

UPDATE ON POLICE FORCE AMALGAMATION

Report by the Clerk & Chief Executive

SUMMARY

This report is:

- (i) to **recap** on where the Authority has got to in this process; and
- (ii) to **record** its reasons for doing so; and
- (iii) to **update** members on **key developments** in the restructuring of police forces and their implications; and, finally
- (iv) to **identify** matters, relating to the voluntary amalgamation of Cumbria and Lancashire Police Authorities and their respective Constabularies, **for decision**.

Recommendation

Members are asked to note this report and

- (i) if **satisfied as to certain pre-conditions**;
- (ii)

April 2006 sees the **150th anniversary** of the founding of the Cumberland & Westmorland Constabulary, under the **County Police Act 1856**. This became the **Cumbria Constabulary in 1967**. Today, police forces across England & Wales, many founded under this nineteenth century legislation, are looking at fundamental reform of their structural arrangements to meet modern expectations.

The HMIC Report

In September 2005, a report ("*Closing the Gap*") commissioned by the Home Secretary from Her Majesty's Inspector of Constabulary (HMIC) said the current 43 force structure in England and Wales was not "*fit for purpose*" to deliver complex "*protective*" policing services in the 21st century. Bigger forces were more likely to have the capabilities and capacity to confront modern forms of crime and types of policing covered under the "*protective*" term – typically organised crime, terrorism and major incidents. The HMIC report recommended '*strategic forces*', comprising a minimum of at least 4,000 officers and 2,000 police staff. The Home Secretary strongly agreed.

All Police Authorities have the legal duty to "*secure the maintenance of an efficient and effective police service in their area*" (**section 6 Police Act 1996**). From publication of the HMIC report, they were, as a matter of law, immediately put on notice that their arrangements in the "*protective policing services*" field were no longer sufficiently

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efficient and effective. This means they were immediately legally-obliged* to consider what steps should be taken to remedy a stated shortfall. (*The Home Office website – www.police.homeoffice.gov.uk/police-reform/Force-restructuring - states they would have been “irresponsible” not to have done so). Despite its large geographical size, Cumbria is one of the smallest police forces in numerical terms, which straightaway posed an obvious vulnerability in any size-based review.

The Home Secretary and his powers

On **22nd September 2005**, the Home Secretary wrote to all forces. They should review their capacity and present options for merger with adjoining forces, developed in consultation with stakeholders (local communities, police authorities, and criminal justice partners). However, under section 32 of the Police Act 1996, only a police authority can request an alteration in its police area, not a force.

By 31st October 2005, some forces and authorities were submitting initial proposals for restructuring. The Home Office assessed them, providing feedback, whilst the Home Secretary told Parliament of his overall view of options emerging throughout England and Wales. Many forces and some authorities then submitted finalised proposals for change to the Home Office by the 23 December 2005 deadline. Some did not. Cumbria Police Authority was amongst those declining to do so, in accordance with the national stance of the Association of Police Authorities (APA) and on the express basis that clarification was needed about certain key factors.

The Chief Constable in Cumbria developed a series of detailed Business Cases offering his professional opinion on the options available and their merits. He reported to the Police Authority and submitted them to the Home Office. These business cases, as approved by the Home Secretary, constitute the legal basis for his published finding of 3rd March 2006 to the police authority that, in the case of Cumbria Constabulary, the best, most efficient and effective policing option is for their amalgamation with the Lancashire Constabulary.

No change, the Authority was clearly told, is not an option. The Home Office expects larger, strategic forces to safeguard and strengthen policing at neighbourhood level. They will not have to divert resources from a local level to manage major incidents or handle major investigations because they will already have the necessary resilience and capacity by reason of their size. Under the new strategic forces, local policing based upon the needs and concerns of local communities, should be preserved and delivered through the BCU (Basic Command Unit) and different arrangements for local accountability to be created under the Police & Justice Bill.

The Home Secretary's final deadline of **24th February 2006**, for the first wave of police authorities across England and Wales his office identified, was for them to volunteer for amalgamation under **section 32(3)(a) Police Act 1996**. Failing which, he would, from early March 2006, use his own separate powers under **section 32(3)(b)** to initiate a statutory process for their compulsory amalgamation, instead.

The Authority's resolution

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As a result, the resolution for amalgamation passed, on a recorded majority vote, at the Cumbria Police Authority's special meeting of **24 February 2006**, was made conditional on the six factors set out in **Appendix 1**.

Sources of advice relied on

On 24th February 2006, when agreeing to volunteer, members received clear professional advice from their **Chief Constable** in support of amalgamation, as the best operational outcome for policing. This advice, together with **HMIC's** and the stated requirements of the **Home Secretary**, constitutes a level of guidance which no conscientious Police Authority can easily ignore, even if it had a mind to.

The increasingly-unfavourable **financial position of the Authority**, year-on-year is another area which your **Treasurer** has drawn to members' attention. Estimated by the Chief Constable at **£8m** per annum, it was clear that the **additional funds** needed (if '**protective policing services**' within a **free-standing Cumbrian force** were to meet HMIC standards) were not available centrally. Neither would any Authority be allowed to raise them locally through the precept, for fear of '*rate-capping*', but HMIC will soon be inspecting forces for their attainment of this standard of service, regardless.

Members have the benefit of wide-spread **public consultations** carried out by both the Authority and the Constabulary from September 2005 onwards. They know the public of Cumbria, when asked, were generally opposed to amalgamation, some strongly; but that professional stakeholders were rather more supportive, subject to caveats about maintaining police numbers locally or employment and economic effects. The **Cumbria Strategic Partnership** is only the latest to write (20th April 2006), requiring (re)assurances about the new force's ability to respond to local needs and a form of decision making which takes proper account of their sub-regional strategies and the severe economic challenges facing Cumbria.

Members have also heard how, of potential amalgamations in view, most public and stakeholder respondents were generally less-strongly opposed to the Lancashire option than to any of the larger alternatives which included other North West forces.

On the financial front, members heard how meetings with representatives of the Home Office, HMIC, Lancashire's Police Authority and Constabulary, led to vital, last-minute developments in the level of monetary offer made by the **Home Office** for **financial assistance** to support the estimated £19-21 million cost of the amalgamation process itself. Provided on the basis that any merger would be made as "*pathfinders*" on a voluntary basis, this support was valued at approximately **£14 million**.

The legal integrity of this decision-making process is a key priority. Members were specifically advised on 24th February 2006 of their legal and moral obligations in 'Due Diligence'; about satisfying themselves not just on finance but also a whole range of other matters where it was equally important they could pronounce themselves satisfied; to the extent that they had either received appropriate reassurances about them or else would have a reliable solution to hand if not so satisfied. The same obligations apply today. In facing up to these important questions, members should steer a course between over-rigorous expectation and reckless optimism. Is this Authority entitled in conscience to declare itself satisfied about each of the conditions it has set itself? Only

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the members of this Authority themselves can finally decide, in the light of the fairest and most objective advice their professional officers can offer them.

Update on the national picture

Cumbria and Lancashire Police Authorities currently provide the only example in England and Wales where all parties in a grouping of forces identified by the Home Secretary for voluntary amalgamation under s. 32(3) (a) Police Act 1996 were each agreeable to volunteer by the time limit he set for them. The fact there were only two forces involved may have helped.

In other “*Wave One*” groupings involving more forces, the refusal of one potential party means their merger will go down the non-voluntary section 32 (3) (b) route even though the majority were willing. Hence, some did not volunteer because of the known reluctance of a key contributor - e.g. despite their support for the concept, Staffordshire did not volunteer due to the position adopted by West Mercia. Other “*Wave One*” authorities positively opposing the process include Cleveland, Cheshire and North Wales. Their cases will all proceed by way of a section 32 (3) (b) order, adding 4 months to the process at least.

For comparison, the latest position with “*Wave Two*” authorities is that, on 11th April 2006, the Home Secretary confirmed further police force restructurings in the Eastern; East Midlands; South East; Yorkshire and the Humber regions. However, despite Norfolk Police Authority volunteering to merge, Cambridgeshire and Suffolk Police Authorities have not. This means their Eastern merger is unable to proceed on a voluntary basis. Similarly, North Yorkshire Police Authority has volunteered to merge, but Humberside, South Yorkshire and West Yorkshire Police Authorities have not. This means that the Yorkshire and Humber merger is unable to proceed on a voluntary basis either. Likewise, again based on ‘protective services’ assessments undertaken by HMIC and his evaluation of the financial and other aspects of their Business Cases, the Home Secretary has confirmed that the following mergers will also go ahead in these regions:

- Derbyshire, Leicestershire, Lincolnshire, Northamptonshire and Nottinghamshire
- Bedfordshire, Essex and Hertfordshire
- Surrey and Sussex.

