

Justice Committee

Railway Policing (Scotland) Bill

Written submission from the Rail Delivery Group

1. *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.*

Response: BTP is best placed to answer this question. The BTP and BTPA have highlighted potential risks in their previous evidence submissions.

2. *The impact, if any, which the devolution of railway policing will have in terms of cross-border security arrangements;*

Response: RDG understands that work has already commenced involving our members, the BTP and other stakeholders to ensure that there will be little or no impact. We are encouraged by the good work being done to resolve this matter.

What remains of serious concern is the lack of an explicit provision in the legislation which will empower BTP officers (all post-holders including those carrying firearms and Taser) to carry out their lawful duty on the railway in Scotland without the need to seek permission from another authority or in practical terms having to stop at the border and await the arrival of officers from Police Scotland.

Similarly, Police Scotland officers should be able to do likewise on the railway in England. It is understood from a meeting of the BTPA (26th January 2017) that the necessary provisions will need to be provided for in subsequent secondary legislation.

The impact could therefore be significant if there was a delay in dealing with an incident and/or waiting to apprehend an offender just because the police officer(s) (from the BTP or Police Scotland) was the wrong side of the border.

3. *The impact, if any, on ensuring consistency in delivering passenger safety and maintaining confidence within railway policing.*

Response: BTP is best placed to answer this question. The BTP and BTPA have highlighted potential risks in their previous evidence submissions.

4. *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.*

This is not something that RDG can comment on but we would expect this not to happen because if it did it might have an impact on the matters raised in questions 1 – 3 above.

5. *Whether there will be any difficulties in setting up new railway policing agreements with railway operators.*

Response: ATOC (now RDG) has been engaging with the BTPA over several years regarding the specific terms of the Police Services Agreement (PSA). There were protracted negotiations between BTPA and rail operator representatives on the run up to the imposition by the Secretary of State of the current standard form of PSA.

There were and remain many issues about the wording of the current PSA mainly around the lack of any detailed description of the service to be provided to the operator by the supplier (BTPA). Agreement was reached with the BTPA that it would supply additional information which is not required under the 2003 Act. BTPA was also able to deliver on a “Price Promise” meaning no more than RPI increases over the lifetime of the Medium Term Financial Plan.

The additional information was seen by PSA holders as supplementing the missing wording in the PSA and went some way to explain the service to be provided i.e. the cost, the number of BTP staff to be deployed and the level of performance.

PSA holders are now less reassured by what was put in place and dialogue continues with the BTPA over how the volatility in charges for individual PSA holders can be eliminated. On the positive side, there has been a lot of learning on all sides about the PSA, the Cost Allocation Model and their relationship with planning and performance. Steps are being taken to improve the current situation. There is therefore a lot of useful experience that can be picked up from the membership of the RDG’s Policing & Security Group.¹

The wording of the PSA was looked at by the DfT when it last undertook a Triennial Review of the BTPA. RDG wishes to echo the views expressed in that review.²

PSA holders south of the border are expecting to be consulted on the content of the new form of PSA for England & Wales to be introduced as part of the devolution implementation programme.

6. *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.*

Response: RDG is not able to respond to this question.

RDG made a submission to a Scottish Consultation in 2016 the content of which is relevant to some of the questions raised by your Committee. The submission is attached as an Appendix.

Rail Delivery Group
31 January 2017

¹ Membership comprises operator reps (TOCs, FOCs, Network Rail and TfL), BTPA Chief Executive, BTP Deputy Chief Constable, DfT and Transport Focus (annual attendance only).

² British Transport Police Authority Triennial Review 2013/14 (Additional Terms of Reference) October 2014.

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

Consultation Response from the Rail Delivery Group

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?

BTP provides a seamless policing service across borders in England, Wales and Scotland. The focus of the Scottish Government should be on improving accountability and integration of the BTP with transport infrastructure in Scotland which is something that has been achieved with very good effect at major hubs throughout England and Wales. This has not necessitated the integration of BTP with Home Office Forces because there has been no proven benefit in doing so. In fact, the priorities and objectives of a successful transport infrastructure may not be consistent with those of Police Scotland even if oversight was given to a separate Transport Command.

It appears from the consultation that the reason behind undertaking the integration is because it can be done as opposed to there being a well set out argument as to why it should be done. This approach will be of no comfort to the people of Scotland or the travelling public coming to Scotland.

There is a clear risk to the travelling public in Scotland, and those moving between Scotland and England, that greater accountability to a body which has a wider remit than transport policing might deflect the current very focussed effort of the BTP on the travelling public. The proposed new accountability model is confusing "the people of Scotland" with "rail users of Scotland" who, through the current BTPA model, can have a say in the service they receive when they travel within and in/out of Scotland.

The Scottish Government needs to set out in much more detail what the realisable benefits of the proposed integration are going to be. From a service provider perspective, only disbenefits can be envisaged which have already been articulated in detail by the BTPA, the BTP and in a previous RDG response. How the disbenefits already articulated elsewhere are going to be addressed needs a greater explanation before any final decision is made to proceed to implementation.

One of the key reasons why train operators favour the BTP is its ability to carry out all its functions seamlessly across borders and the Scottish Government needs to set out in detail how this is going to be achieved going forward. BTP officers will need to enjoy the same powers when entering Scotland which they have in England & Wales so to maintain operational effectiveness and keep the travelling public safe.

The Scottish Government needs to ensure that the strong relationship between the policing function and rail service provision which has developed over time (and not without difficulty) in tackling disruption and delay is not diminished but enhanced. Police Scotland will not see rail as a strategic policing function and even a minor shift in priorities away from reducing disruption and delay would harm Scotland's passengers, its economy, and cause detriment to the connectivity of the UK as a whole. How will the SPA manage any detriment to the traveling public outside of Scotland if Police Scotland does not carry out the rail policing function in the same way as the BTP?

