



OFFICIAL REPORT
AITHISG OIFIGEIL

Justice Committee

Tuesday 21 March 2017

Session 5



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JUSTICE COMMITTEE

11th Meeting 2017, Session 5

CONVENER

*Margaret Mitchell (Central Scotland) (Con)

DEPUTY CONVENER

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

COMMITTEE MEMBERS

*Mairi Evans (Angus North and Mearns) (SNP)

Mary Fee (West Scotland) (Lab)

*John Finnie (Highlands and Islands) (Green)

*Fulton MacGregor (Coatbridge and Chryston) (SNP)

*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

*Liam McArthur (Orkney Islands) (LD)

*Oliver Mundell (Dumfriesshire) (Con)

*Douglas Ross (Highlands and Islands) (Con)

*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Claire Baker (Mid Scotland and Fife) (Lab) (Committee Substitute)

Andrew Cooper (CrossCountry)

Neil Curtis (Direct Rail Services Ltd)

Darren Horley (Virgin Trains)

David Lister (ScotRail Alliance)

Graham Meiklejohn (TransPennine Express)

Dan Moore (Department for Transport)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Justice Committee

Tuesday 21 March 2017

[The Convener opened the meeting at 09:46]

Decision on Taking Business in Private

The Convener (Margaret Mitchell): Good morning and welcome to the 11th meeting in 2017 of the Justice Committee. Apologies have been received from Mary Fee, so I welcome Claire Baker, who is attending as her substitute.

Agenda item 1 is to make a decision on taking in private item 4, which is consideration of key issues emerging from the evidence that has been received on the Limitation (Childhood Abuse) (Scotland) Bill at stage 1. Do we agree to do so?

Members indicated agreement.

The Convener: The committee is also invited to agree to consider in private at future meetings its draft stage 1 reports on the Limitation (Childhood Abuse) (Scotland) Bill and the Railway Policing (Scotland) Bill. Do we agree to do so?

Members indicated agreement.

Railway Policing (Scotland) Bill: Stage 1

09:47

The Convener: Item 2 is our third evidence session on the Railway Policing (Scotland) Bill. I refer members to paper 1, which is a note by the clerk; paper 2, which is a Scottish Parliament information centre paper; and the written submissions that some of the witnesses have provided. I thank TransPennine Express and CrossCountry for their submissions.

I welcome our first panel: Andrew Cooper, who is managing director of CrossCountry; Neil Curtis, who is head of compliance at Direct Rail Services Ltd; David Lister, who is sustainability and safety assurance director with ScotRail Alliance; Graham Meiklejohn, who is regional development manager for TransPennine Express; and Darren Horley, who is commercial and operations strategy manager for Virgin Trains.

Thank you all for attending. I hope that you did not have any difficulty getting here this morning, despite the adverse weather conditions. We go straight to questions from members.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): My question is general and open, but I think that it will lead to other questions. Is it correct to say that the rail operating companies that you represent have two interests in the future of policing on our railway network—first, that policing is an effective service that meets the security needs on the network and, secondly, that it needs to be delivered at an appropriate price, given that the companies have a commercial relationship with the police? Do you have concerns on either of those points?

I am sure that that question will enable other members to raise issues. If panel members answer from right to left, that should be good enough.

Andrew Cooper (CrossCountry): I thank the committee for the opportunity to attend this morning. It is right to say that there is a commercial relationship and that the price therefore matters. We are running a business, and at present we have very clear relationships with the police service. As you say, the service needs to be effective. In handling the railway when it does not work effectively, whatever the cause of disruption, we sometimes have to call on the services of the police. All the national passenger survey tracking research that is done every year shows that our effectiveness in handling delays and problems in operating the railway is an absolute priority for our customers.

Neil Curtis (Direct Rail Services Ltd): The same applies to Direct Rail Services. The commercial aspect is important; we need to ensure that we receive value for money from the services that are provided. As a freight operating company, we require to work throughout the country, and not just through franchises from station to station. We therefore have different requirements of the British Transport Police not only in the general day-to-day services that are provided, but when things start to go wrong, as Andrew Cooper mentioned. It is highly important for our organisation to ensure that we have that support as and when it is required and that our business needs, which in some instances are quite technical, are fully understood by the BTP.

Stewart Stevenson: Does DRS operate services outwith the Great Britain network across the English Channel and elsewhere in Europe? Other freight operators certainly do. We might come back to that point.

Neil Curtis: No. We are United Kingdom-bound.

Stewart Stevenson: In that case, I will not ask a supplementary question.

David Lister (ScotRail Alliance): I thank the committee for the opportunity to give evidence. I represent ScotRail Alliance, which is a partnership in Scotland between Network Rail and Abellio ScotRail. In the policing of the railway, as has been mentioned, the importance of safety and security, and the need to ensure that we minimise any impact or disruption as a result of any crime or disorder, is paramount for both halves of the alliance. Equally, the commercial side is important for both halves, as the service provision is a commercial arrangement.

Graham Meiklejohn (TransPennine Express): Good morning. We fully agree with the comments that have been made on the importance of the service that is provided, the significant reassurance that it gives to passengers on the network and the need for operational support when things go wrong in order to recover the situation and get trains running again as they should be.

It is imperative to say that, across the network that we operate, the BTP is an integral partner to the delivery of our operations and is seen to be connected with all operators in seamlessly delivering a service to the travelling public. As a cross-border operator that is based in the north of England and connects to Lockerbie, Glasgow and Edinburgh, TransPennine Express works with a lot of BTP officers who began their careers in Cowcaddens in Glasgow, went to Manchester and ultimately transferred back north of the border. They have enjoyed a definite career progression so far. In day-to-day service delivery, we see, and

obviously benefit from, their skill set and knowledge of the network across the north and into Scotland.

Darren Horley (Virgin Trains): Good morning. As members will appreciate, Virgin's network runs from London right through to Scotland, so we enjoy the fact that the BTP operates throughout the country. The relationship is a commercial one; it is a partnering relationship rather than a partnership. We want that continuity to be maintained throughout our operations. First and foremost, the railway is safe—the BTP plays a role in that, and we want continuity in that regard.

On business needs, we want reassurance that, first and foremost, our customers are safe, that staff are safe at stations and that the approach is commercially effective for the railway. As my colleagues have pointed out with regard to the commercial operations, it is imperative that a participating force causes minimal disruption.

Stewart Stevenson: You made a distinction between partnership and partnering that I do not fully understand. Will you explain it to me, please?

Darren Horley: In a partnership, things tend to be run jointly. In a partnering relationship, things are done together, people have the same outputs and goals, and the outcomes are shared. We have a partnering relationship in that the police know our common goals, joint focus and strategies.

Stewart Stevenson: Is that similar to the Abellio-Network Rail partnering? Is it a similar idea?

Darren Horley: It is indeed.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Good morning. The Scottish Government's policy is to provide railway policing agreements between the industry and the police in Scotland that will replace the current police service agreements. Do you have any particular concerns about the Government's proposals in that regard?

Andrew Cooper: The agreements will be slightly different from the current arrangement in which we deal with a police force that serves the railway exclusively. When we agree a contract with a body that has much broader policing requirements, an added complexity is that we need to be much more confident about things that have been set down as stated commitments in most of the paperwork that I have seen. We will need to be assured through the contract that those commitments will be delivered. The arrangement will be subtly different from our current arrangement with the British Transport Police, simply because we will be contracting with a body that intends to have the specialism but will not be dedicated to serving the railway.

Rona Mackay: What specific differences do you mean?