In every case, once the statutory 4 months objection period in section 33(3) has elapsed, and if the Home Secretary still considers at the end of that period the amalgamations in question should still proceed, then they will do so, at a later date. At this stage, only Greater Manchester Police in the north west; Hampshire, Kent (3,800 officers) and Thames Valley will continue to stand alone and can reconfigure as strategic forces.

The six criteria in the resolution

Today’s decision is almost as significant as the one made on 24th February 2006. The first question for members is whether the conditions framed in their **Appendix 1** resolution of 24th February have been met; so that their conditional volunteering can become unconditional.

If not, and there is no conclusive outcome today, has the Authority received sufficient reassurances about what will be done to resolve these matters in future?

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Can members legitimately pronounce themselves satisfied on what is known today?

If this is the final time of asking, members should look at what improvements over these issues have been established - in consultation with government - since their last meeting. They should be weighed in the light of the positive and co-operative working atmosphere of goodwill and support characterising all negotiations between members and officers of the two Authorities, the two Constabularies, and the representatives of the Home Office. (The **Director of Policing Policy at the Home Office, Lorraine Rogerson**, was met with at Lancaster as recently as Friday, 21st April 2006, towards resolving outstanding issues). They should also be weighed in the light of the considerable organisational momentum which the restructuring project has already developed and the seriously-harmful effects of any contrary decision upon that. (40 officers are being appointed to a **Joint Project office**. Detailed **work plans** have been designed and begun both in the Constabulary and the Authority. Funds have been allocated and joint project premises earmarked).

In considering what standards of satisfaction are sufficient, about the 6 criteria in their conditional resolution, members will need updating on progress in each:

(1) “Operational and Protective Policing services (for improving their efficiency and effectiveness of delivery, in the best interests of policing Cumbria)”

Since Dennis O'Connor's report “*Closing the Gap*” was cited by the Home Secretary in his findings of 22nd September 2005 and the formal “Case for amalgamation” issued by Home Office on 3rd March 2006, these issues are main drivers for this major change programme. It follows that members volunteering on that express basis must focus on pursuing this target as the primary outcome, as long as it does not detract from levels of local, neighbourhood policing delivered.

Members will want to be satisfied about how improvements in protective services will be brought about, especially how they are financed. The Treasurer's report at Agenda item 4(b) deals with this issue. (See especially paragraph 4.4). Aside from improvements resulting from the two forces combining, it appears from his analysis of new Home Office answers to ‘Clarification’ questions (20th April 2006) that the main source of funding for this will be savings. Some delay in their release may be regarded as likely, as the restructuring itself ‘beds in’, before savings can be applied to protective services.

(2) “Finance (in Start-up and Transitional costs; Grant Funding formulae applied)”
and **(3) “Precept equalisation”**

These are primarily for the Treasurer as the Authority's s.151 officer to advise upon: see parts 4, 5 and 6 of his Agenda item 4(b) report. It is fair to say that, since the original February offer of ‘*pathfinder*’ support monies from government (prominent along with step-change improvement in Protective services amongst what clinched the Authority's decision to volunteer), uncertainty about their precise figure persisted - hardly surprising perhaps, with such new and complex matters needing to be resolved in such a short timescale. **Home Office advice** dated 6th April 2006 (attached to the Acting Chief Constable's report as her Appendix 1) set out on page 1 their position on financial assistance: All other authorities notified by the Home Secretary as subject of Amalgamation Orders (whether voluntary or involuntary) will receive similar financial

assistance, but they hope to maintain some level of advantage for Cumbria and Lancashire.

(3) Precept harmonisation/equalisation

Another issue awaiting resolution relates to fiscal mechanisms adopted for 'smoothing' or **harmonisation of the police precept for council taxpayers** across the two Counties. (See part 6 of the Treasurer's report).

Home Office legal opinion supports use of the amalgamation order to phase-in the harmonisation of precept rates over a period of years, rather than primary legislation. Assurances are needed about this from the Office of the Deputy Prime Minister, too, but the HO position is set out in their 6th April response to frequently asked questions (Acting Chief Constable's Appendix 1; p.7 of 11).

(4) "Governance of police authorities (in Transitional; Strategic and sub-strategic accountability, including precept & membership arrangements)";

Accountability

Authority staff and counterparts in Lancashire have been co-operating closely with senior civil servants managing this process and the associated Police & Justice Bill through Parliament. They have met regularly with their colleague Clerks/Chief Executives from other "Wave One" Amalgamation areas (e.g. the West Midlands) and your Clerk has taken a lead in drafting the form of statutory Amalgamation Order appropriate for Cumbria and Lancashire, to be signed off by the Home Secretary in early May 2006.

The Amalgamation Order is the legal engine for merger. It was intended that this Order should be put before this meeting for final approval before signature (See recommendations). At the time of writing it has not yet been received back from Home Office lawyers considering the latest Cumbrian and Lancashire observations on its contents, but this order is integral to what members need to be satisfied about today. In the absence of the final draft, the version sent to the Home Office is attached for information as **Appendix 2**.

So far as fair and proper, this drafting process has also been used as an opportunity to assert favourable outcomes for Cumbria, its police officers and staff; including the levels of accountable representation on the transitional authority for all the diverse communities of Cumbria which will receive the combined policing service. A nationwide equality impact assessment of the effects of police restructuring has been carried out by the Home Office and this approach will be locally-replicated in terms of how restructuring is carried out in the combined area.

Accountability to its communities for policing will from 1st April 2007 be taking place at a higher level, through the new strategic authority for the combined area. When the Police & Justice Bill becomes law, that landscape of accountability will be changed. Sub-strategic accountability will be through the intended provision at BCU level of an enhanced role for Crime & Disorder Partnerships, the idea of the "Community call for Action", and the new role of local authority scrutiny and oversight committees.

Membership

An important arrangement needing resolution is the **membership of the 27-member 'shadow' or transitional authority** starting from 1st June 2006. 10 are to be appointed directly from Cumbria's existing membership. It was agreed at the authority's meeting of 22nd March 2006 that any statements of interest from current, serving members of Cumbria Police Authority wanting to put themselves forward for membership of the new authority (in its transitional form) should be supplied to the Clerk by 25th April 2006, at the very latest. 10 declarations of interest have been received to date.

These constitute a form of self-nomination to proceed according to Standing Order 16 (Appointments to Outside bodies) of the **Standing Orders for the Regulation of the Police Authority**. If the number nominated for any category* (who must also be seconded) exceeds the number of vacancies in that category (to an overall total of 10), this will be resolved for each category separately, and in the normal way, by a secret ballot of all members present, conducted by the Clerk under Standing Order 16.

(*Of these categories, 5 will match current political proportionalities prevailing (i.e. 2 Labour; 2 Conservative; and 1 Lib. Dem); 3 will be Independents and 2 Lay Justices). In the event that members find their 24th February pre-conditions are satisfied today, and so advance to approve the draft Amalgamation Order, then this process of appointment will need to be carried out today. It is recommended it be left to the end of the day's business).

After two years, the Home Office has stated its expectation that membership of the new strategic authority will revert to 23, of whom 6 will be from Cumbria. (Whether this prevails will depend on circumstances at the time).

(5) "Human Resources (assuring fair treatment for police officers & police staff to build an organisation fit to deliver)"

As a matter of law, this Authority is the employer of **870 police staff** serving Cumbria Constabulary, although legally they are under the direction and control of the Chief Constable by **section 15(3) Police Act 1996**. (Only the 4 full time and 5 part-time staff working directly in support of the Police Authority itself are not). Cumbria Police Authority has always stated how seriously it takes its legal and moral obligations towards its employees, which is why this issue was explicitly set out as a condition for satisfaction. Achieving **pay harmonisation** (Treasurer's report para. 3.4) is just one example.

