

Evidence to the Justice Committee of the Scottish Parliament.

Briefing

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Call for evidence

Remit

The Scottish Parliament's Justice Committee is seeking views on the Railway Policing (Scotland) Bill.

The Bill was introduced in the Scottish Parliament on 8 December 2016. The Bill seeks to make for the arrangements for the policing of the railways and railway property by transferring the responsibility for policing from the British Transport Police in Scotland to Police Scotland.

Key issues

The policy objective of the Bill is to pave the way for the integration of railway policing into the Police Service of Scotland (Police Scotland) by (a) providing the Scottish Police Authority (SPA) and Police Scotland with new powers in relation to the policing of railways and railway property and (b) removing powers in relation to such policing in Scotland from the British Transport Police (BTP) and the British Transport Police Authority (BTPA).

The key issues are set out below. Responses should address all or any of the following points in turn—

- the impact, if any, which the devolution of railway policing will have in terms of retaining specialist skills and knowledge built up by British Transport Police officers;
- the impact, if any, which the devolution of railway policing will have in terms of cross-border security arrangements;
- the impact, if any, on ensuring consistency in delivering passenger safety and maintaining confidence within railway policing;
- the possibility that officers tasked with railway policing in Scotland may be abstracted from their core rail policing duties in order to support wider operational roles within Police Scotland;
- whether there will be any difficulties in setting up new railway policing agreements with railway operators;
- the implications, if any, for BTP officers who are currently contracted officers when they are transferred to Crown Servant status including any implications with regard to terms and conditions and pensions.

The Committee intends to take evidence in February and March 2017 and report to Parliament in Spring.

Scottish Justice Committee Membership

	<p>Margaret Mitchell</p> <p>Convener of the Justice Committee</p> <p>Central Scotland</p> <p>Scottish Conservatives</p>		<p>Oliver Mundell</p> <p>Dumfriesshire</p> <p>Scottish Conservatives</p>
	<p>Rona Mackay</p> <p>Deputy Convener</p> <p>Strathkelvin and Bearsden</p> <p>SNP</p>		<p>Douglas Ross</p> <p>Shadow Cab Sec for Justice Highlands and Islands.</p> <p>Scottish Conservatives</p>
	<p>Fulton MacGregor</p> <p>Coatbridge and Chryston</p> <p>SNP</p>		<p>Liam McArthur</p> <p>Orkney.</p> <p>Liberal Democrat</p> <p>Justice & Energy Spokesperson</p>
	<p>Mary Fee</p> <p>West Scotland</p> <p>Scottish Labour</p>		<p>John Finnie</p> <p>Highlands and Islands.</p> <p>Green</p> <p>Justice, Tourism, Transport, & Rural & Island Communities Spokesperson</p>
	<p>Stewart Stevenson</p> <p>Banffshire and Buchan Coast</p> <p>SNP</p>		<p>Ben Macpherson</p> <p>Edinburgh Northern and Leith</p> <p>SNP</p>
	<p>Mairi Evans</p> <p>Angus North and Mearns</p> <p>SNP</p>		

TOP LINES

- **The British Transport Police Authority is fully committed to working with the Scottish Government to devolve transport policing in Scotland in line with the no-detriment principles of the Smith Commission.**
- **The transfer of rail policing in Scotland has potentially significant financial and operational implications for the Authority and Force.**
- **Our involvement in this project has two aims, firstly to deliver a smooth devolution of BTP Scotland to Police Scotland and secondly to address the potential impacts of devolution on the remainder of BTP and secondly**
- **An immediate priority is to fully understand and manage the risks that may emerge throughout the transition process and those that may emerge post-devolution.**
- **How we mitigate and minimise risks will be the challenge as we work through the issues in partnership in the coming months- not least since some of these risks are live for the authority now.**

Q and A

Q. Is this actually going to happen? Would you prefer another option? Are there *any* benefits for the Authority at all?

A. The UK Parliament has transferred legislative competence, and enabled the transfer of executive competence, over the policing of railways to the Scottish Parliament. Scottish Ministers have now made clear their intentions and that is under consideration by this Parliament.

As an independent public authority, we now need to work closely with partners to ensure there is a smooth transition- and to protect our business post-transition.

