

Justice Committee

Proposed integration of the British Transport Police in Scotland into Police Scotland

Written submission from Dr Kath Murray

This paper examines policy-making and progress on the integration of BTP Scotland into Police Scotland. Detailing an emphasis on assurance and assertion, rather than expert knowledge, the analysis shows how the complexity and cost of full integration was underestimated.

With complex and multiple risks now surfacing, it is argued that there has been a significant and material change of circumstances from the Bill as passed. These include a potential £100 million pension liability, lack of clear agreement on the operating model, ICT challenges, rising transition costs with attendant risks to police transformation, and a failure to secure workforce support. Additional risks include the loss of a specialist leadership team and established relationships with the rail industry.

Overall, the analysis suggests that the current policy direction does not reflect Best Value and is difficult to justify. In terms of next steps, it is argued that decision-making needs to be evidence-based, accountable and transparent, with a clear acknowledgement of the risks and costs.

In March 2018, at the request of the Scottish Police Authority, Police Scotland committed to undertake cost-benefit analysis on full integration. Taking an evidence-based and strategic approach, it is now suggested that:

- work on full integration is suspended pending results of the cost-benefit analysis;
- other options for the delivery of railway policing in Scotland are fully explored, including the commissioned service model;
- the cost-benefit analysis results are subject to independent review by the Justice Committee and Audit Scotland. *These findings should also be independently reviewed by rail safety and industry experts, including the Office of Road and Rail.*

Background

1. The Joint Programme Board (JPB) on BTP integration was established in January 2016,¹ chaired jointly by Scottish Government and the Department for Transport. Public consultation on full integration ran from 29 June to 24 August 2016. In December 2016, the Scottish Government published the Railway Policing Bill and its accompanying documents.²
2. In early 2017 JPB membership was extended to the BTP and Police Scotland.³
3. In practice, the deferred membership of both organisations meant that operational policing input and railway policing expertise was limited during the formative year of the JPB.
4. The decision not to prepare a full business case (counter to Scottish Government Project Management principles)⁴ also precluded a robust understanding of the risks associated with integration, notably in relation to feasibility and affordability.

¹ BTP Integration Programme. 1st Joint Programme Board Meeting. [Note of Meeting](#) 21 January 2016.

² SPICe Briefing. [Railway Policing \(Scotland\) Bill](#) 1 March 2017.

³ BTP Integration Programme, 6th Joint Programme Board Meeting. [Note of Meeting](#) 23 November 2016.

⁴ Scottish Government. [Programme and Project Management Principles](#).

5. While the Bill documentation set out assurances on integration, this was not based on detailed evidence and analysis. For example, the Final Business and Regulatory Impact Assessment asserted: *Assurances on the maintenance of seamless cross-border policing, the importance of rail safety, the maintenance of officer numbers, no cost increase above inflation (RPI), no detriment to terms and conditions of service/pensions have all been repeated in Bill supporting papers, as in the Consultation.*⁵
6. The public consultation elicited a significant number of objections to full integration.⁶ In response, Scottish Government noted that most objections appeared to assume that railway policing funding and capacity would reduce and asserted ‘this will not be the case’, referring to assurances set out in the policy memorandum.⁷
7. While railway experts cautioned about the complexity of full integration and lack of identifiable operational or economic benefits, these concerns were overridden. The narrow consultation remit also precluded consideration of alternative models. As former Justice Secretary Kenny MacAskill recently commented: *‘It is obviously proven far more complex than had been imagined... It was flagged up by [BTP/Federation] that the issue was far more protracted and procedural than simply the political and policing arguments that were to the fore... Rightly or wrongly their voices were drowned out by those demanding integration into the single service.’*⁸
8. While some Police Scotland and SPA representatives provided verbal assurance that full integration could be successfully delivered,⁹ this confidence was not uniformly felt. In August 2016 SPA Board Members raised ‘concerns’ at a Members’ meeting. The substantive details are however, redacted in the minutes.¹⁰
9. Written evidence from Police Scotland on the Financial Memorandum (FM) also expressed caution in relation to costs: *Without properly scoping the extent and complexities involved in the Programme, the FM cannot accurately reflect the margins of uncertainty associated with the Bills estimated costs and timescales... The FM does not make full provision for set-up costs associated with the Bill and, as a consequence, cannot reasonably capture the areas where there is the potential for costs to be incurred.*¹¹
10. In May 2017,¹² SPA Board members raised concerns including pension arrangements and finance, asset allocation, whether Police Scotland systems could be integrated with BTP systems within the set timeframe, and the impact of costs on train operators in England and Wales.
11. Further risks surfaced following Royal Assent. A Police Scotland paper presented to the SPA in December 2017 flagged significant concerns, including the potential loss of experienced staff:¹³
 - Failure to Agree Key Asset Transfer/Contract Decisions;
 - Inadequate Information Sharing to Progress Integration;
 - BTP Officers – Terms and Conditions of Service;

⁵ Scottish Government Railway Policing (Scotland) Bill [Final Business and Regulatory Impact](#) 6 December 2016.