Andrew Cooper: At present, when we sign an agreement with the British Transport Police Authority, we know that its interests are exclusively in the railway. That body was set up by the Department for Transport, and the alignment of its objectives with the industry's objectives is currently better than I have ever seen it in my railway career. That is a very strong position. It will be hard for Police Scotland to put itself in that position because it has much broader obligations in respect of policing in Scotland. We would need to be much more confident—and therefore probably much more prescriptive—in any agreements that we have with Police Scotland compared with what we have with the dedicated force that is the British Transport Police.

Rona Mackay: Police Scotland has given us reassurances that it will treat the service as a specialist one that will not be compromised—you will appreciate that we have heard its evidence on that point. Does anyone else on the panel have a view on that?

Darren Horley: Our focus is on ensuring that the BTP continues to play the same critical role in keeping the travelling public and our staff safe. If Police Scotland honours that commitment when it takes over, and if it guarantees us the same level of service that we enjoy from the British Transport Police—the Minister for Transport and the Islands has said that he will give those written reassurances, which we will give to staff—we have no objections to the reforms. However, we need reassurance on the points that Andrew Cooper highlighted.

Neil Curtis: As a freight operating company, our requirements are distinctly different from those of the passenger companies, which operate mainly through stations and main lines. We operate throughout the UK, and on some branch lines we are the only operator. As my colleagues have said, we fully support the changes, but we need a guarantee that the current service will be maintained—or improved, if possible, as that would be the best way to go.

Graham Meiklejohn: The minister has been generous so far in giving us time to consider the issues. Some of the views have evolved, especially on issues that affect operations south of the border. As I mentioned, TransPennine Express is based predominantly in the north of England, and we are concerned about what will happen when trains cross the border from one force to another. At present there is a degree of co-operation, and we have been reassured that that will definitely continue in the future.

In our written evidence, we suggested that some sort of agreement between the force in Scotland and the BTP south of the border would be a wise path to take in order to ensure continuity and co-operation from day 1, with no issues or risk of misunderstandings as our services pass to and fro over the border. Given where we started in our early discussions with the minister, it is good that that has been understood and taken on board by officials.

Rona Mackay: That is encouraging.

The Convener: I want to find out a little more about the railway policing agreements. We have heard today, and in other evidence, a concern that Police Scotland will take over the railway function, whereas the emphasis previously has been more on the railway transport side. I think that ScotRail Alliance suggested that a way around that might be to consider setting up a specialist board. Can David Lister comment on that?

10:00

David Lister: In the submission from ScotRail we discussed the creation of a specialist board. The bill proposes a management forum, which is not quite the same as a board, although it is a move in that direction. It is encouraging that some of our requests have made their way into the proposed legislation.

On railway policing agreements and police service agreements, I believe that the Rail Delivery Group has given evidence on the existing police service agreements. Those agreements are currently under discussion in the UK, and the idea of improving them is viewed as desirable. It is important that, when the railway agreements are put in place, it is not assumed that they should simply adopt exactly the same style that is applied to the existing police service agreements.

On governance, an important aspect to consider is the need to ensure that railway priorities are kept as part of the overall standards for Police Scotland. That is really important for us as a railway industry, and the establishment of a management forum will be a good start. However, we are conscious that the BPTA's governance is focused entirely on policing the railway, whereas Police Scotland will see railway policing as a relatively small aspect of its policing more widely. We have been reassured that the Scottish Police Authority is looking to get some railway experience on its board, which will be really important if we are to ensure that railway interests are considered by not only the dedicated railway police management but the SPA.

The Convener: We are led to believe that that is really important because having an understanding of the railway and of the problems

that can arise on it is germane to the policing of the railway and to minimising disruptions. Could you elaborate that side of things? That point has been coming through, and we would be interested to hear your views.

David Lister: It is really important for the industry to ensure that there is minimal disruption and that our staff and the travelling public remain confident in the services that are provided. The British Transport Police specialism enables it to strike an appropriate balance—which it does very effectively—between the needs of investigating crime, managing incidents, looking to the needs of the public to travel and getting the network back into operation as quickly as possible. That might involve responding to a bomb threat and making the appropriate threat assessment so that officers can balance the risks, or dealing with a fatality. The BTP is able to strike that balance very effectively.

As has already been said, we have had good engagement with the Minister for Transport and the Islands, the BTP and Police Scotland in relation to the proposals, and we are getting reassurances that that specialism will be maintained. That is clearly important to our industry.

Andrew Cooper: In paragraph 9 of my written evidence, I commented:

“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.”

As my colleague has said, the approach that officers take when they are dealing with issues on the railway is often based on experience, knowledge and lots of empirical data, which enables them to make a risk assessment of the situation that faces them. It is a controlled environment, in a sense: they know what they are looking for on the railway, and they know what the likely externalities are, which is not always the case on the high street, for example. BTP officers are therefore able to take decisions in the best interests of the railway and of passengers, taking into account the wider implications of those decisions. That is not always the case in our experience—as an organisation that runs a network across the whole country—of dealing with Home Office forces in England.

There is a distinction to be drawn between a force that contains a specialism—with 17,000 officers in Police Scotland, it is not easy to see how that specialism could be widespread—and a dedicated force with an ethos and approach to policing the railway that is in the best interests of ensuring that passengers and the public are safe and that there are no unintended consequences of its actions.

Darren Horley: I echo what my colleague Andrew Cooper says. First and foremost, the BTP is funded by the industry through the fare-paying passenger, and its specialism is managing incidents on the rail network, which are very different from those on the high street. Recently, I experienced an incident in the Lockerbie area in which the civil police attended a suicide. I appreciate that complicated matters were involved, but I was concerned about how my driver was treated: he was taken off site and questioned as if he was to blame, although he was a victim in the incident. That questioning process was very different from the way in which the BTP would have handled such an incident. There is a lot of nervousness among our staff about how they would be treated in such instances, and it is critical for us as a business to be able to reassure our staff and passengers in that respect.

Neil Curtis: I have a couple of concerns. Cross-border transfers going both north and south have been mentioned. The BTP is a specialist force in the rail industry, and the industry terminology can be quite complicated. I started in the industry in 1998 and thought that it was something new and bright—and I am still learning the terminology.

One concern that I have—we have been given some reassurance that this will be looked at—relates to the education of Police Scotland officers who may not have asked to attend an incident such as the one that Darren Horley mentioned. It concerns me that there might be misunderstandings involving not only the terminology but the rail industry in its entirety, because it is complex in some ways. Officers may come across things that would never be seen on normal highways or in public areas in general policing. The industry has to be fully understood—it is not simple. Policing the railways is one thing and policing the highways is another. The complexity of the railways is quite something to understand.

The Convener: Can you give any examples of terminology that might cause a problem? If not, you can provide us with that information later.

Neil Curtis: It would be track terminology—people who work on the railways would use terms such as “the four foot” as normal discussion points. That kind of thing could lead to a misunderstanding that might put officers at risk. It is one thing if an incident occurs, but we do not want to escalate a problem so it becomes worse than it already is. On the railways, there are some 125 mph lines with big trains that do not stop very quickly—it takes a mile or so for some of the bigger trains to stop—which makes for a very dangerous environment.

Darren Horley: I have one example that is quite local to me. In the north of the West Midlands,

there is a railway junction called Wichnor, but the village of Wychnor is nearly 15 miles—quite a distance—away. The terminology means that the system is quite complex for people to get their heads around. Such issues may lead to questions later at the control centre. We have concerns about that.

The Convener: John Finnie will ask a supplementary before I bring in Douglas Ross and Liam McArthur.

John Finnie (Highlands and Islands) (Green): Good morning, panel—thank you for your evidence. I want to pick up on Neil Curtis's comment about the potential for the railway policing arrangements to be improved as a result of the change. Andrew Cooper spoke about the extent to which the specialism would be widespread.

