Scottish Government Consultation

The Integration of the British Transport Police in Scotland into Police Scotland

Submission by British Transport Police

23 August 2016
1. During the integration of BTP in Scotland into Police Scotland, how best can we ensure that the benefits of greater accountability and integration are delivered within the wider policing of Scotland’s transport infrastructure? What additional benefits should we be looking to achieve?

British Transport Police (BTP) respects and supports the intent to secure greater accountability in the policing of the railways in Scotland and in this important area of public policy. Scottish Government will be keen to ensure that within any devolved arrangement, the approach to operational delivery does not lead to increased risk to rail passengers, staff, freight industries or the wider economy. It is important that the devolved arrangements provide clarity in terms of operational effectiveness, oversight, governance and audit of the policing function in Scotland, while also supporting the specialist, network wide transport policing requirements for the rest of the United Kingdom (UK).

There is a risk to the benefits that are currently provided to passengers and the railway industry in Scotland if BTP’s functions in Scotland become a small transport unit within a large and complex organisation. This is because the specialist approach (sometimes referred to as the ‘transport policing ethos’) may not receive the priority currently enjoyed when set against wider policing demand of a much larger organisation that is rightly focused on the policing requirements of a residential population. The Scottish Government may wish to take account of the evidence available from other jurisdictions where Transport Policing has been devolved to geographic police forces.

When considering the additional benefits to be achieved through integration, Government will want to clearly benchmark any future operational model against the documented value added style of policing currently delivered on the railways in Scotland.

An example of this is to be found in the approach to fatalities on the railway. From a statutory perspective, police are required to investigate to ascertain if a crime has been committed, identify the victim, report the circumstances to the Procurator Fiscal in Scotland, as well as to support the family. There is also a responsibility to vulnerable people and to preserve life under
Human Rights legislation. In support of this, BTP provides much more including preventative analysis, body retrieval strategies, categorisation processes, PIER (Prevention, Intelligence, Enforcement, Reassurance) plans that actively manage risk associated with vulnerable individuals, and engagement and agreements with the Crown Office and Procurator Fiscal service. It will be important to track the continued delivery of the wider benefits such an approach delivers.

Currently for example, as a result of this approach BTP is able to monetise the value that is provided to the rail industry and society through both the reduction of crime and also the unique risk-based approach to incident management. For example, when dealing with bomb threats and unattended items, BTP has dealt with over 10,000 threats to the railway network over the last ten years and not once recommended closure. Analysis carried out between April 2012 and March 2013 showed that geographic police forces had attended suspect packages on the railway 13 times and had recommended closure on each occasion (subsequent BTP intervention reversed those decisions). Analysis of past station closures estimate an impact of around 33,320 delay minutes (£931k) caused for each major station closure. Other police forces also recommended closure of stations during 70% of the suspect package incidents when they attended before BTP, with the potential to create expensive and highly inconvenient disruption to passengers. Another example of how the transport policing ethos is highly effective in keeping the railway running and people moving is in relation to fatality incidents where, on average, there are 50% more delay minutes when BTP is not the first responder. In respect of cable theft incidents, delay times when BTP is first on the scene are generally around one third that of other forces. When this data is extrapolated, it is clear that BTP saves the travelling public a great inconvenience and saves the rail industry a significant amount of money through their specialist approach and activity.

This approach is cultural and has been honed over the two decades since privatisation of the network and continues to be enhanced from being embedded in a commercially focused and specialist organisation. It will be important to clearly set out how the continued delivery of such benefits can be assured and measured.
The ability to police across two legal systems is important in day-to-day terms. When a crime or disorder occurs, often the exact location of the incident cannot be pinpointed. As BTP is responsible for policing the whole network, it is less problematic when the exact location of a crime is uncertain. Many passenger journeys involve cross border operators and any uncertainty as to which force should investigate crimes would be both distressing for victims and cause unnecessary delay.

An example of regular cross border travel which is currently policed seamlessly by BTP is the policing of football supporters. Either fans based in Scotland e.g. Newcastle United Football Club supporters using services from points across Scotland to travel down to Newcastle for home matches and further afield for away matches, or fans based in England who travel to Scotland are escorted through the network. These regular and significant movements are coordinated between BTP Scottish Division and BTP’s B and C Divisions. A further example is the policing of the last service trains leaving Carlisle for Dumfries and further north. These are policed in operations by BTP’s Scottish Division and BTP Pennine Sub-Division, reassuring staff and the travelling public. This joined-up method of policing is highly valued by the railway industry and passengers. It will be important to ensure such arrangements are preserved.