Terms and conditions of police staff nationally are negotiated with the **Police Staff Council (PSC)**, subject to local conditions. The work of the PSC towards establishing a **national framework** for staff issues arising from amalgamations was expected to have been reported on by the end of April 2006. It now appears unlikely this will be obtained any earlier than **May or June 2006**. Whether there are to be any additional protections as a result of the PSC process is still unknown but the recent **Home Office advice** (A/Chief Constable's Appendix 1) sets out at its item 7 what steps HO is taking over HR issues generally. There is no additional information to put before the Authority today. It can be expected that **statutory rights** on transfer and/or redundancy, including under **TUPE** regulations, will apply to all police staff but exactly how those statutory rights are actually applied in individual cases inevitably remains uncertain, until key factors

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governing the new combined authority and force are resolved; including geographic locations.

There are **1266 police officers** in Cumbria. Successfully transferring them to the new combined force is an important purpose of the Amalgamation Order. So far as their **4 chief police officers** are concerned, they, like other police officers, are not employees. Unlike other officers, the chief officers are appointed by the Authority itself, which is the body agreeing their terms. That is why the draft amalgamation order must also deal effectively with their transfer terms. As a result, the **Chief Police Officers Staff Association (CPOSA)** were invited by the Clerk to comment on the relevant sections of the Order for Lancashire and Cumbria, prior to its first submission as a draft on 6th April 2006. Their national lead, Tim Brain (Gloucestershire) provided an initial letter dated 5th April 2006, commenting on 14 points requiring attention. They cannot be resolved locally in Cumbria and Lancashire without setting national precedents for all amalgamations following. The key role in resolving them nationally rest with the **Police Negotiating Board (PNB)** and its Chief Officer's Committee, while the **Association of Police Authorities (APA)** also has a role in this debate. Whilst likely they will be successfully resolved in due course, with all goodwill, it appears impossible for those of the 14 points falling within its scope to be incorporated into our Amalgamation Order or be resolved to sufficient standard for members, either by today's meeting or by 8th May 2006.

According to guidance, the role of the new Strategic Police Authority will be to focus on the "...critical strategic issues, namely, setting the overarching priorities for the force; appointing the Chief Officer (and other ACPO Ranks) and holding him/her to account..." This needs agreement on priorities; on a preferred approach (**vision/values/culture**); and a set of goals for the authority to inform the role and specification it sets when **appointing a new Chief Constable**. However, the tight timetable being suggested for chief officer appointments to the new force is problematic, if much of this work would have to be done by its precursors, even before the 'shadow' authority has any legal existence. The question has therefore been raised with the Home Office, of whether the Amalgamation Order deals with these issues – or leaves them to be resolved in another place.

As a result, the Clerk for Lancashire Police Authority has also written on behalf of both, to the Director for Policing Policy, advising that unless there is some considerable movement over the coming days, the timetable for appointment of a Chief Constable for the combined force as set out in their most recently-reissued FAQ's is unachievable.

"Timetabling (establishing certain timing and a smooth change-process)"

The actual programming of the events and work needed to establish a combined Strategic Police Authority for the two areas is advancing well. A scheduled **work-plan** has been devised and developed by the Cumbria Police Authority team in close consultation with our colleagues from Lancashire Police Authority and 'Wave One' Clerks nationally. This joint document has been circulated to our partners in the two Constabularies, into whose work streams it feeds. It will be updated as the work develops. For Authority and Constabulary alike, timetabled work plans adopted are the best route map to certainty and a smooth change process. Successfully resolving complex "*chicken and egg*" questions about which tasks are fundamental and must precede all others, or which are secondary, is key part of that success but will take many months, as the project unfolds.

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Even with two authority support teams contributing, successfully setting-up a brand-new strategic police authority able to start from **1st June 2006** is a very challenging brief. It mirrors the much-larger task faced by the two constabularies, of not merely realigning or welding their two operations into one whole, but instead creating a fresh policing concept that is operationally different and altogether more strategic in scale and scope. (Particularly towards Level 2 crime and the protective policing services which are the stated drivers). Whilst basic amalgamation can probably be achieved by **1st April 2007**, the Constabularies have said that it will take **up to 2011** to complete the task.

Members must not lose sight of the Constabulary's original **Business Case** of 28th November 2005; presented to the Home Secretary on **23rd December 2005** and approved by him as basis for this restructuring. From a legal position, this means that any restructured police force, anywhere in the country, departing from their outline Business Case in the arrangements actually adopted (e.g. for dealing with Level 2 crime) is potentially adrift from the legal requirements of '*efficiency and effectiveness*' which led the Home Secretary and police authorities to agree amalgamation in the first place. Members today must be satisfied that the new arrangements for which they are volunteering are likely to deliver the '*step-change*' improvement in protective services which is the whole basis for restructuring. That is a question where expert professional policing advice from the Chief Constable is available today, as it has been throughout.

If members are going to find their pre-conditions of 24th February 2006 sufficiently met, so they can approve the Amalgamation Order for signature by the Home Secretary on 8th May 2006, then today is their last opportunity to do so. It follows they can be **satisfied either on the basis of what they know to be the position today or can reasonably expect to become the position.**

Where not so satisfied today, members are entitled to seek reliable **reassurances**. They know the period since their decision of 24th February 2006 has been spent seeking or strengthening such reassurances, mainly from government officials but also from policing and other professionals, but this process cannot go on forever. Many pre-conditions identified by members for volunteering relate to **core issues** where members must be willing not to shrink from a conclusive decision about what levels of satisfaction or reassurance about the future they really need before the project proceeds. In doing so, members should also think about the **consequences of their decision**, either way. In the end, if not already satisfied about factual issues, members must decide today if extra, 'in-principle' assurances obtained since are adequate to satisfy '**Due Diligence**'.

The Amalgamation Order

This is the delivery mechanism under law for an amalgamation made under the Police Act. It specifies the key terms. Many - if not all - of the matters identified by the Authority as its conditions for volunteering are meant to be conclusively-resolved by the Order's contents. (Inevitably, today, not all of them can be, without sight of the final version).

A copy of the latest draft of the Amalgamation Order is attached as **Appendix 2**. Subject to government lawyers' views of this (awaited), and any other changes which might be authorised by the two authorities in the interim, this is intended to represent the form in which it will go before the Home Secretary for his final signature, in the week beginning 8th May 2006. It is the product of detailed negotiations between the two Authority Clerks

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and a senior Home Office civil servant, made in regular consultation with principal stakeholders within both authorities and forces.

If members of this Authority find their conditions for volunteering sufficiently met, then the next matter for decision is **whether they are satisfied with the terms of the Amalgamation Order** itself, as an expression of that position. Today's examination of it is effectively the last chance for this Authority to shape the terms of the amalgamation.

Decision

The Authority is asked to note this update and, in the event that (i) members find their **24th February pre-conditions are satisfied** today and (ii) that they **approve the draft Amalgamation Order** for signature, then (iii) they are asked to make their choice of **appointments to the shadow authority** today.

Alternatively, if members find (i) that enough of their **24th February pre-conditions are not satisfied** today, then (ii) they should **not approve the form of the draft Amalgamation Order** either. **Neither** at this stage should they (iii) then decide on any appointments to the Shadow Authority.

Effect of alternative decisions

The recent Home Office advice attached to the Acting Chief Constable's report is very fair in making it clear that alternative decisions are still open to members. It is interesting to see their view (at page 7 of 11) that a decision to volunteer can still be withdrawn, legally. What are the effects of this?

The first effect of members refusing to confirm their original conditional decision is **procedural**. It returns the whole process to the second limb of **section 32 Police Act 1996**, i.e. it reverts to the **compulsory**.

The second effect is **symbolic**, in that (as in most other examples across the country) legal and moral **responsibility for making the decision** for police force amalgamation therefore **reverts to the Home Secretary**, not the local police authority.

Thirdly, the **statutory 4-month objections process is re-inserted** into the timeframe. **NB:** It is a mistake to assume the statutory purpose of this is to enable further public consultation (in so far as the Authority and its Constabulary were not already well aware of the public view). Its only purpose (**section 33(2)c**) is to provide a renewed window of opportunity for making **objections to the Home Secretary** – if that were needed. But this authority has not made objections, beyond those made to timescales ("*indecent haste*") and the uncertainties prevailing as a result. CPA Members have always generally acknowledged that the small size of Cumbria Constabulary; the latest funding formulae for police authorities of that size; the HMIC report; and the advice of their Chief Constable have made it prone to merger and outright objections probably inappropriate.