My question is for David Lister and Neil Curtis in particular. I represent the Highlands and Islands region—I would not ordinarily put that on the record, but I think that the chief constable of the BTP did so at a previous meeting. Five BTP officers cover that area, where—I have been trying to do my sums—they have about 300 or 400 miles of track. Within the area, there are several hundred Police Scotland officers, dozens of detectives, dogs and all the rest. The potential exists to enhance the policing arrangements, given that the current reality in many instances is that it will not be a BTP officer who attends an incident. Would you agree with that?

Neil Curtis: It happens. Mutual aid occurs among the policing authorities within the UK anyway—it is a requirement under the Police Act 1996. We know that if we have an incident in certain locations, there is a good chance that a Police Scotland officer will turn up and deal with it.

David Lister: I concur with that. It happens today, and, as the forces become integrated, that integration could assist with that element of the response.

Darren Horley: I concur with those statements. Let us not be mistaken—this is an opportunity for more coverage, but we have just gone through some questions and answers about the expertise that those officers will have when they step foot into the railway environment. That is what is most critical. From a Virgin Trains point of view, it is an opportunity. We want to get it right, but it is about the right expertise and the right training for these guys.

Douglas Ross (Highlands and Islands) (Con): I have a question for Mr Cooper. You say in your written evidence that you held discussions with the Scottish Government's police division back in 2013. Were there moves by the Scottish

Government to change the BTP in Scotland at that time and, if so, what were the plans?

Andrew Cooper: I think that it was a proposition, and the Scottish Government approached us and asked for our views, which we were very happy to give. The Scottish Government was consulting more widely at that time, but informally and not in the way that happened more recently. The Scottish Government asked for our view and we gave it.

Douglas Ross: You say in your written evidence that you sent back a very comprehensive response in October 2013. Would it be fair to say that, at that time, you were not convinced about merging the BTP D division with Police Scotland—a single force that had started only earlier on that year? My question is whether you warned the Government against that move.

Andrew Cooper: The view that I expressed when I was approached was that it seemed quite a brave step to take, as it was not policy at the time but only being considered.

The operational concerns and other issues that surrounded the proposition have been explained by a number of the people who have submitted evidence. It seemed to us that there was not a particularly strong case for making a change at that time. The three benefits that are now put forward as a reason for the policy decision that has been taken were not being discussed at the time.

Douglas Ross: It is useful to get that on the record. During this debate, the committee has often heard that we are now looking to integrate the BTP into Police Scotland because the Smith commission devolved the powers to allow the Scottish Government to do so. It seems that there was an earlier move towards that policy.

I will ask another question specifically about your evidence, but I would appreciate comments from other panel members, too. At paragraph 15 of your submission, you say:

“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.”

How do you compare your evidence to the evidence that the committee received from Assistant Chief Constable Bernard Higgins of Police Scotland, who said that he felt that it was a “luxury” to have two years to prepare for the move? Do you think that it is a luxury that we have two years to prepare, or will you continue to have your concerns about merging the BTP into Police Scotland?

Andrew Cooper: I think that it comes back to the issue of stated intentions and what we really

mean by assurance. In business life, I would normally expect such a significant change to be accompanied by a proper impact assessment of the likely consequences, including any unintended consequences.

There is a comment in the paperwork that has been shared that suggests that changing cap badges and the sticker on the side of the police vehicle is all that is required to get things going. When we are establishing a new franchise, having been awarded one—which we were, in my case, back in 2007—there is a four or five-month period of mobilisation, which involves an awful lot of things that have to be ready for day 1 of the transfer. In what I have been able to read, I have not seen much evidence that that sort of mobilisation plan is there. There does not appear to be consideration of the issues that are really important in ensuring that, whenever day 1 comes, it is a seamless event. As an operator, that is the sort of thing that gives me some concern.

The subordinate legislation is obviously important—that is the way that things are structured. However, a lot of the things that people want to work through have not been worked through at this stage and must therefore remain as stated intentions. I am sure that they are given in good faith and are based on experience, but they are not proven yet.

10:15

David Lister: I agree with Mr Cooper about putting plans and preparations in place to achieve that. Two years is certainly an achievable timeframe, but significant work needs to be done now to ensure that the appropriate planning, mobilisation and risk management measures are in place.

At a recent meeting with the minister, Transport Scotland, the British Transport Police Authority and the Scottish Police Authority, there was discussion of the work activities that are taking place and the desire to get the industry involved in many of those workstreams. We see the starting process happening for that, but it is at an early stage and it is important that that work continues and that the industry is heavily involved in it.

Graham Meiklejohn: What the industry does from a mobilisation viewpoint is a good case in point. The BTPA is currently involved in that when services move from one operator to another, as there may be some changes in the relationship with the incoming franchise. Since April last year, TransPennine Express's relationship with the police has been far closer than the relationship that we had before then, given how we are working with them. Over a two-year period, there is an opportunity to ensure that all the planning

and assessments that we would do over a couple of months during mobilisation can be delivered. However, the ultimate imperative—the ultimate test—is to ensure, just as we are remitted to do, that on day 1, when change happens, the customer or passenger sees no difference and everything continues as normal. Of course, we hope that there will ultimately be an enhancement, but there should be no impact on the day-to-day operations or security of the railway.

Neil Curtis: Two years breaks down into 104 weeks at work. Having worked on various other projects, I know that that is not a long period of time to ensure that we have a plan in place. As Andrew Cooper mentioned, we need to plan ahead of time and, as has been mentioned at a couple of the workshops, the operators need to follow a management of change process and to review and identify risks. We need to look at the dispositions between the BTP roles and Police Scotland roles, and at the key actions that need to be understood fully to ensure that that one little bit that is actually a key operational practice done by one officer or a couple of officers does not suddenly get missed because it is not considered important. Failure at that point could be quite dramatic, and we all know how businesses across the country could be affected if one item suddenly fails. I remind the committee that two years is not a long period of time in anybody's business. Things can change very quickly, and I encourage anyone involved in reviewing the process to ensure that they have looked at the risks associated with the transfer and at the dispositions between the BTP and Police Scotland, and that the process is fully charted and recorded. We are willing to be involved in that process and have offered our services in ensuring that a suitable process is taken forward. I hope that that gives you a bit of an insight.

Douglas Ross: Mr Lister, I want to ask about the reference in your written submission to a fatality at Carluke station, just to get it on the record, given some of the discussions that we have had about BTP officers perhaps not being first on the scene or working alongside officers from Police Scotland. Your evidence states that the fatality was deemed a suicide by BTP officers in 73 minutes, and that the railway could therefore be reopened, but that the conventional Police Scotland force wished to continue investigations, which meant that the railway was closed for a further 107 minutes. Could you give us more detail on that example?

David Lister: You are correct to ask about the details of that incident. Because the initial response was from Police Scotland and a different approach was taken to the investigation of the incident, the railway was shut for a protracted period of time.

As you are aware, disruption to the network—particularly the main lines—has an impact not just in Scotland but all the way down to London. The overall impact across the railway becomes significant, leading to the disruption of many passenger journeys and costs to the industry as well as to wider society. In discussions that we have had with Police Scotland, the BTP and Transport Scotland, Police Scotland has recognised the specialism and expertise that the BTP has in the area and the fact that its best practice could be transferred to Police Scotland. If that happened, it would be encouraging, because that wider benefit could be delivered not just in the railway industry. It is extremely important for us to ensure that the response takes a balanced view on that.

Douglas Ross: In the example that you gave, was suicide the confirmed outcome?

David Lister *indicated agreement.*

Douglas Ross: The BTP officers were therefore correct in their assumption after 73 minutes, and the further delay by Police Scotland resulted in a delay of 760 minutes to the entire rail network, causing costs of approximately £160,000. For the record, you are saying that the correct outcome was established earlier by BTP officers.