⁶ Nicholson, L. [Consultation on the Integration of the BTP in Scotland into Police Scotland](#). 2016.

⁷ See note 5. Page 2.

⁸ MacAskill, K. [Signals on Hold](#) Police Professional (subscription). March 2018.

⁹ Justice Committee. [8th Meeting](#) 7 March 2017.

¹⁰ Scottish Police Authority. Record of Members’ meetings provided to the Scottish Parliament Public Audit Committee ([page 44](#)).

¹¹ Scottish Parliament Finance and Constitution Committee. Call for Evidence on the Railway Policing (Scotland) Bill. [Response from Police Scotland](#).

¹² Scottish Police Authority. [Minute of Scottish Police Authority Board Meeting \(para. 14\)](#) 25 May 2017.

¹³ Police Scotland. [British Transport Police \(BTP\) Integration Update](#) 19 December 2017.

- Partners providing sufficient resources to meet project deadlines and deliver efficient and effective Programme Management support;
 - Reduced Quality and/or Level of Due Diligence; and
 - Exit of BTP Staff and Officers in Scotland.
12. Further serious risks were reiterated at the 20 February 2018 JPB meeting, at which point the potential risk to public safety prompted the decision to delay integration.¹⁴
13. At the same meeting the JPB chose to reject¹⁵ the ‘commissioned service’ model proposed by the

Box 1. Commissioned service model

The commissioned service model aims to strengthen accountability, improve access to Police Scotland resources and retain specialist skills without operational or financial risk. The model also removes issues around pensions, terms and conditions. In accountability terms, the model is similar to the [devolved model of forestry](#) recently passed by the Scottish Parliament.

BTP/A (and supported by the BTP Federation).¹⁶

14. In March 2018 an update paper by the BTP/A summarised the reasons for the delay as follows:¹⁷
- the current lack of resources, skills and data;
 - the continuing failure to agree key asset transfers;
 - the lack of progress on the development of Railway Policing Agreements;
 - the inadequacy of Police Scotland ICT systems and processes
 - the continued lack of clarity over transferring BTP officers terms and conditions; and
 - *concerns over the rising cost of integration and its impact on both Police Scotland and BTPA’s transformation programmes (my emphasis).*

Integration costs and police reform

15. As noted above, in February 2018 the JPB acknowledged that the increasing cost of integration represented a risk to Police Scotland and BTPA police transformation programmes.
16. At the time of writing, it is not clear which body will meet these costs. The Scottish Government has stated transition costs will be met from the Police Scotland reform budget;¹⁸ however, BTP integration is not detailed in the Police Scotland 2018/19 draft budget¹⁹ and Police Scotland has stated that ‘it is not prepared to divert resources away from the Policing 2026 Transformation Portfolio.’²⁰ The BTPA position is also unclear. Note also that the Authority had anticipated completion by April 2019, which is no longer the case.
17. Known transition costs in Scotland are provisionally around £3 million (tbc)²¹ with dependency on outsourcing. Work on delivering integration is yet to begin, with costs likely to increase significantly.

¹⁴ [DCC Iain Livingstone](#) 20 February 2018.

¹⁵ BTP Integration Programme. [Special Joint Programme Board Meeting](#) (page 2) 20 February 2018.

¹⁶ BTP Federation. [Briefing Paper: Integration of BTP Scotland into Police Scotland](#) (page 3) 26 March 2018.

¹⁷ BTP Authority. [Scotland Project – Update](#). 22 March 2018.

¹⁸ Scottish Parliament. [Question S5W-14860](#) Answered by Humza Yousaf on 14 March 2018.

¹⁹ Police Scotland. [2018/19 Draft Budget](#) 29 March 2018.

²⁰ Reproduced in: Herald. [Leak: SNP Government shelved railway force merger after £100m black hole identified](#) 29 March 2018.

²¹ Programme change management (£400k) Police Scotland resource costs (£1.5m) pension set up costs (£400k) (source: [SPA paper 7.2](#) December 2017). Consultancy fees under discussion (£700k) (source: Scottish Parliament. [Meeting of the Scottish Parliament](#) 29 March 2018).