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

The BTP, BTPA are staff associations are best placed to comment on this question. From an operator perspective, the key benefit is that every BTP officer receives training (and re-training) to ensure their skills are developed to deliver strategic and tactical objectives. We see on a regular basis how less prepared and trained officers, not from the BTP, are in dealing with railway incidents and events. The solution would be to train all frontline staff from Police Scotland to the same level as the BTP.

BTP officers are trained for and carry out a dedicated rail policing role. Within the first two weeks, members of the industry contribute to their Probationer Training Programme and this close relationship continues throughout officers' careers. We see that BTP officers develop their skill whilst gaining experience across the range of BTP roles and responsibilities. It is very difficult to see and understand what the benefits to the travelling public in Scotland is going to be by having a generalist police officer (would naturally move in and out of any Transport Command during their service) policing the rail network.

We have BTP officers embedded in train operating companies which helps focus the close working relationship between the industry and individual officers. We also recruit ex-BTP officers in to train companies. This exchange of skill has assisted immeasurably with the development of a specialised partnership between the industry and BTP which fosters a unique transport policing ethos, characterised by a risk-based approach and commercial awareness.

A key point of concern is that at the start of any implementation the skill of BTP officers who transfer to Police Scotland will be maintained. The test will be whether that skill level can be maintained over time as the existing officers move on or retire.

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 rail industry contributed to the last Triennial Review (TR) of the BTPA which was reported on in two reports. The Part 2 Report is most relevant in answering this

question. The BTPA model has been shown to be the most effective way to govern railways policing, because decision-making is informed by the interests of those who use and run the rail network. That said, the industry was at the time of the TR concerned that the voice of the industry was being given insufficient weight. Mechanisms have been put in place to improve the situation but the key point of concern relevant to the SPA is that industry members are drawn from the front line and have a key role in sub committees that set strategies, plans and in particular the budget.

The second point is that the focus should not solely be on the SPA relationship and level of engagement with the rail industry and passengers. Significant steps have been taken within the context of delivering Strategic and Policing Plans to improve the relationship between the three main organisations – police, authority and rail industry. Recent improvements include having a representative from Transport Focus as being a member of RDGP&S and its Implementation Group. The current relationship is not perfect and it is still developing especially in the face of extreme challenges facing the railway.

How is the SPA going to ensure that the inter-relationships in Scotland are going to be sufficiently developed to match those between the BTPA, BTP, rail industry and passengers? If it cannot do this then there is a risk to the travelling public and the people of Scotland that needs to be articulated and effectively managed.

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

From an operator perspective, the processes around any model deployed in Scotland should ensure that PSA holders are able to plan, with some certainty, what the annual charges are going to be. Volatility that results in increases in annual charges which have not been budgeted for are of serious concern. In addition, advance notification of any significant increase should be given to affected PSA holders with as much notice as possible. The current process of communicating with PSA holders and a more frequent review of data delivered by the model are the subject of current conversation with the BTPA through RDGP&S.

5. What do you think should be included in a revised Police Services Agreement to maintain or enhance the policing service currently provided?

The current Police Service Agreement was the subject of extensive conversation between the BTPA and the industry. The current version sets out very little about the service to be provided to individual PSA holders – its main focus is on the responsibilities of each PSA holder. The Triennial Review Report referred to above made reference to the fact that although the BTPA meets its obligations under the legislation in respect of the PSA, more could be done to explain the relationship of what is charged and the services being provided.

This appears to be even more significant if some rail operators will be required to have two PSAs. Experience has shown that the settling of disputes over service provision and/or charging takes a long time and considerable effort from all parties to resolve. Given that these challenges exist how does the Scottish Government propose to legislate so that disputes which have a cross-border element to them are dealt with (i.e. involving PSAs issued by two separate legal entities)? Mechanisms will have to be in place to ensure cross border disputes can be resolved right up to a governmental level.

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?

This is not a question that can be answered by the rail industry. Operators would not wish to see a position where the SPA found it difficult to retain the current level of skilled officers who had previously been working for the BTP.

7. What are the main points to consider when discussing the future of pensions for BTP officers and staff?

This is not a question that can be answered by the rail industry. As mentioned above, operators would not wish to see a position where the SPA found it difficult to retain the current level of skilled officers who had previously been working for the BTP.

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.

Operators will not offer a response.

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.

The rail industry has had to seek advice from the BTPA in order to answer this question. We have been told that costs will fall under two heads. The first cost will be to the BTPA and the BTP to bring in to effect the transfer of the function to Police Scotland. The Scottish Government will have to make provision to cover the costs incurred by the BTP and the BTPA which we understand could be substantial. Operators are of a view that as this is not a cost associated with the provision of a policing function by the BTPA then it cannot be recharged to existing PSA holders under the current agreement. We have asked that the BTPA keeps a record of these costs and that they are reported to RSGP&S on a regular basis.

The second cost relates to the residual effect of removing BTP's 'D' Division from the Charging Model. We are advised that this will slightly increase charges following

devolution to PSA holders in England & Wales. The BTPA will be able to provide detail about this. Our expectation is that the Scottish Government should pick up the additional costs to PSA holders in England & Wales which result from the change.

Disputes are currently resolved within a single legislative framework. The Scottish Government will have to understand the risk and be prepared to pick up any additional costs associated with managing rail policing (and PSA) legal frameworks north and south of the border.

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.

Operators will not offer a response.

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

Operators will not offer a response.