Q. Can you let us know where the proposals are for the BTP to be integrated into a national infrastructure police force?

A. The Government has decided that this is not the time to formally merge the forces, due to more pressing legislative priorities.

However, the Government is now considering non-legislative options to improve interoperability. This includes whether all of the forces should operate to the same broad standards as the rest of policing, and options to improve efficiency and operational effectiveness.

WORKFORCE AND PENSIONS

Committee Line of Inquiry:

- *The implications, if any, for BTP officers who are currently contracted officers when they are transferred to Crown Servant status including any implications with regard to terms and conditions and pensions.*
- *The impact, if any, which the devolution of railway policing will have in terms of retaining specialist skills and knowledge built up by British Transport Police officers.*

Top Lines

- **We are working with the Scottish Government to clarify the design of the workforce transfer process.**
- **Ensuring the morale of our people throughout this process is paramount.**
- **There should also be an effort to minimise the costs associated with the transition.**
- **We are working through these issues at official level before we put to the Authority for decisions as the employer.**

Project Status

- The Scottish Government have sought actuarial advice on the two broad options set out in their policy document. i.e. leaving the pension arrangements structurally unchanged, or undertaking a transfer of rights into existing Police Scotland Pension arrangements.
- This advice was expected at the end of last month. Once received we will need to discuss further with the Scottish Government and take our own actuarial and legal advice.
- This is a big financial risk for us. We need to ensure that we are not left with any unfunded pension liabilities and the Authority as employer must take a view on the options before staff associations are consulted.

Q and A

Q. Will there be redundancy payments for staff?

A. The least impact on morale will be offered by guaranteed protections of existing employee terms and conditions. To this end, any options that involve redundancies should be avoided.

Q. Will legacy travel entitlements be maintained?

A. The no-detriment principle will apply.

The BTPA is facilitating details of the travel concession schemes to ensure that options for Police Scotland to honour these are considered.

[NB 49 staff and officers enjoy safeguarded benefits. Cost to BTP approx. £32k per annum for safeguarded and on-safeguarded travel (estimate) at the D Division]

Q. How have you consulted staff?

A. We know from our discussions with staff that the future of their pensions is very important issue to them. We are working through the issues with the Scottish Government and actuaries.

The transfer mechanisms must allow for realistic deadlines and create the opportunity for the Scottish Government, the Authority and the staff associations to reach agreement on these complex matters.

Q. At the round-table evidence session we held in November 2016, the BTP Federation made some stark predictions that many BTP officers would leave if the integration went ahead, thus leading to a loss of expertise. Do you agree with those comments?

A. The potential loss of expertise has been identified as a risk and we and all JPB partners are very keen to avoid any dent in morale. It's true to say that BTP officers are very proud of the Force, and it's also evident that many have express concerns about the changes.

We are not currently aware of any significant increase in the amount of officers leaving the Scottish Division of the BTP. In 15-16, we had 29 leavers, and so far in 16-17 we have had 28, so the numbers are fairly static.

Background- Workforce

The 2014-15 D Division establishment budgeted workforce target is comprised of the following:

- 223 officers
- 39.93 staff
- 2.63 officers and 8 staff out based.
- 11 special constables

Total – 284.56

The D Division headcount (as of November 2014) is as follows:

- 215 officers (note, an intake of 8 PC's is planned for January 2015)
- 48 staff (excludes out based staff)
- 3 officers, 8 staff – out based
- 11 special constables

Total - 285

Total annual salary costs are circa £9,085,837.70. This consists of Police officers (£7,659,381.00) and police staff (£1,426,456.70). Allowances payable total circa £248,408.61 excluding car allowance and other payments to ACPO ranks, but including dog handling allowance and shift allowance. Eleven employees including three officers are FHQ funded, but based in Scotland.