ICT remains a serious challenge, exacerbated by the failure of i6 and complex Police Scotland ICT architecture. Overall, this position suggests a significant departure from the Financial Memorandum:

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...²²

18. The potential pension liability associated with transferring officers is estimated between £45 million and £100 million.²³ Again, it is not clear which body will meet this cost. In February 2018 the SPA asked the Scottish Government to cover the pension liability,²⁴ while Scottish Government has since stated that it expects the SPA to meet the liability.²⁵
19. When accounting for the potential pension liability the current cost of integration ranges from around £225,000 to £480,000 per transferring officer.²⁶

Workforce concerns

20. Independent research^{27 28} published in January 2018 confirmed the risk of losing experienced staff.
21. Around two-thirds had given serious thought to leaving due to the merger, with a higher risk among more experienced staff: 79% of those with 11 to 15 years service had given serious thought to leaving, compared to 47% with 5 years or less service.
22. More than 8 out of 10 respondents opposed integration. Overall, the research identified frustration and hostility towards integration, exacerbated by uncertainty on terms, conditions and pensions, and a lack of perceived operational benefits (Box 2).

Box 2. BTP Leaving Home project

'We are all scunnered and completely fed up. Nobody wants to be here just now, the heads are down. We don't know what is happening, what we are keeping, what we are losing, where we will be working, who will be in charge of us, what we will be doing, are our pensions safe, can we still retire when we were entitled to when we signed up for the BTP?'

'This merger isn't just a change of policing structure, it is a huge change affecting the daily lives of police officers and staff, human beings.'

'No one knows what's happening and people are worried about their futures. We can't see any valid reason for the merger and how it can be cost effective.'

'I find it incredible that a merger of this size has been allowed to progress without a formal business case outlining the benefits and risks.'

'Police Scotland will be inheriting disgruntled, unhappy officers with morale as low as can be due to being forced into a merger that the majority of officers do not want... I can see many resigning or having to move elsewhere in the UK.'

23. Organisational pride was significantly associated with a lack of support for integration. More than 8 in 10 respondents agreed or strongly agreed that they were proud to work for the BTP/A, and most reported good working relationships, which some felt would be lost.

²² Scottish Parliamentary Corporate Body. [Railway Policing \(Scotland\) Bill. Financial Memorandum.](#)

²³ See note 20.

²⁴ Scottish Police Authority. [Finance Committee Chair Report](#) (para. 4) 27 February 2018. [Reporting on business from 7 February 2018].

²⁵ Scottish Parliament. [Question S5W-14863](#) Answered by Michael Matheson on 12 March 2018.

²⁶ Based on 213 police officers. Source: HMICS [2017: 9](#).

²⁷ Murray, K. and Atkinson, C. [The British Transport Police Leaving Home project. The impact of the transfer of British Transport Police \(BTP\) D Division into Police Scotland on officers and staff](#) 21 February 2018.

²⁸ 182 officers, staff and special constables took part in the study, with a response rate of 66%.

24. Of the 95 respondents who provided additional comments, 93 (one third of the full workforce) commented critically, with around half viewing the merger as politically motivated.
25. Similarly, Police Scotland/BTPA note: 'BTP Police staff and Police officers have been promised that a clear 'offer' around terms and conditions will be forthcoming at various times, however none of these commitments have been met. The impact of D Division staff has been significant and negative'.²⁹

Analysis and suggested next steps

26. Taking an overview of the current position, it is clear the complexity of BTP integration was underestimated. As reported by HMICS, the decision to integrate BTP Scotland into Police Scotland was Ministerial and 'no single, detailed and authoritative business case which articulates the benefits, disadvantages or costs of the transfer to Police Scotland was developed'.³⁰
27. Looking at the emerging risks and costs, it can be argued that there has been a significant and material change of circumstances from the Bill as passed. This is apparent in the potential £100 million pension liability, ongoing ICT challenges, rising transition costs with attendant risks to police transformation, and failure to secure workforce support. Additional risks include the loss of a specialist leadership team and established relationships with the rail industry.
28. While there is consensus on and support for the devolution of railway policing, it remains unclear as to whether stakeholders are agreed on an operating model. For example, whether a clean-break is preferable or even feasible, and if data-sharing/ICT and Command and Control arrangements have been agreed in principle with the BTP/A.
29. Without clarity and resolution on the above issues, it is not possible to secure seamless cross-border policing nor achieve an 'enhanced service' to the rail industry and travelling public, as anticipated by Scottish Government.³¹
30. In practice, it is likely that a dual-command structure on the railway, coupled with the resource intensive task of replicating a railway policing system, without any experience of railway policing, will impede both these aims. In other words, full integration *in itself* is likely to act as a barrier to an enhanced service and seamless cross-border policing.