As a result, unless this extra time is regarded as in any other way useful, its main effect might be regarded as merely **tactical**. Slightly more time overall (4 months) is obtained in which to carry out the amalgamation process, or to change those aspects of it causing concern.

Are any of these effects beneficial?

For police authorities elsewhere, contemplating issuing a **formal legal challenge** to the process, an extra four months' time may appear attractive. But this authority has never contemplated such a step and your professional advisers have not suggested it either. Aside from will, insufficient viable grounds had been identified in our circumstances from which to construct such a challenge anyway.

In this atmosphere of **co-operative working** with government officials, it is expected most if not all of these issues will be worked through successfully, in time. Their current uncertainty is inevitable result of the **extremely-short timetable** which has been allowed from the centre for this project, and of the two forces' position as the very first national **pathfinders** for all the points and pitfalls to be encountered. If the period since February has been insufficient, whether four months extra time would enable their final resolution could not be guaranteed anyway.

What are the **disadvantages** likely from imposing such a period of delay? Some are explained in the Acting Chief Constable's report, in particular their probable **effect on staff**. These are serious disadvantages. **Delay** is likely to result in operational inefficiencies and have a deleterious effect on officer and staff morale through its extension of the period of uncertainty. Valuable staff may leave. In addition, a harmful **lack of impetus** will be imposed on a forward-going project; one which can be considered fairly certain to be endorsed and reinstated by the Home Secretary anyway, on conclusion of the objections period. Whilst the project would not stop, motivation may be affected. Neither is the extra four months obtained likely - in the final event - to improve the prospects for successfully achieving the project by 1st April 2007. In fact, the Acting Chief Constable's view is that it may well prevent it, so delaying the transfer date by a full year – to 2008 - and so creating an extra year's worth of **uncertainty** for staff to work through. This is obviously unattractive and operationally desirable.

Apart from timing, members must therefore consider what real benefit adopting such a stance and now declining to volunteer for an ongoing restructuring (one which is likely to occur eventually, anyway) would bring the Constabulary, the Authority, their officers and staff, or the communities whose policing service hinges on these decisions.

Clive Alcock
Clerk & Chief Executive

24th April 2006

Background Documents

Home Office statements, correspondence, and representations of stakeholders

Race and Diversity Implications:

As specifically-identified nationally in the Home Office impact assessment.

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. The restructuring process has been promulgated on that primary basis.

CUMBRIA POLICE AUTHORITY

Special Meeting:

FORM OF RESOLUTION:

Proposed:

Seconded:

We, the members of the **Cumbria Police Authority**, on the basis of:

(1) having **satisfied ourselves**, according to proper requirements of **due diligence**, *either* (i) that the following heads or criteria of **efficient and effective policing** are reliably **met**, *or else* (ii) that sufficient **advice** or **reassurances** are in place to assure their delivery in due course; namely in matters of :

- **Operational and Protective Policing services** (for improving their efficiency and effectiveness of delivery, in the best interests of policing Cumbria);
- **Finance** (in Start-up and Transitional costs; Grant Funding formulae applied);
- **Precept equalisation** (equitable arrangements for Council tax payers);
- **Governance of police authorities** (in Transitional; Strategic and sub-strategic accountability, including precept & membership arrangements);
- **Human Resources** (assuring fair treatment for police officers & police staff to build an organisation fit to deliver);
- **Timetabling** (in establishing certain timing and a smooth change process);

And:

(2) In accordance with **Section 32(3) (a) of the Police Act 1996**;

And:

(3) Conditional upon those outstanding issues falling within Para 1 (ii) above being resolved in negotiations under the draft Order procedure to our conclusive satisfaction by no later than 1st May 2006

Therefore resolve to request the Home Secretary, the Rt. Honourable Charles Clarke M.P., to exercise his statutory **power to make an order** altering police areas under **section 32(1)** of the Police Act 1996; so as to amalgamate the **Cumbria Constabulary** with the **Lancashire Constabulary** police areas.

RESOLVED this day: **Friday, 24th February 2006**

D R A F T S T A T U T O R Y I N S T R U M E N T S

2006 No.

POLICE, ENGLAND AND WALES

The Police Act 1996 (Alteration in police areas) (Cumbria and Lancashire) Order 2006

<i>Made</i>	- - - -	<i>8th May 2006</i>
<i>Coming into force</i>	- -	<i>1st June 2006</i>

I make the following Order in exercise of the powers conferred by sections 32(1), (3)(a) and 34(5) of the Police Act 1996(a);

In accordance with section 32(3)(a) of that Act, it appears to me to be expedient to make the alterations made in this Order in the Cumbria police area and the Lancashire police area on the basis I have received a request to make the alterations from the police authority for each of the police areas affected and it is necessary in the interests of efficiency and effectiveness.

In accordance with section 32(4) of that Act, I am satisfied that the making of this Order does not result in the division between two or more police areas of a county in which there are no district councils, a district in any other county, a county borough in Wales or a London borough;

In accordance with section 34(5) of that Act, a draft of this instrument was laid before Parliament without annulment:

Citation and commencement

1. This Order may be cited as the Police Act 1996 (Alteration in police areas) (Cumbria and Lancashire) Order 2006 and shall come into force on 1st June 2006 or within 28 days of the order being signed, whichever is the sooner.

Interpretation

2. In this Order—

“combined police area”, “combined police authority” and “combined police force” mean respectively the police area, police authority and police force established in accordance with this Order;

“lay justice” has the same meaning as in section 9 of the Courts Act 2003(b);

(a) 1996 c. 16.
(b) 2003 c. 39.

“precursor police area”, “precursor police authority” and “precursor police force” mean respectively a police area which is altered by way of amalgamation in accordance with this Order to become the combined police area, a police authority of such a police area and a police force of such an area;

“relevant council” means in relation to the combined police authority a council for a county, district or county borough which constitutes or is wholly within the authority’s police area and, in the case of a district council, the district is not in a county having a county council;

“the 1992 Act” means the Local Government (Finance) Act 1992(a);

“the 1996 Act” means the Police Act 1996;

“the 2003 Regulations” means the Police Regulations 2003(b).

PART 1

Combined Police Area

Alteration in police areas to create a combined police area

3.—(1) On 1st April 2007, Cumbria police area and Lancashire police area shall be altered by way of amalgamation and shall become a combined police area which shall be known as Cumbria and Lancashire police area.

(2) On 1st April 2007, Cumbria police area and Lancashire police area shall cease to exist.

PART 2

Combined Police Authority

CHAPTER 1

Establishment of combined police authority

Establishment of a combined police authority

4.—(1) On 1st June 2006 there shall be established a combined police authority for the area which, in accordance with article 3, is to become Cumbria and Lancashire police area on 1st April 2007.

(2) The combined police authority established in accordance with paragraph (1) shall be a body corporate and shall be known as “Cumbria and Lancashire Police Authority”.

(3) On 1st April 2007 the police authorities for Cumbria police area and Lancashire police area shall cease to exist.

CHAPTER 2

Combined police authority: transitional provision

Membership of combined police authority

5. Notwithstanding section 4 of, and paragraph 1 of Schedule 2 to, the 1996 Act (membership of police authorities etc.), from 1st June 2006 to 31st May 2008 the combined police authority shall consist of 27 members of whom—

(a) 14 shall be members of a relevant council (9 from Lancashire and 5 from Cumbria);

(b) 8 shall be independent members (5 from Lancashire and 3 from Cumbria); and

(a) 1992 c. 14.

(b) S.I. 2003/527.

(c) 5 shall be lay justices (3 from Lancashire and 2 from Cumbria).

Tenure of office

6. (1) A person who is appointed before 1st April 2007 to hold office as a member of the combined police authority shall be appointed for a specified term which will expire on 31st May 2008.

(2) After 31st May 2008 and without prejudice to 6(1) above, councillor members may be reappointed at the discretion of their relevant councils, and independent members may be permitted at the discretion of the combined police authority to serve out the remainder of their original term established through appointment to their predecessor authorities.

Appointment of members of combined police authority

7.—(1) This article applies to a member of the combined police authority who is appointed before 1st April 2007.

