

RAILWAY POLICING (SCOTLAND) BILL

FINANCIAL MEMORANDUM

INTRODUCTION

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Railway Policing (Scotland) Bill, introduced in the Scottish Parliament on 8 December 2016.
2. The following other accompanying documents are published separately:
 - statements on legislative competence by the Presiding Officer and the Cabinet Secretary for Justice (Michael Matheson MSP) (SP Bill 2–LC);
 - Explanatory Notes (SP Bill 2–EN);
 - a Policy Memorandum (SP Bill 2–PM).
3. This Financial Memorandum has been prepared by the Scottish Government. It does not form part of the Bill and has not been endorsed by the Parliament. This Financial Memorandum will provide background information on funding for railway policing in Scotland and will set out:
 - best estimates of the administrative, compliance and other costs to which the provisions of the Bill would give rise;
 - best estimates of the timescales over which such costs would be expected to arise; and
 - an indication of the margins of uncertainty in such estimates.
4. The Financial Memorandum will distinguish separately such costs as would fall upon:
 - the Scottish Administration;
 - local authorities; and
 - other bodies, individuals and businesses.
5. A glossary of the expressions and abbreviations used in this Memorandum can be found at the end.

BACKGROUND INFORMATION

6. Strategic rail planning is currently carried out at a UK level in five-year cycles known as Control Periods (CPs) determined by the Office of Rail and Road¹. The British Transport Police Authority (BTPA), established under the Railways and Transport Safety Act 2003, is a public body responsible for overseeing the British Transport Police (BTP), setting its priorities and allocating its funding. It is appointed by and accountable to the UK Government's Secretary of State for Transport and became a cross border public authority for the purposes of the Scotland Act 1998 in 2016 following the commencement of relevant provisions in the Scotland Act 2016. The statutory functions of the BTPA include maintaining an effective and efficient police force to police the railways; entering into agreements for the provision of policing services by that force; setting annual objectives and issuing an annual plan for policing the railways.

7. The BTPA has passed the mid-point of its 2013-2019 Strategic Plan² covering the current CP5 for 2014-19, with CP6 due to start on 1 April 2019. The BTP has a Strategic Plan which addresses medium and longer term objectives, as agreed with the BTPA, which sets out what it intends to achieve and deliver. In addition to its Strategic Plan, the BTP also publishes annual policing plans covering both local and national objectives. The Scottish Division of the BTP is known within the BTP structure as D Division and covers the rail network throughout Scotland and the Glasgow Subway network. The plan for the BTP D Division sets out how it will police the railway network and operator services in Scotland, and is published online in the BTP Annual Policing Plan³.

8. The BTP in Scotland is funded through contributions from the railway industry, whereby Network Rail, Train Operating Companies and Freight Operating Companies enter into a Police Services Agreement (PSA) with the BTPA, under which they pay for the policing services they receive. For example, both Abellio ScotRail Limited and Serco Caledonian Sleepers Limited (the ScotRail and Sleeper franchisees) have entered into PSAs for the new Scottish Government franchises which commenced on 1 April 2015.

9. The exact costs payable under each PSA are calculated through the current version of the BTPA Cost Allocation Model which calculates the contribution for each PSA holder based on a number of factors including staffing levels, track access charges, station usage, train kilometres, footfall data, size of railway network, patronage and crime levels.

Railway Policing Income and Costs in Scotland

10. The current PSA funding model ensures that the cost of railway policing is met by income from the railway industry. The BTP establishes a budget for railway policing at the start of the financial year and allocates a cost to each PSA holder with an annual financial reconciliation that determines if a cost deficit or surplus has occurred; if this is the case, then there is a balancing charge or refund applied.

¹<http://orr.gov.uk/what-and-how-we-regulate/regulation-of-network-rail/how-we-regulate-network-rail/control-period-5-cp5>

²<http://www.btp.police.uk/pdf/BTPAstrategicplan2013.pdf>

³http://btpa.police.uk/livesite/wp-content/uploads/2016/08/BTPA_National_Policing_Plans_2016-17FinAp.pdf

11. Financial data provided by the BTPA shows that the total income/cost of railway policing in Scotland was £20.369 million in 2014/15, £21.974 million in 2015/16 and their budget estimate for 2016/17 is £20.755 million; these BTPA financial details are summarised in Table 1 below. More details pertaining to these financial data are available in the BTP Fund Annual Report and Accounts for 2015-16⁴; which includes financial analysis of five-year financial performance and current year performance.

