

## **Justice Committee**

### **Railway Policing (Scotland) Bill**

#### **Written submission from CrossCountry**

1. I would like to thank the Committee for inviting me to attend the fourth oral evidence session as the Committee considers the Railway Policing (Scotland) Bill at Stage 1. I am pleased that the Committee is seeking the views of those operating train services in Scotland for whom the work of the British Transport Police (BTP) is as a key supplier and partner.

2. By way of introduction, I have been Managing Director of XC Trains Ltd (CrossCountry) since the franchise was awarded to Arriva in 2007 and have previously held similar positions in 4 other railway companies since 1991. I have had operational links with the British Transport Police (BTP) in roles I have held since 1982. I represent Arriva on the Rail Delivery Group (RDG) Policing & Security Sub-Committee.

3. I am aware that the enabling legislation under consideration here will be followed by subordinate legislation, but identifying the risks and issues to be addressed has naturally been a focus for railway operators throughout. My views on behalf of CrossCountry, on possible changes to railway policing arrangements in Scotland, were first sought by the Police Division of the Scottish Government in 2013, and to whom I responded at length on 7 October 2013. Twice since I have had informal discussions with Transport Scotland to be briefed as matters have progressed.

4. This experience leads me to make my first point as a railway operator, that the case for moving control of railway policing from the BTP to Police Scotland has not yet been made. I noted that the tenor of the recent consultation undertaken by the Scottish Government was not asking 'should we do this' but 'how shall we do this'. I should state that I unequivocally acknowledge the decision taken by elected members in the Westminster and the Scottish Parliaments following their evaluation of the recommendations made by the Smith Commission, to make transport policing in Scotland a devolved matter. However it does seem that that recommendation could be effectively implemented in a number of ways and not solely in the manner proposed.

5. I would expect such a strategic move to be considered in the context of how best to provide effective and efficient policing of the railway in Scotland, tested against the 'do nothing' option. Whilst organisations and processes can always be improved, I can find no compelling evidence to suggest that the policing of the railway in Scotland would be enhanced if provided through Police Scotland. Indeed I note that the Scottish Police Authority and Police Scotland make no mention of railway policing in the 'Policing 2026' Strategy document published in last month.

6. Over the last 5 years, since the transport problems in Scotland during the severe weather in the winter 2010/11, I have been asked on several occasions about rail transport resilience and attended 'summit' meetings here to discuss and reassure

people of our arrangements. I am greatly concerned that proposed changes to railway policing arrangements being considered for Scotland represent a significant risk to railway operational and service resilience, both in Scotland and consequently across the wider UK railway network.

7. The case for a dedicated and specialist railway police force has been reviewed many times but the case for disintegrating the BTP has never been made. At the operational level, we have confidence in BTP's ability to respond swiftly to incidents affecting the smooth running of the railway and its capacity to restore services promptly and safely. From time to time we note the response of Home Office forces to railway incidents if their officers happen to be first on the scene when it is difficult from them to react in such a considered manner. The contrasting ethos behind policing in these forces is fundamental. Just as our safety critical railway operations assess and manage risk, so the BTP adopts the same approach, soundly based on knowledge and experience.

8. The Force understands the wider consequences of managing a railway incident in a manner which might not be adopted elsewhere in mainstream policing. Whilst the BTP is rightly seen as a specialist Force, an even more important distinction is that it is one which has an approach which is rooted in the context and needs of the railway. Experience gained in handling repeated common threats has meant that even very serious matters can be handled safely based on empirical evidence - from security threats to fatalities. Any generalist Force must inevitably take a different approach to policing, for example initially assessing all the circumstances of all deaths as scenes of crime, with few preconceived ideas

9. The BTP also has the confidence, support and partnership working with railway staff which has been built up over many years. This is a focused relationship and bond of trust which extends the reach and capability of the railway's Force in a way which a simple relationship with a police officer cannot match. Railway staff have confidence that officers from the BTP know their task and its challenges in relation to an operational railway environment, giving the railway due priority and taking decisions in the context of railway operations and the needs of its passengers and staff. Whilst the BTP naturally has a thorough understanding of its duties and obligations to police independently, it balances this with its role as a service funded directly by the railway industry.

10. The rules and protocols to which railway staff must adhere in carrying out their duties are chiefly system-wide and are matched by arrangements with the BTP. This ensures all railway people can work as a team. Arrangements such as the HOT (dealing with suspect items) and WHAT (dealing with suspect behaviour) protocols provide common assessment tools borne of the environment in which they are applied and support a most effective, efficient and trusted approach.

11. The current approach of BTP is underpinned by a deep and clear understanding of the unique requirements of the railway and its stakeholders. Organisational strategy is set in close consultation with stakeholders and is driven by the priorities of the railway industry, its passengers and staff. I can think of no time when the objectives of the BTP have been more closely aligned with those of the industry, focused as they are on reducing crime on the railway, helping to reduce

delay and disruption across the network, promoting staff and customer confidence in the use of the railway and delivering value for money. These are not matters addressed in this focused, connected and sector-specific way in any other Police Force strategies of which I am aware.