(2) A member of the combined police authority appointed before 1st April 2007 shall be appointed by agreement of the precursor police authorities or, where such agreement is not reached, by determination of the Secretary of State. Each of the 14 members of the combined police authority who are members of a relevant council and who are appointed before 1st April 2007 shall be appointed by their precursor police authorities —

- (a) from amongst those members of the precursor police authorities who were appointed to those authorities as members of a relevant council;
- (b) so as to ensure that at least one member of each relevant council of the combined police authority which is either a county council or a district council which is not in a county with a county council is appointed; and
- (c) so as to ensure that as far as practicable the proportion who are members of any given party is the same as the proportion of the members of the relevant councils of the combined police authority taken as a whole who are members of that party.

(3) Each of the 8 members of the combined police authority who are independent members and who are appointed before 1st April 2007 shall be appointed by their precursor police authorities from amongst those members of the precursor police authorities who were appointed to those authorities as independent members.

(4) Each of the 5 members of the combined police authority who are lay justices and who are appointed before 1st April 2007 shall be appointed by their precursor police authorities from amongst those members of the precursor police authorities who were appointed to those authorities as lay justices.

(5) A person who is appointed to hold office as a member of the combined police authority shall not, solely by virtue of that appointment, cease to be a member of the precursor police authority of which he was, immediately before that appointment, a member, although his resignation from that precursor police authority will not prevent him from taking up an appointment as, or continuing to be, a member of the combined police authority.

(6) Any appointment to a vacancy arising in the membership of the combined police authority after 1st April 2007 shall be made according to the procedures set out in the 1996 Act as amended.

Appointment of clerk

8.—(1) The combined police authority shall, as soon as is reasonably practicable after its establishment in accordance with article 4, appoint a person to be the clerk to the authority.

(2) A clerk to the combined police authority who is appointed before 1st April 2007 may also be appointed as a monitoring officer to the combined authority.

(3) A clerk to the combined police authority who is appointed before 1st April 2007 who is not also appointed as a monitoring officer may also be appointed as an officer for financial administration to the combined authority.

(4) A person who is appointed clerk to the combined police authority shall not solely by virtue of that appointment cease to be the clerk to the precursor police authority to which he was, immediately before that appointment, the clerk, although his resignation from that precursor police authority will not prevent him from taking up an appointment as, or continuing to be, the clerk to the combined police authority.

Appointment of officer for financial administration

9.—(1) The combined police authority shall, as soon as is reasonably practicable after its establishment in accordance with article 4, appoint one of its officers to have responsibility for the administration of its financial affairs who may be the clerk to the authority or another person but may not be the monitoring officer to the combined authority.

(2) A person who is appointed as an officer having responsibility for the administration of the financial affairs of the combined police authority shall not, solely by virtue of that appointment, cease to be the officer performing that role in relation to the precursor police authority of which he was, immediately before that appointment, an officer, although his resignation from that precursor police authority will not prevent him from taking up an appointment as, or continuing to be, the officer having responsibility for the administration of financial affairs of the combined police authority.

Appointment of standards committee and monitoring officer

10.—(1) The combined police authority shall, as soon as is reasonably practicable after its establishment in accordance with article 4, appoint a standards committee and a monitoring officer to the combined authority who may be the clerk to the authority or another person not having responsibility for the administration of its financial affairs.

(2) Subject to provision made in this article, section 53 of the Local Government Act 2000(a) (standards committees) shall apply to the appointment by the combined police authority of a standards committee in accordance with paragraph (1).

(3) Any independent members of the standards committee of the combined police authority who are appointed before 1st April 2007 shall be appointed by agreement of the precursor police authorities or, where such agreement is not reached, by determination of the Secretary of state.

(4) Any independent members of the standards committee of the combined police authority who are appointed before 1st April 2007 shall be appointed from amongst the independent members of the standards committees of the precursor police authorities and shall be appointed for a period of 2 years.

(5) A person who is appointed to hold office as a member of the standards committee of the combined police authority shall not, solely by virtue of that appointment, cease to be a member of the standards committee of the precursor police authority of which he was, immediately before that appointment, a member, although his resignation from the standards committee of which he was previously a member will not prevent him from taking up an appointment as, or continuing to be, a member of the standards committee of the combined police authority.

Functions of the combined police authority

11.—(1) From the date it is established in accordance with article 4 until 1st April 2007, the combined police authority shall have the following functions.

(2) The combined police authority shall, as soon as is reasonably practicable, appoint the chief constable, deputy chief constable and assistant chief constables in accordance with article 18.

(a) 2000 c. 22. Section 53 of the 2000 Act has been amended by section 35 of the Public Services Ombudsman (Wales) Act 2005 (c. 10).

(3) The combined police authority shall take all necessary steps reasonably open to it to ensure that, from 1st April 2007, the combined police force established under article 17 will function effectively and efficiently.

(4) The combined police authority shall take all necessary steps reasonably open to it to ensure that, from 1st April 2007, suitable arrangements are in place with regard to—

- (a) the handling of all complaints made to the combined authority, including those made about the conduct of persons serving with the combined police force where the authority has jurisdiction under the 1996 Act as amended;
- (b) the recording of matters from which it appears that there may have been conduct by such persons which constitutes or involves the commission of a criminal offence or behaviour justifying disciplinary proceedings;
- (c) the manner in which any such complaints or any such matters as are mentioned in paragraph (b) are investigated or otherwise handled and dealt with.

(5) The combined police authority shall issue, and make the necessary calculations to issue, a precept in accordance with section 40(a) of the 1992 Act (issue of precepts by major precepting authorities) for the financial year beginning 1st April 2007 as that provision is applied to the combined police authority at that time by this Order.

(6) The combined police authority shall, before 1st April 2007, determine the local policing objectives for the policing of the authority's area during the financial year beginning on that day in accordance with section 7(b) of the 1996 Act (local policing objectives) as that provision is applied to the combined police authority at that time by this Order.

(7) The combined police authority shall, before 1st April 2007, issue for subsequent publication a local policing plan setting out the proposed arrangements for the policing of the authority's area during the financial year beginning on that day in accordance with section 8(c) of the 1996 Act (local policing plans) as that provision is applied to the combined police authority at that time by this Order.

(8) Together, and in cooperation with the precursor police authorities, and in accordance with section 96(d) of the 1996 Act (arrangements for obtaining the views of the community on policing), the combined police authority shall, before 1st April 2007, make arrangements for obtaining the views of the people in the area that will become the combined police area on that date, in so far as that provision is applied to the combined police authority on that date by this Order.

(9) In cooperation together with the precursor police authorities, and in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (arrangements for securing employment rights on transfer of a relevant undertaking), the combined police authority shall, before the vesting date of 1st April 2007, take all necessary steps reasonably open to them to ensure arrangements are made for securing the transfer of those persons who are employees of the precursor authorities on vesting day to the combined police authority.

Precursor police authorities and chief constables to assist combined police authority

12.—(1) Each precursor police authority and the chief constable of each precursor police force shall take all necessary steps reasonably open to them to assist and cooperate with the combined police authority.

- (2) Without prejudice to the generality of paragraph (1), each precursor police authority shall—
 - (a) assist the combined police authority in issuing, and in making the necessary calculations to issue, a precept in accordance with section 40 of the 1992 Act for the financial year beginning 1st April 2007;

(a) Section 40 of the 1992 Act has been amended by section 83 of the Greater London Authority Act 1999 (c. 29).

(b) Section 7 of the 1996 Act has been amended by paragraph 70 of Schedule 27 to the Greater London Authority Act 1999.

(c) Section 8 of the 1996 Act has been amended by section 24 and paragraph 71 of Schedule 27 to the Greater London Authority Act 1999 and section 92(2) of the Police Reform Act 2002 (c. 30).

(d) Section 96 of the 1996 Act has been amended by paragraph 103 of Schedule 27 and paragraph 103 of Schedule 34 to the Greater London Authority Act 1999.

- (b) provide the combined police authority with all the information that is available to it which is necessary to enable the combined police authority to prepare a budget for the financial year beginning 1st April 2007, to fulfil its functions prior to that date and to function satisfactorily from that date; and
 - (c) assist the combined police authority in issuing an annual report for the purposes of section 9(a) of the 1996 Act (annual reports by police authorities) as that provision is applied to the combined police authority by this Order.
- (3) The requirement in paragraph (1) to assist and cooperate includes a requirement to provide information, staff and other assistance as appropriate.