Table 1: Summary of Railway Policing income/costs in Scotland 2014-2017

	BTP Scotland share for Business Services £ million	BTP Scotland share for Operations £ million	BTP railway policing total income/costs £ million
2014/15 Actual	4.429	15.940	20.369
% of total	21.74%	78.26%	
2015/16 Actual	5.456	16.518	21.974
% of total	24.83%	75.17%	
2016/17 Budget	4.371	16.384	20.755
% of total	21.06%	78.94%	

12. The Scottish Government remains the principal funder of all railway infrastructure and service provision in Scotland and investment in new and better services to support passenger growth remains a key priority. Since 2007, the Scottish Government has committed over £6 billion to improvements in rail infrastructure and services. The Scottish Government invests over £700 million per annum in rail infrastructure and rail passenger services in Scotland. This investment includes franchise payments and subsidies made to Abellio ScotRail Limited (ASR) – the ScotRail franchisee; Serco Caledonian Sleepers Limited (SCSL) – the Sleeper franchisee; and to support Network Rail UK Ltd in its operation, maintenance, renewal and enhancement of the rail network in Scotland.

13. The cost to ASR, SCSL and Network Rail (which together contribute approximately 97% of the cost of railway policing in Scotland) is effectively supported (in part) by the franchise payments and subsidies from the Scottish Government. Cross-border franchises let by the UK Government Department for Transport also contribute to the overall costs of railway policing in Scotland. In broad terms this means that the three main operators pay about £21 million each year for railway policing with about £600,000 paid in total by: West Coast Trains, East Coast Trains, CrossCounty and Transpennine Express as well as other freight operators, small passenger operators and maintenance services.

⁴ http://btpa.police.uk/livesite/wp-content/uploads/2012/07/BTPA_Annual_Report_Low-Res_.pdf

14. The Scottish Government proposes to maintain the current direct relationship between railway policing and the railway industry in Scotland through a series of Railway Policing Agreements (RPAs) between the rail industry and Scottish Police Authority (SPA). These RPAs will build on the existing PSA model with the railway industry with suitable adaptations to align them with these new institutional arrangements for Scotland. As with the PSA approach, the intention of the RPAs proposed by the Bill is to give the industry a clear picture of the service they can expect to receive in relation to railway policing and at the same time provide clarity over costs for operators. The form and general content of an RPA will be developed in consultation with the railway industry in Scotland. However, the underpinning principle will remain that income from the rail industry will equal expenditure on railway policing in Scotland.

COSTS ON THE SCOTTISH ADMINISTRATION

15. The cost of railway policing is not expected to rise as a result of the changes made by this Bill as the Scottish Government's policy is that the costs of operational railway policing in Scotland would continue to be fully funded by the rail industry through the new RPAs and no net additional costs would fall on the Scottish Administration. The cost of railway policing in Scotland that is chargeable through the PSAs already covers a wide range of operational and wider overhead costs, for example training, equipment, buildings and vehicles. The plan is that these would be met from the income that would flow to the SPA from railway operators under the new RPAs, in much the same way as happens at present under the PSA model.

Future Railway Policing income/costs in Scotland

16. Current BTPA cost estimates are based on an assumption that annual railway policing costs should not rise by more than the cost of RPI inflation. In Table 2 below the UK Government RPI estimates for 2017-21 are applied to the railway policing budget in Scotland, using data published by the Office for Budget Responsibility (OBR) in March 2016⁵. No OBR estimate is available for 2021/22 therefore an assumption of 3.2% is used. The baseline cost used for these estimates is the average BTP Scotland annual cost in 2014-17 of £21.033 million per annum.

17. The Bill makes provision for appeal in event of dispute; although this has not been required under the current BTPA charging model and agreements with railway operators for the provision of railway policing services. The Policy Memorandum makes clear that the Scottish Government proposes to maintain the current model and arrangements with suitable adaptations to make them work for Scotland. The likelihood of appeals arising under the new model of engagement and agreement by SPA with the railway industry is therefore assessed as being low, and accordingly there are no costs for which the Scottish Government considers it needs to make provision.

18. It is important to stress that SPA and Police Scotland will be expected to deliver the service in the most efficient way possible, consistent with the terms of the RPA. Where there is scope for efficiencies, for example in corporate overheads, the expectation is that an appropriate share of such savings will be passed on to operators under the RPA. It should therefore not be

⁵ <http://budgetresponsibility.org.uk/efo/economic-fiscal-outlook-march-2016/>

assumed that costs will rise by RPI every year and the figures below represent a financial envelope that railway policing in Scotland will be expected to operate within rather than representing a fixed RPI escalator.