I want to ask you specifically about governance. You talked about the SPA having a dedicated transport person on its board. Would you have serious concerns if the SPA were unable to recruit someone to that position? There are currently two vacancies, and it is looking to fill that position. Are you concerned that, if it could not fill that vacancy with someone with a transport background or if, at any point, the person with a transport background was unable to attend the board or unable to be a member of the SPA, decisions could be made without someone with a transport background being there?

My final question is about training, and it is for the entire panel. We heard from ACC Higgins and Police Scotland about its training proposals for the new officers who are coming in, for a specialist group and for all 17,000-odd police officers. Are you reassured by those training proposals? I am concerned that the training is just a couple of weeks added on at the end, but other members think that that is sufficient. On the basis of the evidence that you have received—we are seeking further evidence from Police Scotland—are you satisfied that there will be sufficient training for officers and that they will have sufficient certification so that they can go on to the railway if required, or do you remain concerned about some aspects of the training that will be required for officers when the BTP is merged with Police Scotland?

David Lister: I will answer your first question, which was on governance, first. The key element is that, as the strategy for Police Scotland is developed, consideration is given in that strategy to railway policing. It is not for me to say exactly how that should be achieved. We have suggested that one mechanism would be to have that railway experience on the SPA board. The legislation talks about the management forum that will channel the railway input into the board. The key element for us is to ensure that there is serious consideration of the railway in the governance of Police Scotland, so that it is not a minor consideration but features in the overall strategy for Police Scotland.

Your second question was on training. The only detail of the training that I have seen so far is the evidence that was given to the committee. I understand that, as you say, it is to be an additional two weeks in the training of all Police Scotland officers, should the merger take place. I believe that, at the moment, three weeks of dedicated training is provided to BTP officers, which trains them both in the personal safety requirements and in the railway byelaws, fatality management and so on. There could be a benefit in enhancing the overall capability. As was talked about earlier, the most critical thing from the railway perspective is to ensure that people who access the railway follow the appropriate procedures and understand the risks that are associated with it.

Douglas Ross: I presume that it is important that there is not just two to three weeks of training when someone becomes a constable and is learning everything about policing; it is about ongoing training so that people do not lose that specialist knowledge and the terminology.

David Lister: Yes.

Douglas Ross: There is a significant risk that, if we just tick a box and say that someone has had an extra three weeks' training but they never do any railway policing for perhaps 20 years and are then called to an incident, they will not have any knowledge at all.

David Lister: We are interested in seeing the details of the proposal and the plan for the retention of skills. The current arrangement, which is industry-wide, is that the training is refreshed every two years. People cannot retain the competence if they never practise or are not retrained. We want to understand what the proposal is.

Neil Curtis: To add to David Lister's point, continual training needs to be part and parcel of the training programme and cannot be ignored. As operators with staff who work on the railway, we are required to ensure that our staff are competent and suitable to carry out the duties. Two or three

weeks, or whatever it is, of training is a good start, but it is only a start. It is not a completion of work. The approach has to take into account how often people will use that knowledge. Knowledge will wane, fade and disappear, so people need continual training. We have probation periods for people after they initially get a personal track safety certificate and other qualifications that allow them to access the railways. We do not allow people who have just got certification to go straight on the railway; they need to be escorted and managed. They need to gain knowledge through experience of walking there with an experienced person.

There is talk about the training, but it needs to be fully understood what that means. There also needs to be a recognition of what the rest of the industry is doing on track work as railway operators generally, and what we are required to do under the rules of the railways.

To go back to Douglas Ross's first question, which was about having a recognised person on the SPA board, that is highly important because, otherwise, decisions could be made under assumption, and assumption can lead you down an expensive route of failure.

Andrew Cooper: Douglas Ross asked three questions, I think. On membership of the SPA board, he is right that it is important that somebody from the industry is there. If we are serious about the issue, it is beholden on us as an industry to ensure that people are available, whether they are volunteers from elsewhere or whether the industry produces some names from which the SPA can select. It is our duty to ensure that there is representation.

Mr Ross is right that the strategic decisions that the authority might take are important, but operational decisions at a lower level are important, too, and they will not be directly influenced by membership of the board. That really takes me on to Mr Ross's third point. Core policing training is for 10 weeks, I think. For the BTP, we take people away and give them three weeks of training. We can give personal track safety certification in a couple of days. However, a couple of days for 17,000 officers—if that is what is proposed, which is how I read it—is quite a sum and a challenge, because those officers will have to be released for that training, just as they are released for the other things on which they need refresher training, such as firearms. That training is quite an obligation that will take people away from the coalface.

A dedicated force has people who are gaining experience over time by dealing with similar sorts of incidents. That is how experience and knowledge are gained of the approach to policing on the railway. Experience is gained simply by

being dedicated to that all the time and by being with colleagues who are as well. There has to be a competence management system. For drivers of trains, we have a competence management system that takes account of the fact that drivers might drive for six months and not have any sort of incident at all. We put them through simulations and they take various exams and tests over a period of three years. We are required to have a competence management file for them, to ensure that they are fit to operate, that it is safe for them to do so and that they have the relevant knowledge and experience.

The police force as an employer, or the agents of the Crown, will have to make sure that there is a competence management system for the people who will be put in harm's way on the railway. Those things can be developed, but they are not without cost. If the duties are to be spread throughout the force, as has been suggested, there will be a price tag attached, because there will be a need to release people from their day job to enable them to go through the stages of such a competence management system.

10:30

The Convener: Do you have a supplementary on a particular point that has been raised, Mr Macpherson?

Ben Macpherson (Edinburgh Northern and Leith) (SNP): It is on a point that was raised earlier, convener.

In answer to Douglas Ross, David Lister talked about preliminary discussions with the Scottish Government and other relevant parties, and Graham Meiklejohn touched on the same issue in response to Rona Mackay. Have those discussions reassured you that the proposed engagement will give you a sufficient voice in the setting of railway policing priorities and objectives following integration, both in terms of mobilisation and moving forward from that, if that is the will of Parliament? I just want to be absolutely clear about that.

David Lister: As Mr Meiklejohn has indicated, the minister has been generous with his time. Since the middle of last year, there have been four meetings with the industry to talk through the process both before the drafting of the legislation and post the draft legislation's publication, and those meetings have been an opportunity for us to raise any fears or concerns that we might have about the process and an opportunity for reassurances to be given. For example, there have been reassurances that the governance arrangements will take the industry's views fully into account. However, going back to my earlier point about governance, I note that the one

element that is not in the bill is in relation to railway representation on the Scottish Police Authority, and we would like that area to be strengthened.

Ben Macpherson: But overall, you are reassured by the level of engagement.

David Lister: That is correct.

Liam McArthur (Orkney Islands) (LD): I just want to follow up Douglas Ross's line of questioning about training. A separate issue that has been raised with us is the extent of unease within the BTP; indeed, the witnesses last week told us about a recent staff survey in which about 40 per cent indicated that they were at least considering whether their future lies within the BTP.

I believe that Mr Horley said that this is about having a seamless transition from what is in place now to what will be in place in future. Does it concern you that such a significant cohort of existing BTP officers and staff are at least considering whether this is a transition that they want to make?

Darren Horley: It is a concern without a shadow of a doubt. My colleague Graham Meiklejohn talked earlier about the importance of police training and their own progression in the force, and it is critical for us to have a seamless force in place and to ensure that the training is of the same standard or better and that the officers involved are dedicated and do not see a demise to their future because of a change in their reporting lines.

Liam McArthur: Does the panel have a view on whether there is a certain critical mass in the BTP in terms of its expertise across a range of areas that would need to be retained at least for the foreseeable future and certainly through the early stages of transition to ensure a smooth transition?