Application of legislation to combined police authority: transitional provision

13.—(1) The provisions set out in Schedule 1 shall have effect in relation to the combined police authority until 1st April 2007 as they have effect in relation to a police authority established under section 3 of the 1996 Act (establishment of police authorities) subject to the modifications set out in that Schedule.

(2) The provisions of legislation set out in Schedule 2 shall have effect in relation to the combined police authority from 1st April 2007 as they have effect in relation to a police authority established under section 3 of the 1996 Act before that date, subject to the transitional provision set out in that Schedule .

Amendment to the Local Government (Finance) Act 1992

14. In section 46 of the 1992 Act (special items for purposes of section 45) after sub-section (3) insert—

“(4) Where an order has been made under section 32 of the Police Act 1996 (power to alter police areas by order) and provides for the apportionment of the precept within the police area of a combined police authority between its precursor police areas, such apportioned values as the combined police authority may determine are its special expenses in relation to one (or more) of its precursor police areas.

(5) For the purposes of paragraph (4), “combined police authority” means a police authority that is established by an order made under section 32 of the Police Act 1996 and “precursor police area” means, in relation to a combined police authority, a police area which is altered by way of amalgamation to become the area of that combined police authority in accordance with such an order.”

Apportionment of precepts

15. The combined police authority may at its discretion agree to apportion its precept as between the areas of its precursor authorities for its first five financial years.

CHAPTER 3

Transfers to combined police authority

Transfer of property, rights and liabilities

16.—(1) On 1st April 2007 all property or estates in land which, immediately before that date, was held by a precursor police authority or over which a precursor police authority had been given or obtained overriding legal or equitable rights shall be transferred to and vest in the combined police authority.

(2) On 1st April 2007 all monies, other property, legal and contractual rights and liabilities, whether vested or contingent, to which immediately before that date a precursor police

(a) Section 9 of the 1996 Act has been amended by section 92(3) of the Police Reform Act 2002 and paragraph 72 of Schedule 27 to the Greater London Authority Act 1999.

authority was entitled or to which it was subject by reason of the exercise of their functions shall be transferred to the combined police authority.

PART 3

Combined Police Force

CHAPTER 1

Establishment of combined police force

Combined police force

17.—(1) On 1st April 2007 there shall be established a combined police force which shall be known as Cumbria and Lancashire Constabulary.

(2) On 1st April 2007 each of the police forces maintained for the Cumbria police area and the Lancashire police area shall cease to exist.

CHAPTER 2

Combined police force: transitional provision

Appointment of senior officers of combined police force **AWAITING CPOSA VIEW**

18.—(1) The combined police authority shall, as soon as is reasonably practicable, subject to the approval of the Secretary of State and to regulations under section 50 of the 1996 Act (regulations for police forces) other than regulation 11 of the 2003 Regulations (appointment of senior officers), appoint a chief constable of the combined police force.

(2) The combined police authority shall, as soon as is reasonably practicable, having consulted the chief constable of the combined police force and subject to the approval of the Secretary of State and to regulations under section 50 of the 1996 Act other than regulation 11 of the 2003 Regulations, appoint a deputy chief constable of the combined police force.

(3) The combined police authority shall, as soon as is reasonably practicable, having consulted the chief constable of the combined police force and subject to the approval of the Secretary of State and to regulations under section 50 of the 1996 Act other than regulation 11 of the 2003 Regulations, appoint at least one assistant chief constable of the combined police force.

(4) For the purposes of paragraphs (2) and (3), a person is to be considered to be the chief constable of the combined police force from the day on which he accepts an appointment to that post notwithstanding the fact that he may not take up that post until a later date.

(5) Where a person is appointed chief constable or deputy chief constable of the combined police force before 1st April 2007, he shall be appointed for a fixed term of a minimum of three years and a maximum of five years as decided by the combined police authority.

(6) A person appointed assistant chief constable of the combined police force before 1st April 2007 shall be appointed in accordance with regulation 11(2) and (3) of the 2003 Regulations and any determination made under that regulation.

(7) A post of chief constable or deputy chief constable of the combined police force that is to be filled in accordance with paragraph (1) or (2) or is otherwise vacant before 1st April 2007 must be advertised in accordance with the requirements in paragraph (10)(a) and (c).

(8) A post of assistant chief constable of the combined police force that is to be filled in accordance with paragraph (3) or is otherwise vacant before 1st April 2007 must be advertised in accordance with the requirements in paragraph (10)(b) and (c).

(9) The requirements specified for the purposes of this paragraph are—

- (a) a notice inviting applications to fill that post must be published in not less than one newspaper circulating throughout England and Wales or not less than one journal which deals with police matters circulating throughout England and Wales;
- (b) a notice inviting applications to fill that post must be *[to be drafted]*;
- (c) the notice referred to in sub-paragraphs (a) and (b) must specify the date, which shall not be less than seven clear days after the date of the publication of the notice, by which time applications must be made.

Functions of senior officers of combined police force AWAITING CPOSA VIEW

19.—(1) From the date of their appointment in accordance with article 18, the chief constable, deputy chief constable and assistant chief constables of the combined police force shall take all necessary steps reasonably open to them to ensure that, from 1st April 2007, the combined police force established under article 17 and under their direction and control will function effectively and efficiently.

(2) Section 12A of the 1996 Act (power of deputy chief constable to exercise functions of chief constable) shall apply to the chief constable, the deputy chief constable and an assistant chief constable of the combined police force before 1st April 2007 as it does to those members of a police force established under section 2 of the 1996 Act (maintenance of police forces).

Precursor police forces to assist senior officers of combined police force AWAITING CPOSA VIEW

20.—(1) The chief constable of a precursor police force shall take all necessary steps reasonably open to them to ensure they can assist and cooperate with the chief constable of the combined police force.

(2) The requirement in paragraph (1) includes a requirement to provide information, constables, staff and other assistance as appropriate.

(3) Without prejudice to the generality of paragraph (1), the chief constable of a precursor police force shall assist the chief constable of the combined police force to produce an annual report in respect of the financial year ending 31st March 2007 for the purposes of section 22 of the 1996 Act (reports by chief constables to police authorities) as that provision is applied to the combined police authority by this Order.

(4) Any constables or police staff provided by the chief constable of a precursor police force to the combined police force in accordance with paragraph (1) shall be under the direction and control of the chief constable of the combined police force but, in the case of police staff only, will not be transferred to the employment of the combined police authority until 1st April 2007.

Application of the 1996 Act to senior officers of combined police force AWAITING CPOSA VIEW

21.—(1) The provisions of the 1996 Act which are set out in Schedule 1 shall have effect in relation to the senior officers of the combined police force until 1st April 2007 as they have effect in relation to those officers of a police force established under section 2 of the 1996 Act subject to the modifications set out in that Schedule.

(2) The provisions of legislation set out in Schedule 2 shall have effect in relation to the combined police force from 1st April 2007 as they have effect in relation to a police force established under section 2 of the 1996 Act before that date subject to the transitional provision set out in that Schedule.

CHAPTER 3

Transfers to combined police force

Transfer of members of police forces **AWAITING CPOSA VIEW**

22.—(1) Subject to the provisions of this article, on 1st April 2007 every member of a precursor police force shall be transferred to the combined police force.

(2) Subject to paragraph (3), on 1st April 2007 the chief constable of any of the precursor police forces who is not appointed the chief constable of the combined police force shall be transferred to the combined police force in accordance with section 100 of the 1996 Act (chief constables affected by police area alterations or local government reorganisations).

(3) Section 100(2) of the 1996 Act will apply to a chief constable transferred to the combined police force in accordance with paragraph (2) as if it read—

“(2) While a person is a member of a police force by virtue only of this section he shall continue to hold the rank of chief constable and be treated for the purposes of pay, pension and other conditions of service as if he had continued to be chief constable of the force which ceased to exist but shall not hold the office of chief constable of the combined police force and shall not exercise direction or control over the combined police force.”

(4) Subject to paragraphs (5) and (6), on 1st April 2007 the deputy chief constable of any of the precursor police forces and an assistant chief constable of any of those forces shall be transferred to the combined police force.