Full integration at any cost?

31. The decision to reject the commissioned service model, or consider other options, suggests a 'full integration at any cost' approach. This position does not appear to reflect Best Value³² and is difficult to justify on several counts:
 - the overall level of known risk appears to have changed significantly, with potential risk to public safety cited as the overall reason for the delay;
 - resolving these issues is likely to be a lengthy process that will accrue significant costs;
 - as acknowledged by the JPB, the increasing cost of full integration is likely to detract from the respective Police Scotland and the BTP transformation programmes. For example, Police Scotland faces a significant ICT challenge, which is likely to be exacerbated by full integration;
 - there is a likelihood that costs associated with full integration will fall directly or indirectly on taxpayers;
 - considering the risks and costs, there is no clear evidence to show that full integration will deliver benefits to the rail industry or travelling public.

²⁹ See note 20.

³⁰ HMICS. [Strategic overview of BTP in Scotland including the proposed transfer to Police Scotland. December 2017.](#)

³¹ Scottish Government. [Railway policing integration](#) 20 February 2018.

³² Audit Scotland. [Best Value](#) Note Best Value refers to good governance, effective management of resources and covers a range of [activities](#), including financial and risk management, planning and resource alignment, and efficiency.

32. The sense of disconnection between emerging risks/costs and the current policy direction is striking and suggests that Ministers may not be fully sighted on the challenges associated with full integration.
33. In the absence of published analysis or detailed evidence it is also unclear whether the direction is in line with Scottish Government guidance on risk management i.e. whether the current position actively accounts for cost, feasibility, and balance of costs and gains.³³
34. For Police Scotland and the Scottish Police Authority the situation appears unprecedented and raises important constitutional questions about operational independence, roles, and accountability.
35. As acknowledged at the 20 February 2018 JPB meeting, Police Scotland and the BTP are now tasked with delivering a policy that is likely to put police transformation at risk and detract from other priorities. As a measure of the impact on resources, the BTPA CEO recently stated that 80% of her current work schedule is directed at Scotland.

Suggested next steps

36. Policing is a dynamic activity and as a matter of public interest and safety any unanticipated and/or significant change in risk needs to be reflected in decision-making. The same dynamic principle applies to Best Value, which is a statutory duty for both the SPA and Chief Constable.
37. While both Police Scotland and SPA representatives variously expressed confidence in full integration during the Bill, public safety and Best Value duties mean that previous assurances should not be viewed as fixed commitments, particularly given the lack of robust evidence at the time.
38. In terms of next steps, decision-making on the devolution of railway policing needs to be evidence-based, accountable and transparent, with a clear acknowledgement of risks and costs.
39. Accountability and transparency principles should extend to the key reports now due for publication,³⁴ actuarial advice, and papers discussed at the 20 February 2018 JPB meeting.
40. On 29 March 2018, at the request of the SPA, Police Scotland committed to undertake cost-benefit analysis as part of Phase I planning on integration.³⁵ These findings should be decisive in terms of next steps, although it is important to note the analysis will examine full integration only.
41. Taking an evidence-based and strategic approach that is consistent with Scottish Government risk and financial management Best Practice,^{36 37} it is now suggested that:

- work on full integration is suspended pending results of the cost-benefit analysis;
- other options for the delivery of railway policing in Scotland are fully explored, including the commissioned service model;
- the cost-benefit analysis results are subject to independent review by the Justice Committee and Audit Scotland. *The results should also be independently reviewed by rail safety and industry experts, including the [Office of Rail and Road](#).*

In line with Scottish Government Best Practice, assurance should not be provided by the JPB, given its involvement with delivery.³⁸

³³ Scottish Government. [Risk management: Response to risk](#).

³⁴ SPA Chair Susan Deacon. SPA Board Meeting. 29 March 2018 [[Livestream: 3 min 8 secs](#)]

³⁵ Graham Houston (SPA) and Tom McMahon (Police Scotland). SPA Board Meeting. 29 March 2018 [[Livestream: 1 min 50 secs](#)]

³⁶ Scottish Government. Scottish Public Finance Manual: [Appraisal and Evaluation](#).

³⁷ Scottish Government. [Programme & Project Management: Principles](#).

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³⁸ Scottish Government. [Programme & Project Management: Independent Assurance](#) '[Independent Assurance] involves people who are not directly associated with the initiative or delivery area. This brings a fresh perspective and constructive challenge for teams tasked with delivering in complex but strategically important environments.'