Andrew Cooper: You make an interesting point, because I am less concerned about what happens after mobilisation and in years 1 and 2 after such a significant change than I am about what happens in years 3 and 4 and beyond. Everyone always has very firm and very well-held intentions at the start of these things, but a lot of other pressures can come to bear, and my concern is about where, after entering into this venture, we stand in three, four or five years' time. The railways are a long-term business; franchises are reasonably lengthy, and we will want to be assured that these things will be there in future.

For more than 25 years now, I have been leading railway companies with various numbers of staff; at the moment, I have about 1,800 people. When you are dealing with people who mostly work as lone workers but as part of a team, issues to do with leadership, their belief, how they feel

about work and whether they understand the plot—if I can put it that way—are of fundamental importance. It will be interesting to see the review report on the BTP by Her Majesty's inspectorate of constabulary in Scotland and Her Majesty's inspectorate of constabulary in England and Wales. I believe that the review will find that leadership is one of the BTP's strengths. I have personally known the past three chief constables. I have seen their work, which has brought the BTP to the position that it is in the moment—its alignment with the industry is the best that I have ever seen.

Given the strength of leadership that I witness, it is a concern to find that 40 per cent of the BTP officers in Scotland are very concerned about the transfer. Those people are well led, they understand the plot and they are committed to the job that they do, yet they have a concern. Therefore, as an operator who relies on them to provide the service that they are contracted to do, I am concerned.

Liam McArthur: You talked about a requirement for a greater level of specification in whatever the RPAs begin to look like. Given the two-year implementation timeframe that we are looking at, is it essential to have some of the detail mapped out sooner rather than later? The specific details of what might be in the RPAs will, presumably, guide the decisions that the SPA and Police Scotland will take at the point of and immediately after transfer.

Andrew Cooper: I think so. If there is a willingness between the two parties to reach agreement, it can easily be done in that timescale. The issue is about making sure that both parties understand the position and concerns of others, so that we can find that meeting of minds. Although I do not see that it would be impossible to do that, it is a greater challenge than if we were dealing with an organisation such as the British Transport Police, where, in a sense, it is a zero-sum game—we know that it looks after railways and we run railways—whereas Police Scotland faces many other pressures, some of which are illustrated in the "Policing 2026" strategy document, which I have read. Police Scotland is not without its own pressures and it must consider those properly, too, in fulfilling its duties, as it must when it enters into a contract with railway operators for police services.

Liam McArthur: What assurances have you had on that point? I noticed that, in earlier evidence, concerns were expressed about how the policing agreements operate, with a lack of clarity on what precisely is being paid for and what the costs are of that provision. You have pointed to the issues that the "Policing 2026" consultation is trying to grapple with and Police Scotland's

financial position is no great secret to anyone. Is there a concern that with the lack of precision on what is being paid for and what the cost structures are, aligned to the financial difficulties that Police Scotland is in, one could see an attempt to use the agreements as a way of bolstering finances in other parts of the organisation?

Andrew Cooper: I will make one small point and then give way. It would be very difficult to know whether that is the case. One could say that, but I am not saying that. Most of the issues that we have with the cost of BTP policing are usually about how we share out the costs between ourselves, as we know that it is a zero-sum game. We have had the retail prices index pricing promise. We have also talked about new expansions—that is, when territorial policing was set up a new way, when we decided to arm part of the British Transport Police force and changes because of counterterrorism and so on—where there has been additional cost. On aggregate, we have a good relationship and a good understanding of how we handle costs. When we argue, it is about the methods of proportioning costs. However, ceding railway policing to a much bigger organisation, with its own challenges, is a separate issue.

David Lister: My comment is similar. It is important to us that we have been given assurances that policing numbers would be retained and that any finance from the industry would be spent on railway policing and not in other areas, so it is important that the agreements give that transparency and that costs will be shared and known.

Liam McArthur: Given what has been said—and ACC Higgins has acknowledged the training requirement across the force—how robust is that? It is easy to see a situation where force-wide costs could come to be met—perhaps not in whole, but certainly in significant part—by the railway industry, and that the training requirement be brought about through the railway policing agreements that Police Scotland and SPA have signed with the railway operators.

David Lister: That would clearly need to be reviewed in detail. If there is a proposal on the costs to be apportioned to the industry, the industry would want to understand them and ensure that it is comfortable that they are allied to supporting the railway industry.

Liam McArthur: Are there particular issues on the freight side around transfer of staff and offices or how the contract may be structured?

Neil Curtis: You mentioned that 40 per cent of staff are questioning whether they want to remain in the BTP. Their leaving is a big risk. We have all mentioned the specialism that the BTP retains, so

40 per cent of the approximately 250 officers who would transfer to Police Scotland being lost would be a significant loss of skills. That risk needs to be identified as part and parcel of the process: loss of that skill set—wherever those staff go—will leave a 40 per cent reduction in staffing levels, so an increase in staff would be required, along with further training, to bring the number back up to the 250 that are needed to support the BTP specialism that has been identified. As a number of police officers and members have mentioned, it is key that we retain that number of people with that specialism in Scotland.

Our concern is this: if it is expected that that might happen, what are we doing to make sure that it does not happen? It would add to an ever-increasing bill; for example, further training is a cost and somebody has to pay for it, at the end of the day. The rail industry has to look at the situation and say, “The policing is currently there and we pay a levy to buy into that police force.” It seems to me that it is currently not fully understood how much policing will cost us.

Liam McArthur: Finally, I get the impression from what witnesses are saying that you take a fairly constructive attitude to the discussions; essentially, you need to make this work. Do you have anywhere else to go? Last week we heard from witnesses about a Dutch model, in which the route of bringing in private providers had been gone down. I presume that you do not think that that is a realistic proposition in this instance, and that whatever happens under the legislation must therefore be made to work.

Andrew Cooper: You are absolutely right. One should not form the view that we are not very concerned about transitional arrangements as the change goes forward. I have had discussions with the chief constable about our real concern that we need policing to continue in accordance with the current police service agreement. The BTP must satisfy that right up until 23:59. That is a concern now and there is concern about the implications of the situation for the future. Both issues are important to us.

Graham Meiklejohn: Various themes are emerging, but we cannot overstate the importance of the matters to do with people. We represent an industry that went through significant change a couple of decades ago, which had a profound impact on people who had built up their careers under British Rail. I think that the staff of the BTP today have similar issues. That is recognised in the 40 per cent figure that was cited.

There is an obligation to ensure that the fundamental people issues are addressed and taken into account in order to minimise the risk of people leaving the force unnecessarily. Going forward, we will look at both sides of the border.

There is an opportunity for things to improve in Scotland and for the force in England and Wales then to up its game and improve, as well. Although we are obviously looking to protect what we have now, we can use contracts and relationships to have a greater overall effect, to improve efficiency and perhaps even to lower costs.

Claire Baker (Mid Scotland and Fife) (Lab): As has been stated, at the moment the industry has a commercial relationship with the British Transport Police: you pay an amount to the BTP and you know what you get in return for that. Can you say a bit about how you anticipate the costs will be split between what you will pay to the British Transport Police and what you will pay to Police Scotland under the proposed new system? Is it as simple as taking off a percentage amount? Andrew Cooper talked about the difficulty that the operator sometimes has in deciding what share should go to the BTP. Is that going to be challenging in the Scottish context? How will operators decide what share of their operations are carried out in Scotland? How much of a challenge is it going to be to divide the existing costs, and do you anticipate that the proposed model will be more expensive?

10:45

Andrew Cooper: There are two stages. The BTP has advised us of the overheads and direct costs that are associated with D division; there is no dispute about what is spent by the BTP for policing in Scotland at the moment. Under the Smith commission's review we should not see any worsening of that position as a result of change, so we know what the starting position is—those are the funds that will be available to Police Scotland. I agree that we will have to have a discussion about the individual railway policing agreements—as they are to be called—to decide how that cost will be shared between operators in Scotland.