19. As noted above, the key financial principle for all years is that future annual income balances projected expenditure for railway policing in Scotland with reconciliation at the end of all financial years.

Table 2: Estimated Railway Policing income/costs in Scotland 2017-2022

Financial Year	OBR Estimated RPI %	BTP estimated income/costs £ million
2017/18	2.8	21.621
2018/19	3.4	22.356
2019/20	3.2	23.071
2020/21	3.2	23.809
2021/22	3.2	24.570

Transitional and Project Costs

20. There will be minor transitional costs for SPA/Police Scotland such as the changing of police badges on uniform/vehicles, HR data transfer and aspects of operational integration. Such costs are expected to be small, as vehicles and uniforms are replaced on a regular basis and these are, in any event, small elements of overall costs. The working assumption is that such costs can be accommodated within the overall overhead spend associated with railway policing, given the scope for efficiencies discussed below.

Terms and Conditions of Service

21. BTP officers and staff are currently on terms and conditions of service different to those for Police Scotland. In abiding with the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector (sometimes referred to as COSOP), the Scottish Government intends ensuring so far as possible that (1) the transfer (including terms of transfer) is effected by legislation and (2) the staff transferred are treated no less favourably than they would have been had the Transfer of Undertaking (Protection of Employment) Regulations 2006 (as amended) (commonly referred to as TUPE) applied. A Scottish Government-led project will discuss these terms and conditions of service with staff representatives and key stakeholders to determine a reasonable way forward that provides appropriate protections for officers and staff.

22. The principle that will be applied will be one of no detriment, meaning that the Scottish Government expects future terms and conditions to be similar in overall terms to those that BTP officers and staff enjoy at present, even if some of the details within the terms and conditions change over time. The Scottish Government's assumption is therefore that staffing costs

following integration will be broadly similar to those at present, for at least the first three to five years of operation, and continue to be funded within the overall envelope of railway policing funding set out in Table 1.

Railway Policing Pensions

23. The cost of future railway policing pensions is a key consideration for the Scottish Government. The Scottish Government aims to ensure that public sector pensions are affordable, sustainable and fair. Doing so will help ensure that railway policing officers and staff in Scotland remain well-skilled and well-motivated as they deliver an essential service across Scotland. The Scottish Government recognises the importance of Terms and Conditions of Service to BTP officers and staff, and will make every effort to engage with officer and staff associations and representatives in order to provide clarity and reassurance.

24. The British Transport Police Force Superannuation Fund (BTPFSF) and the British Transport Section of the Railways Pension Scheme (RPS) are both defined benefit, funded pension schemes in which employee and employer contributions are invested in a fund towards meeting the scheme benefits.

25. As of 1 April 2015, new entrants to the BTPFSF have joined the new Career Average Revalued Earnings section which provides benefits which are broadly equivalent to those provided by Police Scotland for new officers. Although the Police Pension Scheme in Scotland (with pension reforms in 1987, 2006 and 2015) is also a defined benefit scheme, it is by contrast an unfunded scheme (also known as a 'pay-as-you-go' pension scheme - no investment fund exists to cover future pension payments).

26. In the BTPA Annual Report and Accounts for 2015-16⁶ 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.**

27. 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. The underpinning principle will remain that income from the rail industry will equal expenditure on railway policing, including employer pension contributions, in each financial year and no net additional employer pension costs for railway police officers/staff will fall on the Scottish Administration.

28. Broadly, options include maintaining current provisions as far as possible, or undertaking a transfer of rights into existing Police Scotland arrangements with no loss of accrued benefit.

⁶ http://btpa.police.uk/livesite/wp-content/uploads/2012/07/BTPA_Annual_Report_Low-Res_.pdf

However, there are many aspects of both these options that require further analysis and it is natural that all groups will seek advice during the process of discussions. The Scottish Government will refer to pension and actuarial experts to ensure the arrangements are fair for officers, staff and the Scottish taxpayer. Any change that might occur would be small in the context of the £278.4 million cost of police pensions in Scotland in 2015-16.

Railway Policing in Scotland – Operational Costs

29. The Scottish Government's estimates of future costs are based on the same numbers and rank/grade of operational officers and staff in Scotland as is provided by the BTP at present. This will be key to delivering on the Scottish Government's promise of maintaining capacity and capability of railway policing under the new arrangements. 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.