A significant change in the way network wide railway policing is delivered could adversely impact the current partnership working with the rail industry and will require clear service level agreements. Examples would include bespoke training for rail staff in Conflict Management techniques; specialist support for major infrastructure projects mitigating the risk from criminality and bespoke joint training with police / rail control and other safety critical staff. It will be important to preserve the clear understanding of the singular relationship and operating environment of the railways and especially the importance of striking a balance between national aims and commercial and economic needs.

To further improve the quality service provided to the travelling public and the rail industry the Scottish Government may wish to consider continued regular engagement between the Chief Constable of British Transport Police and Scottish Government Ministers, further developing the existing arrangements between BTP’s Scottish Divisional Commander and senior transport civil
servants to include justice colleagues, and expanding the working relationships between the British Transport Police Authority and the Scottish Police Authority.

Scottish Government may additionally wish to ensure passengers and operators benefit from a seamless approach to railway policing and suffer no detriment from unnecessary different approaches, to that end ensuring that steps are taken to ensure joint operational planning between BTP in England and Wales and Police Scotland is given priority so as to deliver consistency across the rail industry. The best opportunity to secure effective cross border working may be to legislate and provide a statutory duty rather than rely on collaboration if there is to be no diminution of service to victims and operators especially at the border.

The Scottish Government will wish to consider the importance of securing the national rail network from the threat of terrorism. Terrorism remains a UK reserved matter and the operational policing approach taken both sides of the border to protect the travelling public and the critical national infrastructure will need to be closely aligned.

In working to deliver this the Scottish Government may wish to consider how it introduces comprehensive plans to require interoperability of railway policing at the border, this may include detailed protocols to allow BTP in England and Wales and Police Scotland to work together on contingency planning; major incident response and effective and efficient communicates that allow the delivery of seamless policing for the benefit of the public particularly when incidents spontaneously occur when crossing the border.

2. What are your views on how to ensure that the skills, knowledge and experience of BTP officers are retained within Police Scotland?

Police officers and staff who join BTP have taken the decision to join a specialist police service. They are rightly proud of the work they do. As well as upholding national standards of ethics, they display behaviours which underpin the organisation’s commitment to the delivery of a safe, secure, reliable and expanding transport system. BTP officers are responsive and customer focused, recognising the potential knock-on impact of their actions and assisting industry
colleagues to minimise disruption to the railways. For example, they understand the impact a disruption related incident might have, not only in their locality, but across the entire network potentially causing critical incidents to occur hundreds of miles away. They are strong risk managers, often making critical decisions using evidence based methodologies and are committed to rapid service recovery, without compromising their duty to protect and serve the public.

The consultation document describes the positive opportunity for lateral development opportunities that may be available to BTP officers once they transfer. There is a substantial risk that this in fact directly detracts from the intent to maintain the specialist skills of current officers and this presents a risk of dilution of specialism in the longer term through the movement of staff. It may not be practically possible for officers to develop the necessary skills and understanding to optimally police the complex and often dangerous railway environment through short term postings to the transport unit that the paper seeks to create.

It will be important to mitigate potential diseconomies of scale that may accrue in servicing and maintaining a relatively small specialist function within a larger, more complex and diverse organisation. An example might be the need for Police Scotland to ensure that all of its officers who may be called upon to respond to railway incidents are skilled, trained and equipped to operate in a highly regulated and safety critical environment. Initial track safety training, for example, is a two day commitment and must be undertaken by any officer who may enter onto the railway network. In addition railway specific legislation is delivered to new recruits on local procedure courses as well as annual refreshers. Officers are also trained in specialist body recovery methods to assist in fatal accidents.

3. What do you see as the best way for SPA to engage with the rail industry and passengers in setting railway policing priorities?