Claire Baker: I accept what you have said, but it seems to be reasonable to anticipate that, if we are splitting in two a system that has savings and cost efficiencies built into it, the new system under Police Scotland will be more expensive. We have talked about concerns over areas such as capacity, specialism, the need for additional training and retirals. All that suggests that there will at least be some initial higher costs, if not on-going higher costs.

Andrew Cooper: There is every reason to believe that you are right. We know what the starting position is; it will be for Police Scotland, having taken on the responsibilities, to estimate the costs. The concern for operators that are not cross-border operators in the UK is that there are overheads that are covered by policing in Scotland

that are attributed to the BTPA. That issue has to be tackled—there are overheads, and Police Scotland will no doubt in the future allocate some of its overheads to railway policing in Scotland. Equally, there are operators in England that will be left without cover from Scotland, as it were. Somebody will have to work that out.

I said in my submission that there will be funding to achieve devolution, the one-off costs of implementing it and then the on-going costs. We need to make sure that the transitional issues are also picked up. A discussion is needed with Police Scotland about whether it will be able, from the funds that will come its way, to meet the requirements that the industry places on railway policing at the moment. Evidence that I have read contains statements from people who believe that there will be some economies of scale, but I have also read in some of the strategy documents that Police Scotland already faces its own challenges. It is interesting to consider how it will provide a service to the railway that is both efficient and effective. That will undoubtedly be a challenge, as it always is.

Claire Baker: Does anybody else want to comment on the budgets or the anticipated costs of the new system?

Neil Curtis: We agree that the new system will probably cost money. As with any change, there will be benefits in the long term, but we are quite a way out from seeing those benefits. I would like there to be transparency while the costing models are being developed, so that we can fully understand where the costs are going. If there will be additional costs, we need to understand why so that we can reference that for the future. We also need to make sure that the initial payment does not start ramping up very quickly. We need that clarity and understanding.

Darren Horley: I echo what my colleagues have said. We expect transparency in the contract that we have for the franchise. The funding is set, and that is the funding that is available. Notwithstanding Police Scotland's budgetary constraints, the proof of the pudding will be in the eating, in respect of the RPAs that are set up and the board that the railway or transport representative will sit on as part of directing and allocating how funding is spent.

To pick up on a point that was made earlier, I say that it is quite simple to train people for a personal track-safety card, but it takes two days. It will be quite an expensive outlay for each officer to get a personal track-safety card—it will be critical to where our funding goes and on what it is focused.

David Lister: Commercially, the issue is very important for the rail operators. From a cost

perspective, there are two areas in which there could be an impact for us. One is additional transitional project costs that may be involved: the Rail Delivery Group has made it clear that the industry does not expect to pick up costs that are associated with the project that is delivering the change. The other area is on-going costs once the change has occurred. It is encouraging to hear in relation to the overall proposals evidence to the effect that efficiency savings should be deliverable. If we can continue to deliver the safe and efficient service that we have today from the BTP, and efficiencies can be delivered, that will be received positively by the industry.

Claire Baker: Did you say that there is clarity around set-up costs and that you have made it clear that—

David Lister: I said that evidence that was submitted by the RDG indicated that the industry's position is that the industry does not believe that it should be responsible for project costs associated with the proposal—in England and Wales or in Scotland.

Claire Baker: That has not been clarified or agreed yet, as far as you are aware.

David Lister: I have not heard any details around that question.

Claire Baker: That is helpful, thank you.

Darren Horley: It is expected that output findings from the RDG will be published around May.

The Convener: The RDG expressed quite a lot of concerns about this area, including concerns about lack of detail, the number of BTP staff to be deployed and the level of performance. The point that is being made is that some advance notice and some certainty are needed in order to enable budgeting. Can you comment further on that? Do you have any concerns about new contracts being negotiated between England and Wales and Scotland?

Andrew Cooper: The police service agreement that we have at the moment has a three-year notice period on it, which enables us to include such matters in our medium-term financial plans. I imagine that that period will be activated. That gives us time to put those issues into the process. That is how we will handle matters. As my colleague has mentioned, the transitional costs are a concern because, from the discussions that I have had on the RDG's police and security committee, I am not aware that the BTP has funding for them; we certainly do not. It is something that has come to us, rather than its being part of our medium-term plan.

The Convener: In your submission, you suggest that a good notice period must be given in advance of new contracts, in particular. You say:

"Given the Notice period and attendant uncertainties, the proposal is unattractive to those with clear obligations and commercial responsibilities."

Andrew Cooper: It is my view—no doubt we will take legal advice on the matter—that the change that is being proposed is sufficiently significant for notice to be given on the police service agreement that we hold with the BTP. There are issues for other operators that are not cross-border operators but which will be affected financially but not operationally, and will not require a second railway policing agreement with Police Scotland. They might be in a slightly different situation, but it will be for them to comment when they are faced with the challenge.

Stewart Stevenson: I have a tiny question, which requires a yes or no answer from one person, I think.

When a territorial force, rather than the BTP, attends an incident, is there a charge levied by the territorial force? I see people shaking their heads. We can move on, convener.

Mairi Evans (Angus North and Mearns) (SNP): I had a question that would have followed on from the question that Claire Baker asked, about the potential for increased costs. I had wondered whether you had had any preliminary discussions about that with the Government or other bodies, but I gather from your previous answers that that has not been the case and that you were not aware of its being discussed at all. I see that the witnesses are agreeing that they were not aware, so I will move on to another question.

My next question is about the submission from the Rail Delivery Group. You have talked already about some of the main issues having been about funding for the different services that have been provided, and how that funding is allocated. Are there any other issues to do with the current PSA or any other problems? The Rail Delivery Group talked about the lack of any detailed description of the service that is to be provided to the operators by the supplier.

Andrew Cooper: Without being flippant, I would say that it would be possible to improve the details of many contracts that we hold with all sorts of bodies. We are talking about a supplier that supplies the rail industry for the most part, although it has other small contracts.

The best contracts are those that we do not take out of the cupboard. The relationship that we have, the alignment of objectives and the discussions that we have in the RDG's policing and security sub-group, which involves the BTP, make it easier to leave that contract in the

cupboard. I do not have to refer to the contract other than at budget time, when clearly everyone is under pressure—hence the pricing promise, which has eased some of the pressure in recent years, because we have had a long-term commitment to keep increases within the retail prices index. The BTP has done that, despite pressures on it.

The relationship is not short term—it predates 2003—but the position over the past 15 years has been quite exceptional, particularly under the current leadership. We are in an extremely strong position, with an alignment of objectives that is stronger than I have ever seen in my railway career. If I had to get the contract out of the cupboard, I would really be quite concerned, because the working relationship and the financial commitments are strong and the operational links work well.

It has to be remembered that my staff are really the eyes and ears and the extended police force. They know that, because I have told them that for years. They provide a lot of the intelligence that enables the police to work efficiently and effectively. There is a very strong working relationship with a body that knows that its future depends on that relationship. Contracts can always be improved and people can always be pinned down, but the question is this: is the relationship really the one that is wanted? I am less concerned about a mature relationship such as I have described than I am about entering a contract with a new supplier that has other pressures.

Mairi Evans: Would anyone else like to comment on that?

Neil Curtis: Andrew Cooper alluded to the fact that a contract is best left in the cupboard, if we can operate in that way. It is only when things start to go wrong that we need to read certain things.

My concern is that we will need to maintain a contract with the England and Wales BTP and ensure that the consistent approach is maintained. We will need to ensure that—regardless of what country or part of the UK we sit in—we get a good, value-for-money service that provides what we understand to be a BTP service, and that problems on the network will be dealt with professionally whether they are in England and Wales or in Scotland. We need to be consistent on that. As with insurance policies, we can tick every box, but there is always the little writing at the bottom that will say what is excluded. We need to ensure that nothing is excluded.