(5) Section 100 of the 1996 Act shall apply to a deputy chief constable transferred to the combined police force in accordance with paragraph (4) as it would to a chief constable so transferred except that—

(a) each reference in section 100 to “chief constable” is a reference to “deputy chief constable”;

(b) for section 100(2) of the 1996 Act there is substituted—

“(2) While a person is a member of a police force by virtue only of this section he shall hold the rank of assistant chief constable but shall be treated for the purposes of his pay, pension and other conditions of service as if he had continued to be deputy chief constable of the force which ceased to exist and shall not hold the post of the deputy chief constable or an assistant chief constable of the combined police force.”; and

(c) the reference in section 100(3) to “at the end of three months” is a reference to “when the term for which he was appointed expires”.

(6) Section 100 of the 1996 Act shall apply to an assistant chief constable transferred to the combined police force in accordance with paragraph (4) as it would to a chief constable so transferred except that—

(a) each reference in section 100 to “chief constable” is a reference to “assistant chief constable”;

(b) for section 100(2) of the 1996 Act there is substituted—

“(2) While a person is a member of a police force by virtue only of this section he shall continue to hold the rank of assistant chief constable and shall be treated for the purposes of his pay, pension and other conditions of service as if he had continued to be assistant chief constable of the force which ceased to exist but he shall not hold the post of assistant chief constable of the combined police force.”; and

(c) section 100(3) is omitted.

Transfer of special constables

23.—(1) On 1st April 2007 every special constable appointed for a precursor police area shall be transferred and shall become a special constable appointed for the combined police area.

(2) From 1st April 2007, a special constable transferred to the combined police force shall have all the powers and privileges of a constable throughout the combined police area.

Transfer of police cadets

24. On 1st April 2007 every police cadet who, immediately before that day, was appointed to undergo training with a view to becoming a member of a precursor police force shall be transferred to the combined police force to undergo training with a view to becoming a member of the combined police force.

Transfer of police staff

25.—(1) Subject to paragraph (2), on 1st April 2007 every person who, immediately before that day, was employed as police staff by a precursor police authority in accordance with section 15 of the 1996 Act shall be transferred and shall become an employee of Cumbria and Lancashire police authority.

(2) Any employee of a precursor police authority who becomes an employee of the combined police authority in accordance with paragraph (1) shall, if he was under the direction and control of the chief constable of a precursor police force immediately before he was so transferred, be under the direction and control of the chief constable of the combined police force.

(3) Any designation granted under section 38 of the Police Reform Act 2002(a) (police powers for police authority employees) in respect of a person referred to in paragraph (2) shall continue to have effect on transfer and any powers that designation designates on that person may be exercised throughout the combined police area.

(4) Any employee of a precursor police authority who becomes an employee of the combined police authority in accordance with paragraph (1) who was not previously under the direction and control of the chief constable of a precursor force for the purposes of section 15(3) Police Act 1996 immediately before he was transferred shall not become under the direction and control of the chief constable of the combined police force solely as a result of that transfer.

(5) *TRANSFER OF PENSION FUND RIGHTS*

Transfer of rights and liabilities

26. On 1st April 2007 all rights and liabilities, whether vested or contingent and other than those vested in the combined police authority, of which, immediately before that date, a chief constable of a precursor police authority was entitled to the use or subject to by reason of the exercise of their functions shall be transferred to the chief constable of the combined police authority.

PART 4

General and consequential provision

Appointments to precursor police authorities and police forces pending alteration

27.—(1) Where a vacancy in the membership of a precursor police authority exists after 1st June 2006, and subject to the consent of the Secretary of State in the case of independent members, that vacancy may, at the discretion of the authority, either be left unfilled or automatically renewed until 1st April 2007.

(2) Notwithstanding regulation 11 of the 2003 Regulations and any determination made under that provision—

(a) where a vacancy in the office of the chief constable of a precursor police force exists after 1st June 2006 but before 1st March 2007, that office may be filled for a period up

(a) 2002 c. 30.

to and no later than 31st March 2007 by way of an acting promotion unless the relevant precursor police authority considers it more appropriate for the position to remain unfilled and to be covered by virtue of section 12A of the 1996 Act;

- (b) where a vacancy in the office of the deputy chief constable or an assistant chief constable of a precursor police force exists after 1st June 2006 but before 1st March 2007, that office shall be filled by way of acting promotion for a period up to and no later than 31st March 2007;
- (c) where a vacancy in the office of the chief constable, the deputy chief constable or an assistant chief constable of a precursor police force arises on or after 1st March 2007, that office may only be filled for a period up to and no later than 31st March 2007 if the relevant precursor police authority considers it to be necessary for the effective functioning of that force;
- (d) where a vacancy is filled in accordance with sub-paragraph (c) it shall be filled by way of temporary promotion;
- (e) a vacancy referred to in this paragraph need not be advertised;
- (f) in this paragraph, “relevant precursor police authority” means the police authority for the police force in which the vacancy arises.

Compensation AWAITING CPOSA VIEW

28. In relation to any person who, immediately before the 1st April 2007, holds the rank of chief constable and to whom regulations made under section 60(2) of the Local Government Act 1958(a) (which relates to compensation) apply—

- (a) the material date for the purposes of those regulations shall be 1st July 2007*; and
- (b) the compensating authority for the purposes of those regulations shall be the combined police authority

General savings AWAITING CPOSA VIEW

29.—(1) Subject to paragraphs (2) and (3), nothing in this order shall affect a lawful decision, order or direction given by or on behalf of a chief constable of a precursor police force or by any other member of any of those forces.

(2) A lawful decision, order or direction given by or on behalf of a chief constable of a precursor police force shall, from 1st April 2007, be treated as having been given by or on behalf of the chief constable of the combined police force and shall continue to have effect unless it is withdrawn by a member of the combined police force who holds at least the same rank as the member of the precursor force who gave it.

(3) A lawful decision, order or direction given by any member of a precursor police force in respect of another member of his force shall, from 1st April 2007, be treated as having been given by a member of the combined police force and shall continue to have effect unless it is withdrawn by a member of the combined police force who holds at least the same rank as the member of the precursor force who gave it.

(4) Nothing in this order shall affect a disciplinary procedure or a complaints investigation which has been commenced before 1st April 2007 from continuing after that date.

Consequential amendments

30. Schedule 3, which makes consequential amendments, shall have effect.

(a) 1958 c. 55.

SCHEDULE 1

Application of legislation to combined police authority and senior officers of combined police force prior to 1st April 2007: transitional provision

1. The following provisions of the Police Act 1996 as amended shall apply to and in respect of the combined police authority and to the chief constable, the deputy chief constable and an assistant chief constable of the combined police force before 1st April 2007 as they do to or in respect of a police authority established prior to that date under section 3 of that Act and to the chief constable, the deputy chief constable and an assistant chief constable of a police force under section 2 of that Act—

- (a) section 7 (local policing objectives);
- (b) section 8 (local policing plans);
- (c) section 11 (appointment & removal of chief constables)
- (d) section 12 (appointment & removal of assistant chief constables)
- (e) section 12A (power of deputy to exercise functions of chief constable)
- (f) section 14 (police fund);
- (g) section 15 (civilian employees);
- (h) section 16 (appointment of clerk)
- (i) section 17 (appointment of persons not employed by police authorities);
- (j) section 18 (supply of goods and services);
- (k) section 19 (approval of decisions about precepts);
- (l) section 22(3) to (6) (reports by chief constables to police authorities on request);
- (m) section 36A (national policing plan);
- (n) section 37 (setting of objectives for police authorities);
- (o) section 38 (setting of performance targets);
- (p) section 39 (codes of practice);
- (q) section 39A (codes of practice for chief officers);
- (r) section 43 (reports from police authorities);
- (s) section 44 (reports from chief constables);
- (t) section 46 (police grant);
- (u) section 47 (grants for capital expenditure);
- (v) section 48 (grants for expenditure on safeguarding national security);
- (w) section 59 (police federations);
- (x) section 61 (the police negotiating board for the United Kingdom);
- (y) section 63 (police advisory boards for England and Wales and for Scotland);
- (z) section 64 (membership of trade unions);
- (aa) section 85 (appeals against dismissal etc);
- (bb) section 88 (liability for wrongful acts of constables);
- (cc) section 89 (assaults on constables);
- (dd) section 90 (impersonation);
- (ee) section 92 (grants by local authorities);
- (ff) section 93 (acceptance of gifts and loans);
- (gg) section 94 (financing of new police authorities);
- (hh) section 96 (arrangements for obtaining the views of the community on policing);

- (ii) section 97 (police officers engaged on service outside their force); and
- (jj) section 101 (interpretation) in so far as it applies to the provisions applied by virtue of this paragraph.