	Average age	Average years' service of BTP in Scotland	Average annual turnover in Scotland ¹	Average annual recruitment in Scotland ¹
Officers	41	12	15	15
Staff	51	7	6	8

Note (1): based on previous 4.5 years

Background- Pensions

Finance memo	BTPA comments
<p>In the BTPA Annual Report and Accounts for 2015-16 total staff costs for salaries and wages, social security costs, other pension costs and secondments were £269.214 million with current BTPFSF/RPS pension costs of £65.410 million and total non-current pension liabilities of £491.380 million. The current pension costs of £65.410 million included £29.710 million in employer contributions and, as reported in the BTPA cash flow, a £35.700 million pension adjustment as required by International Accounting Standard Nineteen (IAS 19). Further details and actuarial assumptions are available in the BTPA Annual Report and Accounts for 2015-16. Pension costs already form part of the costs allocated to the railway industry under the BTPA PSA model.</p>	<p>Clearly these figures were snapshot in time. We have scheduled work to capture data that is essential to the success of this project as part of our accounts close down process for 16/7.</p>
<p>With about 284 BTP D Division officers/staff it is estimated that future employer pension contributions in Scotland (included in Table 1) should be in the region of £1.6 million per annum, assuming costs are divided equally by the 5,048 BTP officers/staff.</p>	<p>Need actuarial advice – it won't be this straightforward.</p>

CHARGING AND FUNDING

Committee Line of Inquiry: whether there will be any difficulties in setting up new railway policing agreements with railway operators;

Top Lines

- An immediate priority for us is to understand any potential impacts on the formula for allocating charges and any impact on existing contractual to operators to arise from the transition.
- A future merger will also require decisions about the transfers of assets and liabilities. As part of our accounts close down for 16/17, we are auditing contracts which supply goods and services to the entire BTP, and some of these may need to be novated or even terminated at a cost.
- We are working to minimise the financial and operational impact.

Project Status

We are hosting a seminar with the SPA, Scottish Government and Police Scotland on Friday 10 March to talk them through the charging model and our accounts in detail.

BTPA are undertaking a detailed review of the likely residual overhead costs figure for 2015/16 and in order to agree a strategy for any reductions.

Q and A

- Q. Costs to Scottish TOCs is effectively supported by the franchise payments and subsidies from the Scottish Government?**
- A. This is and remains the case for all TOCs nationally, and will be taken into account in future franchise negotiations in the normal way.
- Q. It's payback time. Scottish operators have been funding English TOCs over the years?**
- A. Don't recognise that. We are working closely with the SG to establish which precisely which functions should transfer. We are also working to undertaking full, detailed analysis of central overhead costs as part of our accounts close down process.
- Q. Are you confident that you can terminate existing PSA contracts?**
- A. We are in discussion with the rail industry about the best way forward.

Q. Why can't you give us an overheads figure now?

A. Many overheads will not be subject to a proportionate reduction after the BTP Scotland Division is merged with Police Scotland.

It may not be possible to scale down IT systems beyond a reduction in licences, for example, and in any case the systems will require a continued level of technical support.

Q. You have quoted an overhead cost to D Division operators of £9.7m in 2015. What status does that figure have? Why don't you have the answers after two years?

A The world has moved on. We saw this Bill and its proposals for the first time when it was published in December.

What matters now is that we continue to work closely and constructively with the Scottish Government and the SPA to agree a robust and detailed set of costs that we all recognise and are comfortable with.

Q. What is the potential for financial impact on the BTPA and the railway industry in England and Wales?

A We all need to understand this better. We have just commenced scoping work to review the charging allocation model in the light of both Scottish integration and the DfT's recent announcement on the need for Network Rail and TOCs to work more closely together.

The model was judicially reviewed in 2009 and any changes which involve the reallocation of costs will need to be agreed with all those with whom BTPA have a Police Service Agreement (PSA).

Background

- There are currently [46] PSA holders.
- The methodology applied follows eighteen stages that allocates a portion of the total agreed revenue budget to each PSA holder by using a number of proxy measures.
- The overhead cost pays for non-geographic functions such as Corporate Resources, Central Operations and Information Technology. These departments basically provide the structures necessary to run a national police service and also central operational policing resources such as major crime, counter terrorism, Special Branch, events policing, training, dogs units and major incident response.
- The overhead charge for D Division operators is £9.7m. Although some of this overhead charge could be reduced if D Division was to be integrated into Police

Scotland, initial analysis shows that circa £6.8m would need to be re-charged to English and Welsh operators to sustain the viability of some of the departments (this figure will be subject to further scrutiny in January 2015). This could potentially lead to an increase in charges for English and Welsh PSA holders.’
Options for the devolution of transport policing in Scotland, BTPA/BTP, 9 January 2015