The SPA will need to introduce processes and procedures to establish and maintain very strong relationships and close engagement with the rail industry. BTP organisational direction is currently set in consultation with stakeholders and organisational strategy is driven by the
Priorities of the railway. A network wide function allows a coherent strategic direction as well as an operational approach which ensures that incidents affecting the public and rail staff are managed and investigated in a consistent manner. The SPA will need to establish such arrangements with all operators of services relevant to Scotland, and ensure that these are consistent and complimentary to those in place with BTP.

4. What amendments to the current cost allocation regime should we consider?

Any new cost allocation model must take account of cross border services and be formulated in such a way that there is an equitable distribution of costs for those operators who provide cross border services.

The issue of charging for centrally provided services also needs to be addressed in a way that does not lead to any detrimental impact, either financially or in terms of service delivery, on other Police Services Agreement (PSA) holders in England and Wales. Currently, charges to PSA holders have a direct element and a centrally provided services cost. Any calculated benefit or saving from centrally provided services would need to consider any consequential re-charge to English and Welsh operators to sustain the viability of some of the departments and maintain the principle of no detriment.

There would also be a significant change in the proxy measures used for the charging model. Given the complexity of how these proxies contribute to the overall charge it is not possible to accurately predict what these changes would be in relation to individual operators. The disaggregation of proxies for long haul, cross border operators would be particularly challenging. The cost of change will need to be addressed in advance and addressed such that the wider PSA holding community are not cross funding the cost of change, thereby avoiding potential legal challenge.
5. What do you think should be included in a revised Police Services Agreement to maintain or enhance the policing service currently provided?

No observation made (the BTPA will provide a response to this question).

6. What are your views regarding our proposals for BTP officers and staff transferring to Police Scotland? Do you have views on a preferred option for the timing of negotiating terms and conditions?

It is very unclear what legal mechanism will be used for BTP officers and staff transferring to Police Scotland and, given that TUPE would be unlikely to be applicable, this would appear to be problematic.

Both BTP officers and staff are contracted employees. In addition officers are appointed as constables. They are subject to complex and long-standing terms and conditions which would need to be fully considered, including some terms and conditions, such as the provision of travel facilities (into retirement for many), redundancy and resettlement, as well as movement protections. Many of these are protected by virtue of legislation or contracts that often pre-date the privatisation of the railways.

The legal and contractual issues associated with transferring staff in these unusual circumstances will need to be fully considered at an early stage.

The proposal and its implications for terms and conditions will inevitably cause significant uncertainty for affected staff. Understanding the legal framework for transfer will help reduce this and the Scottish Government may wish to aim to agree terms early on and prior to any transfer.
7. What are the main points to consider when discussing the future of pensions for BTP officers and staff?

There appear to be two broad options associated with the arrangement for future pensions:
1) that the SPA becomes a new and second sponsoring employer in the existing funds or
2) that the benefits (and corresponding assets) for the affected Scottish members are transferred into a new scheme. The Scottish Government will need to consider how to provide benefits to protected members in the future.

The Scottish Government will need to ensure that all of the constituent stakeholders, for example trustees of the Schemes, those in receipt of pensions, existing staff and staff associations were satisfied that any new arrangements would be at no detriment to officers and staff in Police Scotland or in England and Wales, or those in receipt of the pension from BTP’s Scottish Division. There are also safeguarded travel rights that apply to current officers, staff and pensioners and the arrangements that are to be put in place to protect these rights in the future should also be detailed.

8. Are there any likely impacts the proposals contained in this consultation may have on particular groups of people, with reference to the “protected characteristics” listed on page 22? Please be as specific as possible.

How the rights of BTP staff would be protected is still unclear and substantial resettlement and relocation requirements for some staff may be necessary. This could have a particular impact on staff that have flexible working arrangements and child care or other caring responsibilities.
9. Do you think the proposals contained in this consultation are likely to increase or reduce the costs and burdens placed on any sector? Please be as specific as possible.

Any diminution of the specialist service that is currently provided to the railway sector could result in more disruption and associated cost. Analysis has shown that the value of this service is many hundreds of millions of pounds each year. These will need to be safeguarded in the detail of the service level agreements.

The cost of the transition to the proposed model will need to be properly provided for to PSA holders bearing the cost of change.

10. Are there any likely impacts the proposals contained in this consultation may have upon the privacy of individuals? Please be as specific as possible.

No observation made.

11. Are there any likely impacts the proposals contained in this consultation may have upon the environment? Please be as specific as possible.

No observation made.