12. The railway industry and railway operators can have confidence that oversight of the BTP by the British Transport Police Authority (BTPA) will act to meet their needs since appointments are made by the Secretary of State for Transport, and members are required to have knowledge of a range of views from the rail industry and rail passengers. This very close working relationship has ensured that practical and focused solutions emerge to challenges like investment and funding – for example with the ‘price promise’ to manage over the term of the Strategic Plan within RPI increases. It is unclear how such a strong relationship and approach to representation could be struck with the Scottish Police Authority with its much broader roles and responsibilities.

13. If there are to be changes to policing the railway in Scotland, those changes ought to try to build on the evident successes of railway policing as we have it today, and to do so as a declared objective supported by validated plans.

14. In funding the BTP, there is always likely to be discussion about how direct costs are apportioned but this is not a unique problem for the railway. However, the share of overheads borne by operators through their Police Service Agreements (PSA) is a concern given the proposals before us, because every organisation with a PSA will be affected. This appears to give rise to the need to give Notice to all those with PSAs and for new contracts to be negotiated in England & Wales, and Scotland. Given the Notice period and attendant uncertainties, the proposal is unattractive to those with clear obligations and commercial responsibilities.

15. Indeed, the proposal raises several key and as yet unanswered financial questions:

- The funding of the project to achieve devolution of railway policing in Scotland;
- The one off costs of implementing the proposal; and
- The ongoing costs to the industry compared to today.

The ‘Policing 2026’ strategy documents indicates that without change, Police Scotland faces a £60m deficit in 2017/18 and contemporary reporting records the plan to reduce officer numbers by 400. As an operator, it feels right to be concerned that the transfer of part of the BTP to Police Scotland in a period when that Force has its own significant challenges to meet, presents a new risk to railway policing.

16. Even if the significant allocation of funds which are likely to be necessary to implement new arrangements is possible, we cannot be confident that they will address some of the more fundamental issues of concern to operators.

17. Railways are a network operation and events and their consequences present a wider and more complex challenge for policing. The ‘scene of crime’ can very often

be widespread. If there is a failure of understanding, focus and organisation to meet this challenge, the principal loser will be the victim of the crime. The consequences of an incident can have a widespread impact across the network with delays, disruption and risk transferred far from the point of impact. This is particularly so for CrossCountry services having to navigate paths across the UK. Incidents therefore require a network focus to ensure control of unintended consequences. There are no simple boundaries for crime and disorder on an integrated network and these are much harder to manage effectively than a typical geographical national or county boundary.

18. CrossCountry's Control team in Birmingham deals with the BTP Control office in Birmingham and provides an effective single point of contact. There is a mutual understanding of needs and responsibilities and effective and unambiguous communication channels. Establishing such command and control arrangements within Police Scotland itself appears by all accounts to have been a significant challenge over the last two years. We would therefore be right to be concerned about how effectively a more complex set of arrangements might be met; arrangements which are only truly tested in stressed circumstances.

19. Train services are expected and its operators contracted, to achieve the high degrees of punctuality and reliability now demanded by passengers and client bodies. It is therefore essential that the policing of incidents on the railway network is given due priority. A dedicated police force is able to provide adequate attention to matters of staff assaults, network delays, fares irregularities, anti-social behavior on trains and so on. It is hard to conceive that these matters would command the same level attention when viewed against the much wider set of demands of a generalist force.

20. The criminal act at Inverkeilor which took place on my watch on 4<sup>th</sup> November 2012, when a deliberate and successful attempt was made to derail a high speed passenger train, illustrates the significant level of support provided by a dedicated force when required. It is this level of commitment which must continue, yet in this instance a call was made on specialist resources from the wider Force. Fortunately the immediate consequences of the incident were limited, as a more serious outcome was avoided through good fortune. However, it was an understanding of the potential consequences which kept the investigation resourced and continuing for as long as it did. There are many incidents which have the potential for catastrophic consequences for which BTP follow up is essential for the safe operation of the railway.

21. There are many other matters over which I might express concern, and to which I believe need early cogent and properly substantiated responses, but which I know have been properly raised by the BTP and BTPA as matters that are a direct concern for them – transfer of Officers, recruitment and retention of specialist skills, IT systems issues, policing powers, jurisdiction and cross border policing, the response to the terrorist threat and so on. For my part, I would naturally wish for a need to be confident that in entering into any Service Agreement with another force, it was a contract for services which that force was capable of delivering, as I am with the BTP today.

22. My final observation is that while these important matters are being quite properly and appropriately considered as matters relating to the conduct of justice, many of the issues of concern are practical matters relating to transport, and which are unintended but perhaps inevitable consequences of such a significant change.

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