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<p>With about 284 BTP D Division officers/staff it is estimated that future employer pension contributions in Scotland (included in Table 1) should be in the region of £1.6 million per annum, assuming costs are divided equally by the 5,048 BTP officers/staff.</p>	<p>Need actuarial advice – it won't be this straightforward.</p>
<p>The costs of railway policing in Scotland also include a significant contribution to the HQ and corporate costs of the BTP across the UK, with a BTP Scotland share of Business Services costs of £4.428 million in 2014/15 and £5.456 million in 2015/16.</p>	<p>We are undertaking a detailed review of the likely residual overhead costs figure for 2015/16 and in order to agree a strategy for any reductions.</p>
<p>For example, rail operators in Scotland currently contribute around £800,000 per annum to the costs of the BTP UK-wide senior officer team and their support staff, a cost not expected to apply in Scotland following integration.</p>	<p>We do not agree with this as the senior officer team will need to remain. Many overheads will not be subject to a proportionate reduction after the BTP Scotland Division is merged with Police Scotland. And we are working to understand these better.</p>

Operational Integration

Committee Line of Inquiry:

- the impact, if any, which the devolution of railway policing will have in terms of cross-border security arrangements;
- the impact, if any, on ensuring consistency in delivering passenger safety and maintaining confidence within railway policing;
- the possibility that officers tasked with railway policing in Scotland may be abstracted from their core rail policing duties in order to support wider operational roles within Police Scotland;

Top Lines

Operations a matter for the Chief Constable.

As an authority, we do need to manage the risks to the overall business:

- **The effect of changes to jurisdictional or oversight arrangements on our ability to respond to incidents and minimise delays to the industry and passengers;**
- **Loss of specialist skills required to maintain the current standard of policing for cross-border service; and**
- **A perception of a reduction in the service to passengers and the rail industry.**

We are working in partnership with the force to address these and many other issues.

Project Status

Status is live as we await PSoS and BTP to agree a work plan. [Update after next week's dial in]

Both PSoS BTP held a seminar in December that identified the key operation risks. They are now working together to address these and suggest ways in which these might be overcome.

Q and A

Q. How do you think police specialism be retained post transition?

A This is ultimately for Police Scotland and the Chief Constable. However, our aim is to offer constructive advice based on the experience of the authority. From our perspective it is vital that we preserve the level of cross-border policing for the industry and customers.

A first measure would be to ensure that officers' deployment remains exclusive to the railways environment, and that policies are in place to prevent abstraction. Chief may want to say more about that.

A second measure would be to ensure that the skills, knowledge and experience of railways policing officers are able to inform decisions taken by Police Scotland leaders.

Equally, Scottish Police Authority should be equipped to provide strategic direction to Police Scotland leaders on matters which specifically affect the rail industry, passengers and rail staff.

Governance and Accountability

Committee Line of Inquiry: None explicit

Top Lines

- **Transferring railway policing is not the same as merging eight police forces with the same function.**
- **There are plan- making and decision-making functions provided by BTP and BTPA which would need to be replicated in Scotland in an eventual merger with Police Scotland.**
- **The Scottish Police Authority has been engaged historically in the policing plan process and we have engaged early with them.**
- **We and the SPA are giving some active thought how we will work together between now and integration to support decision-making and risk management.**

Project Status

Group meets fortnightly to discuss progress. Main actions are for us to prepare terms of engagement and to schedule work on strategies and plans.

Q and A

Q Press reports recently show that the Police Scotland will be overwhelmed given the numbers of arrests undertaken by the BTP in Scotland. How do think the current standard of policing for cross-border service scan be maintained.

A The priorities for railways policing in Scotland should continue to be informed by the interests of those who use and run the rail network.

The Scottish Police Authority should consult rail users, rail staff and train operators in setting out its main objectives and for the policing of Scotland's railways.

There should also be legislative mechanisms to ensure that the Annual Police Plan for Scotland's railways prepared by the Chief Constable is appropriately consulted with passengers and industry. The Scottish Government may also wish to consider how to provide representation of stakeholder groups at a police authority level.

It would also be sensible to consider how to the process to define the objectives for the policing of Scotland's railways will have regard of the objectives set by the BTP in England and Wales. The rail industry, particularly cross-border operators, might reasonably expect similar aims and targets on both sides of the border.