30. Police Scotland will lead an operational policing integration project and as part of that will have to evaluate what training is currently provided for BTP D Division officers and staff, what the current training costs are and how best that may be delivered. It may be that economies of scale could be delivered with police training in Scotland and some training may be more efficiently delivered in partnership with other training providers and services such as the BTP. The Scottish Government's assumption is that future training costs will be the same or very similar to those incurred at present, and will continue to be funded by the industry through the RPA mechanism as they are at present under PSAs.

31. As noted above, a range of other operational overheads are also funded through the PSA mechanism, including uniforms, equipment, IT, vehicles, buildings etc. The working assumptions are based on there being little change in the direct operational overheads that support daily policing, with some limited scope for efficiencies through e.g. economies of scale in vehicle procurement. The Scottish Government also plans to closely examine costs relating to specialist operational teams within the BTP that appear to be based outside Scotland, but which are partly funded by Scottish operators as they are capable of being deployed in Scotland. In order to assist with understanding of the income/costs of railway policing in Scotland, the BTPA has provided the Scottish Government with the detailed cost codes for BTP railway policing in Scotland; these have been summarised in Table 3 under six general cost groups that broadly show the Scottish share of BTP costs in 2014/15.

Table 3: Railway Policing Costs in Scotland for 2014-15

Category	Costs	£ million	%
1	BTP Policing Operations	11.945	58.6
2	Operational Support	3.399	16.7
3	Corporate Services	2.193	10.8
4	Property/Equipment/Travel	1.746	8.6
5	BTP HQ & Senior Officers	0.870	4.3
6	Deficit/Surplus	+0.216	1.1
	Total in 2014/15	20.369	100

Potential Efficiencies

32. The costs of railway policing in Scotland currently also include a significant element of non-operational overheads for corporate functions of the BTP and the BTPA. The Scottish Government's expectation is that, in future, such corporate functions (e.g. finance, procurement and HR) will be provided by Police Scotland, although it may be that Police Scotland would wish to arrange with BTP for them to provide some services (e.g. aspects of specialist training) for an interim or extended period.

33. While additional capacity will be required in Police Scotland to deliver some of these functions, the Scottish Government believes there is scope for significant efficiencies through integration with Police Scotland. 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. No changes to the senior command structure within Police Scotland are planned. Further work will be undertaken to determine the full potential of corporate efficiencies as part of the transitional arrangements.

COSTS ON LOCAL AUTHORITIES IN SCOTLAND

34. As previously detailed in this memorandum the BTP in Scotland is funded through contributions from the railway industry and no costs are expected to fall on local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES IN SCOTLAND

35. As with local authorities, no costs are expected to fall on other bodies, individuals and businesses other than those previously detailed costs agreed by the railway industry and SPA/Police Scotland within the context of their Railway Policing Agreement/s (with estimated costs for the five financial years 2017-2022 as shown in Table 2).

36. The Scottish Government is working on a joint programme together with the UK Government Department for Transport (DfT), Transport Scotland, SPA and the BTPA. In this joint working the Scottish Government is mindful of the potential for financial impact on the

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BTPA and the railway industry in England and Wales, although the details of any such potential impacts are outside the scope of this Scottish Government Financial Memorandum. The Scottish Government, Transport Scotland and the SPA will work closely with DfT and the BTPA on financial matters of mutual concern.

GLOSSARY OF EXPRESSIONS AND ABBREVIATIONS USED

ASR	Abellio ScotRail Limited
BTP	British Transport Police
BTPA	British Transport Police Authority
BTPFSF	British Transport Police Superannuation Fund
CP	Control Period (see para 6)
DfT	Department for Transport
OBR	Office for Budget Responsibility
Police Scotland	The Police Service of Scotland (established by section 6 of the Police and Fire Reform (Scotland) Act 2012). In the 2012 Act, Police Scotland is referred to as the “Police Service”.
PSA	Police Service Agreement (see section 31 of the Railways and Transport Safety Act 2003)
Railway operator	A person (which in this context can include an individual, company or organisation) who has the management or control, or participation in the management or control of all or part or an aspect of a railway or railway property. (See section 1 of the Bill, inserted section 85M of the Police and Fire Reform (Scotland) Act 2012)
RPA	Railway Policing Agreement (see section 1 of the Bill)
RPI	Retail Prices Index
RPS	Railways Pension Scheme
SCSL	Serco Caledonian Sleepers Limited
SPA	The Scottish Police Authority (established by section 1 of Police and Fire Reform (Scotland) Act 2012). In the 2012 Act, the SPA is referred to as “the Authority”.

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