2. The following provisions of Schedule 2 to the 1996 Act shall apply before 1st April 2007 to and in respect of persons who are members of the combined police authority as they do to or in respect of members of a police authority established prior to that date under section 3 of that Act, subject to the modifications set out below—

- (a) paragraph 6 (publication of notice in respect of appointment of independent members) as if the reference in sub-paragraph (1)(a) to “paragraph 5” is a reference to article 7(4) of this Order;
- (b) paragraph 7 (lay justices) as if the reference in paragraph 7 to “paragraph 1(1)(c) or (2)(c)” is a reference to article 7(5) of this Order;
- (c) paragraph 9 (chairman);
- (d) paragraph 9A (vice-chairmen);
- (e) paragraphs 11 to 14 (disqualification) as if—
 - (i) the reference in paragraph 13(1) to “paragraph 5” is a reference to article 7(4) of this Order;
 - (ii) the reference in paragraph 14(1) to “paragraph 5” is a reference to article 7(4) of this Order; and
 - (iii) the reference in paragraph 14(1)(c) to “the policy authority’s area” is a reference to the police area of Cumbria police authority or Lancashire police authority.
- (f) paragraphs 17 to 19 and 21 (tenure of office) as if—
 - (i) the reference in paragraph 17(2) to “paragraph 5” is a reference to article 7(4) of this Order
 - (ii) the reference in paragraph 18(1) to “paragraph 2” is a reference to article 7(3) of this Order;
 - (iii) the reference in paragraph 18(2) to “paragraph 8” is a reference to article 7(5) of this Order;
 - (iv) the reference in paragraph 19(2)(a) “paragraph 2” is a reference to article 7(3) of this Order;
 - (v) the reference paragraph 19(2)(b) to “paragraph 5 or 8” is a reference to article 7(4) or (5) of this Order; and
- (g) paragraph 22 (eligibility for re-appointment) as if the reference to “paragraph 19” is a reference to paragraph 19 as applied subject to modification by virtue of sub-paragraph (2)(f)(iv) and (v);
- (h) paragraphs 23 to 25 (validity of acts);
- (i) paragraph 25A (allowances for members etc) as if the reference in sub-paragraph (5) to “paragraph 2, 5 or 8” is a reference to article 7(3), (4) or (5) of this Order; and
- (j) paragraph 25B (members of standards committees).

3. The following enactments apply to the combined police authority and members of that authority before 1st April 2007 as they do to police authorities established prior to that date under section 3 of the 1996 Act and members of those police authorities [subject to the modifications set out below]—

- (a) Local Government Act 1972(a);
- (b) Local Government Act 1974(b);
- (c) Local Government Act 1986(a);

(a) 1972 c. 70.
(b) 1974 c. 7.

- (d) Local Government (Finance) Act 1988**(b)**;
- (e) Local Government and Housing Act 1989**(c)**;
- (f) Local Government (Finance) Act 1992**(d)**;
- (g) section 17 (duty to consider crime and disorder implications) and section 115 (disclosure of information) of the Crime and Disorder Act 1998;
- (h) Local Government Act 1999**(e)**; and
- (i) Local Government Act 2000**(f)**.
- (j) Local Government Act 2003

4. The following enactments apply to the chief constable, the deputy chief constable and an assistant chief constable of the combined police force before 1st April 2007 as they do to a chief constable, deputy chief constable or assistant chief constable of a police force established under section 2 of the 1996 Act—

- (a) Police (Conduct) Regulations 2004**(g)**;
- (b) 2003 Regulations;
- (c) “to be developed” (i.e. Home Office)**

SCHEDULE 2

Application of legislation from 1st April 2007: transitional provision

1. The following provisions of the 1996 Act shall apply to a combined police authority and combined police force, as appropriate, from 1st April 2007, subject to the following modifications—

- (a) Section 6A of the 1996 Act (three-year strategy plans) shall have effect in respect of the combined police authority as if the first relevant three-year period commences on 1st April 2008.
- (b) Section 8A of the 1996 Act (local policing summaries) shall have effect as if the requirement to issue and publish a local policing summary in respect of the financial year ending 31st March 2007 applies to the combined police authority.
- (c) Section 9 of the 1996 Act (annual reports by police authorities) shall have effect as if the requirement to produce an annual report in respect of the financial year ending 31st March 2007 applies to the combined police authority, and as if it provides that police authority with the option of producing a single annual report in respect of the combined police area, notwithstanding the fact that the combined police area did not come into being until after that financial year ended, or alternatively a separate annual report for each of the precursor police areas.
- (d) Section 22 of the 1996 Act (reports by chief constables to police authorities) shall have effect as if the requirement to produce a report in respect of the financial year ending 31st March 2007 and the requirement to publish that report applies to the chief constable of the combined police authority and as if it provides the chief constable of the combined police area with the option of producing a single report in respect of the combined police area, notwithstanding the fact that the combined police area did not come into being until after that financial year ended, or alternatively a separate annual report for each of the precursor police areas.

2. Section 6 of the Crime and Disorder Act 1998 (formulation and implementation of strategies) shall have effect as if the requirement to implement the strategy for the relevant period which covers 1st April 2007 and to produce a report on the implementation of that strategy for the

(a) 1986 c. 10.
 (b) 1988 c. 41.
 (c) 1989 c. 42.
 (d) 1992 c. 14.
 (e) 1999 c. 27.
 (f) 2000 c. 22.
 (g) S.I. 2004/645.

reporting year ending 31st March 2007 applies to the combined police authority and the chief constable of the combined police force.

3. Section 71(1) of the Race Relations Act 1976 as amended and the Disability Discrimination Act 1995 shall have effect as if the requirement under these Acts and associated secondary legislation to produce an equality scheme or schemes and to produce reports on the implementation of those schemes applies to the combined police authority and the chief constable of the combined police force with effect from 1st April 2007.

SCHEDULE 3

Amendment of the 1996 Act: consequential provision

1. On 1st April 2007 Schedule 1 to the 1996 Act shall be amended as follows—
 - (a) in the left hand column (name of police area) for the two entries “Cumbria” and “Lancashire” substitute a single entry “Cumbria and Lancashire”.
 - (b) in the right hand column (extent) for the two entries which correspond to the entries “Cumbria” and “Lancashire” substitute a single entry “[list the extent of “Cumbria and Lancashire” police area by combining the extent of Cumbria police area and Lancashire police area”.
2. From 1st April 2007, Schedule 2 to the 1996 Act is amended as follows.
 - (2) In paragraphs 1(1)(a), (2)(a), 18(1), 19(2)(a) after the reference to “paragraph 2” insert “or the corresponding provision of any order made under section 32”.
 - (3) In paragraphs 1(1)(b), (2)(b), 13(1), 14(1), 17(2) after the reference to “paragraph 5” insert “or the corresponding provision of any order made under section 32”.
 - (4) In paragraph 1(1)(c), (2)(c), 18(1) after the reference to “paragraph 8” insert “or the corresponding provision of any order made under section 32”;
 - (5) In paragraph 5(a), after the reference to “paragraph 2 or 8” insert “or the corresponding provision to either of those paragraphs of any order made under section 32”;
 - (6) In paragraph 19(2)(b), after the reference to “paragraph 5 or 8” insert “or the corresponding provision to either of those paragraphs of any order made under section 32”.
 - (7) In paragraph 20, after the reference to “paragraph 2” insert “or appointed under the corresponding provision of any order made under section 32”.
 - (8) In paragraph 25A(5), after the reference to “paragraph 2, 5 or 8” insert “or the corresponding provision of any of those paragraphs of any order made under section 32”.
 - (9) In paragraph 26 (interpretation) after sub-paragraph (1) insert—
 - “(2) For the purposes of this Schedule, a provision is “the corresponding provision of any order made under section 32” in relation to paragraph 2, 5 or 8 of this Schedule if—
 - (a) in relation to paragraph 2 of this Schedule, it makes provision in such an order for the appointment to a police authority of a member of a relevant council;
 - (b) in relation to paragraph 5 of this Schedule, if it makes provision in such an order for the appointment to a police authority of an independent member;
 - (c) in relation to paragraph 8 of this Schedule, if it makes provision in such an order for the appointment to a police authority of a lay justice.”

EXPLANATORY NOTE

(This note is not part of the Order)

“to be inserted” (i.e. Home Office)