David Lister: I echo Mr Cooper's and Mr Curtis's comments. The RDG note captures the key elements of the development that is needed in the current PSAs or the railway policing

agreements. I concur that we would want positive relationships so that the contract is less of an issue.

One area that we are looking to enhance and develop is that it must be ensured that, if changes occur such that costs go up or down, people get together to consider the impact of that and what changes could be made so that no surprises occur 12 months down the line. That is one of the key elements, for us.

Graham Meiklejohn: We have made comments on this in our submissions. The baseline would be that costs do not rise in Scotland or in England and Wales, but a process must be gone through. As colleagues have said, it would be a failure of this process if, in Scotland, we suddenly had different parts of the industry referring to contracts in order to move forward. Things should just work in practice. We are, fundamentally, eager to see that relationship with the BTP south of the border, because that relationship will deliver continuity across England, Wales and Scotland for all.

Darren Horley: I echo what my colleagues have said. The key things are transparency, consistency and fair allocation of costs. That seems to be a trend among witnesses.

Mairi Evans: I completely understand what the witnesses have said about what they would like to see, but are there any other specific improvements that could be made as part of a new agreement?

11:00

Graham Meiklejohn: There is an opportunity for improved efficiency. We talked earlier about targets and how things are worked. We are not for a moment looking for competition to be introduced, but we need to have standards and agreements in Scotland and then to have comparable neighbouring standards in England and Wales. Operators such as TransPennine Express and Mr Curtis's organisation, which operate over the west coast and east coast and out of Scotland, see an opportunity for high standards across the entire network to be delivered. That is operationally imperative in order to improve passengers' overall experience of the railway, whether on journeys in Scotland only or for passengers using either of the Anglo-Scottish routes, and in order to make rail a more attractive mode of transport than private cars, flights or other choices.

Darren Horley: As I said earlier, we see the change as an opportunity for cross-fertilisation of best practice. If the merge happens, let us get it right. The rail industry should be involved from the outset. The minister has spent quite a bit of time with us, and we certainly have the opportunity to get it right. If any of us have to get the contract out, we will all have failed, to be honest.

Douglas Ross: A number of the witnesses, when answering the question about training, cited the cost and time involved in putting everyone through the PTSC process, which has to be renewed. How would you react if Police Scotland said that it was not going to do that?

Neil Curtis: We would be concerned.

Darren Horley: We would be very concerned.

Douglas Ross: So you expect that, when we get information back from Assistant Chief Constable Higgins, it will say that every police officer will get the training and that it will be continually upgraded. It is useful to get that on the record.

We have heard a lot about track policing, but I would also like to ask about how the BTP works on the trains. What are your concerns—or what benefits, if any, do you think there may be—with regard to policing in the station environment? How much consideration do you give to that? There might be differences to take into account. For example, with a single BTP force across the United Kingdom, we have Tasers being used in Scotland; indeed, all BTP officers can use them, whereas Police Scotland officers must first be firearms trained. What would happen if we had a different operating model for policing on our transport network in Scotland in which all officers routinely used Tasers, while just south of the border only BTP officers could do so?

Andrew Cooper: That is something that you would really need to ask British Transport Police and Police Scotland, because it is an operational matter for them. We take guidance from the police about the approach that they feel is necessary to deal with risks to the railway and its passengers and staff. Any view that I might express would not really be valid, as we take advice from the police on those professional issues. They are the ones who assess the risk, and we respond to that.

Douglas Ross: Ensuring optimum security within the station, where your clients come in and out, must be an important issue for you.

Andrew Cooper: Absolutely, yes.

David Lister: As the BTP's role is important in providing reassurance to our staff and the travelling public, it is critical for us to maintain that as we go forward. We want to ensure that the police have the appropriate means to deal with the threats that they are faced with, but the police themselves are the experts in determining what those appropriate means are. There are some opportunities for enhancing security at larger stations outwith the central belt, where the wider Police Scotland team can give some support and provide reassurance to staff and the travelling

public by responding earlier to incidents. That is one potential opportunity.

Douglas Ross: I presume that that is happening just now, too. BTP officers are not routinely seen at Elgin train station, but I have seen the police there. I have called ahead to the police because of an incident on a train, and they met the people at the station, so that working relationship is already in place.

David Lister: Absolutely, but being part of one force can strengthen that element. There is the risk of abstracting police officers from police stations on the railway in order to respond to an incident. We would want to monitor that area to ensure that railway policing is there for the railway and that officers are not being routinely abstracted for other areas.

Darren Horley: As far as our operation is concerned, we serve quite large conurbations on our network around, for example, Manchester Piccadilly, Edinburgh, Scotland and London. A lot of it is about—here is that key word again—reassurance. The question certainly needs to be directed at the BTP, but this is all about mitigation and visibility, which form part of the reassurance that can be given in our stations. We take guidance from the BTP on the forces and measures that it would like to use, but it all comes back to giving reassurance to passengers and staff and mitigating events that happen in stations and on trains.

Douglas Ross: I want to ask about concerns about the control and command element that were expressed by the BTP and, I think, by the BTPA. Given Police Scotland's continuing information technology problems, what are your overall thoughts at the moment about that element of any potential merger?

Neil Curtis: The IT needs to be fully understood and agreed to. Systems that are going to be relied on need to be robust and suitable in order to fulfil the need for command and control. It is quite clear how the command and control set-up would work for emergency and business continuity plans; the police are expert on that subject matter and lead on it. We just need to ensure that when the police need to invoke something, it is suitable and practical and can be achieved with the systems that they have and the number of police that they can draw on in order to deal with any incident that needs the command and control structure to be in place at any given time in any given location in the UK.

Douglas Ross: Audit Scotland has raised significant concerns about the failed i6 project and the Scottish Government has overseen a number of questionable IT processes across the board, whether that be for Police Scotland, the national

health service or for the agriculture sector and the common agriculture policy.

John Finnie: That is shocking.

The Convener: You really need to come to your point, Mr Ross.

Douglas Ross: Some Scottish National Party members do not like me saying this on the record, but there is palpable concern in communities about issues around implementing information and communications technology systems in Scotland. Is it a concern for you as operators that your good working system will be merged with a system that is currently not fit for purpose?

Andrew Cooper: The point about command and control is essential. A couple of times this morning, people have talked about Police Scotland's current response to a railway incident, but that position is not going to change in future. At ground level across the United Kingdom, Home Office forces and Police Scotland respond to incidents, as indeed does British Transport Police if it happens to be in the vicinity when there is an issue off the railway. There will actually be no change in that respect at a working level.

We know that that is because of the command and control structure. If a Home Office officer is not quite dealing with an issue in the way that we might have thought, that is because a BTP sergeant or inspector is there, taking control of the situation, providing advice and so on. That happens because there is a dedicated railway control. At the moment, the BTP has two such controls: one that deals with London and the south-east—for obvious reasons—and another in Birmingham that deals with the rest of the country.

As it happens, that control is just across the road from my team. While they are looking after vehicles, policemen and so on, we are looking after trains and passengers, but it is a very close map. When my staff call for assistance and the call goes through to the BTP, there is a single control room where people know what is going on and can respond accordingly. If they need to call on the services of Home Office forces, they do so. That is very clear and it gives confidence to people in the front line and to our control team that the arrangement works.

We need to make sure that that is replicated. The IT and all the other things that support it are important. All I can say is that things are working okay as they are at the moment, but there might be challenges elsewhere. My personal concern is that, despite the merger, Police Scotland still has four control offices. I understand that that number is coming down to three, but I just wonder what will happen when my staff call for assistance. How will we work out whether the call has gone through to Glasgow, Edinburgh or Motherwell? Will

somebody take the lead? Will the message be passed on?

