarised the material in a letter to each of you.

The assessment methodology

The methodology was grounded in a framework that simultaneously sought to address the key critical success factors identified in the 'Closing the Gap' report together with the strategic parameters that were outlined in my letter of 22nd September. In particular, these focused upon the issues of size, mix of capability, criminal markets, geography, co-terminosity, identity, clarity of command and control, accountability, performance and efficiency to determine:

- The predicted utility of each option to meet the national standards in protective service provision (as defined by ACPO and HMIC).
- Each option's ability to maintain and develop the other key functions of policing, including the resilience of neighbourhood policing.
- The Overall strategic fit within the regional and national landscape.

Central to the process was an assessment of the anticipated impact of the various business cases on each of the seven protective services. To ensure a consistency of approach the same criteria was used for this assessment as had been applied by HMIC for the protective services assessment in 'Closing the Gap', with the goal being the provision of services that combined reactive capability with comprehensive proactive capability. Please further note this same test will be applied when HMIC (or the successor single CJ Inspectorate) review the performance in delivering protective services following any changes.

The assessments also considered whether the options met the indicative criteria for establishment (4000 police officers or 6,000 total staff); the strong presumption that any new force areas should not subdivide existing force areas and should not cross Government Office regional boundaries unless there were very compelling

arguments to do so; and that comprehensive coverage, leaving no gaps in resilience or capacity, **was** achieved. Cognisance was also taken of the extent to which the various options enjoyed local professional support.

The assessments of the various options were undertaken in January 2006, by a panel of experts with knowledge and experience of protective service provision and service inspection. They were supported by Police Structures Review Unit liaison officers who had local knowledge of the context in each force and region and in addition, the Association of Chief Police Officers and Association of Police Authorities were also invited to observe the panel process. In assessing the options the panel made use of the results of the national assessment of protective services that informed 'Closing the Gap'.

Once complete, the panel's findings were subject to review and moderation by senior Home Office and HMIC personnel to ensure that my criteria and the assessment methodology were applied in a consistent way.

As you will be aware this entire process was supported by the creation of a dedicated central team, the Police Structures Review Unit. The team, and in particular the liaison officers, has worked closely with your forces over the past four months, assisting in the development of the options and providing guidance on which proposals were likely to be successful and which were not. As such, the findings presented here-under should not come as a surprise to you, and the arguments which the panels will have considered and which were presented to me are well known.

The assessment of the options

Within the North-West region four options were considered. Each force within the region worked to share information and assumptions to inform business case development and whilst the definition of services was limited, this approach proved very helpful in the subsequent assessment process. I will deal with each of the options in turn.

Three Strategic Forces: GMP Cheshire/Merseyside and Lancashire/Cumbria

These new forces would easily meet the indicative establishment criteria; GMP having 11,906 total staff, Merseyside/Cheshire having 10,086 staff and Lancashire/Cumbria having 7,472 staff.

Greater Manchester is a strong performer in the delivery of all seven protective services. It already has significant capability, capacity and resilience in this area.

Cheshire and Merseyside share common criminal markets and strategic roads. They already share intelligence and resource joint operations. This option provides a logical fit, and creates a force of over 10,000 staff, offering a clear opportunity to improve capability, capacity and resilience.

The merger of Cumbria and Lancashire offers the best fit from the options proposed. It creates a force of almost 7,500 staff, which offers opportunity to increase capability, capacity and resilience to prevent and respond to protective service incidents. They both share criminal markets and strategic roads and this option should improve intelligence sharing and operational service delivery.

Taken all together there is much to commend the three strategic forces option and I have concluded it represents the best way ahead for the region.

Regional Strategic force

The proposal for a strategic regional force or a regional federated arrangement was put forward by Cheshire Police and Cheshire Police Authority respectively. The cases were not developed in detail and are not supported by any other force or authority in the region.

Whilst a regional arrangement may improve capability, capacity and future proofing for the delivery of protective services across the region, the lack of a detailed business case and, importantly, the absence of other ACPO and Authority support for these arrangements in the region, undermines the option's viability. It is also far from certain that these would yield the step change in performance and the organisation benefits from clarity of command, control and accountability that are present in the 3 strategic force option.

Therefore I am satisfied the regional strategic and federated arrangements are not the way forward for the region.

Two Strategic Forces

Whilst the mergers which underpin a two strategic force arrangement (GMP/Cheshire and Merseyside/Lancashire/Cumbria) meet the indicative criteria and offer the potential to improve protective services capability, capacity and resilience, there is lack of professional support for its adoption. GMP and Cheshire discounted this option and therefore it was not subject to further assessment. Lancashire also discounted it whilst Cumbria and Merseyside did not identify it as a preference.

Taking into account the lack of support within the region for a two force arrangement and, more importantly, the presence of a viable alternative, I have concluded this option is not the way forward for the region.

Cheshire Plus

The option of a Cheshire standalone (referred to as Cheshire plus) was not expressed as a preference by the Force or Authority. This option does not meet the indicative criteria for establishment and does not provide the potential to improve capability, capacity or resilience to meet national standards across the seven protective services. On this basis I came to the conclusion that this option was not viable.

A matrix summarising the feasibility of each option achieved against the seven protective services is attached at appendix A. Your attention is drawn to the fact that this document has been protectively marked as 'confidential' in accordance with the GPMS scheme and its circulation should be limited to members of the Police Authority and Force command team.

The next steps

In taking time to explain the process which has informed my conclusions my intention has been to make you aware of the extent to which due diligence has been paid to the issues at hand. Certainly, I do not underestimate the significance of this for the

future of policing and I am confident the assessments are robust and take both the local and national dimensions into account.

As you will be aware, I believe HMIC has a key role to play in ensuring that, whatever the final outcome, the process is managed in a dignified and constructive fashion and that a minimum of disruption is caused. To this end your regional HMI will have a key role to play in facilitating the debate and over the next three weeks will be a substantial resource upon whose guidance and support you will be able to call.

Neither, of course, is this debate solely about the provision of protective services. 'Closing the Gap' placed an equal weight on the development of local and neighbourhood policing and I see the creation of strategic forces as the means of entrenching the gains that have been achieved in this area in recent years. Moreover, I am also confident nothing within the chosen option will limit, any more than the present arrangements do, the ability of communities to work in partnership with their BCU to develop bespoke solutions to local problems.

'Closing the Gap' identified clear and present vulnerabilities in relation to the provision of protective services, particularly in relation to counter-terrorism, serious and organised crime and public order. These are issues for the service as a whole and it behoves us all to expedite the necessary changes to ensure a step change in performance is achieved. It is my fervent wish that we put the debate over the options behind us and instead, that we now work together in shaping the service for the challenges it will face in the 21st century.

A handwritten signature in blue ink, appearing to read 'Charles Clarke', written in a cursive style.

CHARLES CLARKE