That seems a little unclear at the moment—although that might be expected, given that we have not yet gone into that level of detail. However, the point is that we will have three control offices for Scotland and one for the rest of our operations in England and Wales. If we stand back and look at it, we see that the situation does not look as straightforward as it might be when things settle down.

Douglas Ross: We also, as some of the BTP officials here last week pointed out, have eight legacy forces that do not even speak to one another at the moment.

The Convener: The issues that have been raised relate to jurisdictional matters and the lack of explicit provision in the bill to provide clarity on where specific powers lie. Mr Horley, do you want to add something on that line of questioning?

Darren Horley: Going back to the point about control centres, they are a key concern not just for my members of staff who pick up the telephone to call for support from an officer but for staff on our services who will help the BTP. We have the well-publicised 6106 number that passengers can call for assistance, but we have concerns about which control centre those calls will go to and how they will be managed.

I echo my colleague Andy Cooper's concerns. My office in Birmingham is just across the road from the British Transport Police control centre. To repeat the good analogy that was used, I would say that we are very closely mapped.

David Lister: Control is clearly critical for us all. We have raised the issue to ensure that the workstream that looks at that area deals with any risks, but another aspect that must be considered is training in railway matters for the control staff. We have talked a bit about the ethos of the British Transport Police in responding to incidents; that ethos needs to be understood by the people who direct or control information on incidents, because what might be deemed as a low-level crime by the Home Office forces could actually be extremely disruptive or cause problems for our staff or the travelling public. We need to ensure that there is an understanding of the importance of particular crimes in the rail industry.

John Finnie: Many of us are concerned about the constant talking down of Police Scotland. We heard not only from ACC Higgins but from the chief constable of the BTP—on, I think, two occasions—and from Mr McBride, the senior BTP police officer in Scotland, about very good on-going relationships between Police Scotland and the BTP. Of course, there are elsewhere in the UK 44 relationships, what with the 43 Home Office

forces, but we will move to a situation in which there is only one control in Scotland.

We have heard from Police Scotland and the BTP that the transport network is a key component of the infrastructure of the country and, accordingly, there is a terrorist threat. We have alluded to Taser deployment; that was discussed with all the political parties in the Parliament before it was brought in, and I presume that there was also a discussion about it with the rail operating companies. Am I correct that on-going discussions take place with the rail operating companies?

Andrew Cooper: When there is a strategic change such as the implementation of armed capability or the deployment of Tasers, we are consulted on that, as we were in the example that you have highlighted.

The Convener: I was about to conclude the session, but I see that Fulton MacGregor has a question. Very briefly, Mr MacGregor.

Fulton MacGregor (Coatbridge and Chryston) (SNP): I apologise for being a wee bit late. The panel, particularly David Lister, will be glad to know that ScotRail was fine on my line, but the road network ground to a halt with the snow in the west.

I have a couple of points, convener, but I will keep them brief.

The Convener: You will need to be very brief, because we are over time.

Fulton MacGregor: Some witnesses have mentioned opportunities. Would anybody like to expand on what those opportunities could be? Are we talking about a Scotland-specific situation? How could you get involved in that?

Darren Horley: I have referred to the opportunity to build further relationships and to have cross-fertilisation of training and best practice. If, as Mr Finnie has suggested, the force—a BTP force, a rail division force or whatever it might be—is going to be further enhanced, best practice should perhaps be shared with that part of the current BTP that will be left in England and Wales. There is an opportunity to work with us on getting that and the new structure right, should the bill be passed.

The Convener: Those points were covered in earlier evidence, when we looked at some of the positives. Fulton, is there anything that you think has not been covered that you want to ask about?

Fulton MacGregor: No, thanks. I am okay.

The Convener: I thank all witnesses very much for attending today and for their very worthwhile evidence. I suspend briefly to allow for a change of witnesses.

11:15

Meeting suspended.

11:20

On resuming—

The Convener: I welcome our next witness on the Railway Policing (Scotland) Bill, who is Dan Moore, deputy director for rail markets strategy at the UK Department for Transport. I invite questions from members.

Rona Mackay: Good morning, Mr Moore. Can you give us a general update on the work of the joint programme board? What issues have been discussed at meetings so far? Where are we with the work?

Dan Moore (Department for Transport): First, I give a substantial thank you for the invitation to be here today. This is a really important programme. You have heard a lot this morning about the value of the British Transport Police, and we are committed to ensuring an orderly and sensible transfer, should the Scottish Parliament decide to go ahead with the legislation before it.

I will say one or two words on the JPB and give you a general update on where we are. The JPB is a manifestation of how important it is to the department that the process is managed in an orderly way. We have tried to work in genuine partnership and collaboration with the Scottish Government and with a range of parties, such as the authorities and forces, to have an open dialogue at the joint programme board.

A range of issues has been raised on an on-going basis. Early in the process, we decided that a lot of the JPB's work would be effected through a number of individual workstreams that cover the full range of transition issues from the really important people questions to the financial questions on assets and liabilities. Those workstreams have been up and running for some time.

The JPB has met on seven or eight occasions, so the process is fairly advanced. Quite a lot of the initial meetings were about setting things up and about legislative questions, particularly as the Scotland Bill was becoming an act of the UK Parliament. The critical question now for the JPB across all the workstreams that I mentioned—I am happy to talk in more detail about any of them—is that we have fully flushed out all the issues, so that we can plan and identify them in the right way. I emphasise that it is a complicated and difficult challenge to make that work in the right way. By the next JPB meeting in a week's time, we will have tried to ensure that all the issues across the various workstreams have been identified.

It may be helpful if I give an example of one particular area as an illustration of where we are. I cannot emphasise enough how critical it has been for us to understand the implications of the move for officers and staff. On those critical staff questions, over the past couple of months we have ensured that we fully understand the range of issues, such as important pension issues or terms; we have sought professional advice from the Government actuaries department and had broader discussions. After we have got to the bottom of what the issues are, in essence the next year is about fully resolving those issues so that we have a clear set of answers for staff as soon as we possibly can.

I am happy to say more about each individual strand. I am trying to give a flavour of where we are at the moment—it is about identifying the issues and ensuring that we have a full plan to address them. There is still a lot of work to do to manage the process in the right way.

Rona Mackay: How is the timescale? Has the process been harmonious so far?

Dan Moore: I am not sure that arrangements between the UK and Scottish Governments are always as harmonious, but this process has been highly harmonious and collaborative from day 1. The discussions that we have had over the past 16 months have involved some very open conversations. One of our basic rules for the joint programme board is that it is not a talking shop or an opportunity just to get together and say how great the programme is. If there are problems or issues with the programme, we discuss them frankly. That spirit of frankness and openness has been incredibly important. My sense is that there is a genuine joint effort to understand and resolve issues.

We very much recognise that we have different perspectives or different fundamental interests. The United Kingdom Government's interest will always substantially be in ensuring that the cross-border operations are managed in the right way and that, if the Scottish Parliament proceeds to enact the bill, there is effective protection for the interests of England and Wales after the transition has occurred. The focus of Scottish ministers will necessarily be on ensuring that the service works in the right way in Scotland, as well as in the cross-border areas.

My strong sense is that the process has been highly collaborative and co-ordinated up to this point.

The Convener: You mentioned terms and conditions. I presume that that comes under the workforce project, rather than the pensions workstream.

Dan Moore: That is right.

The Convener: However, we do not think that the Transfer of Undertakings (Protection of Employment) Regulations will apply and at this point the workforce have no idea exactly what their terms and conditions will be. How much of a priority will that be? What assurance can you give us about the timescale for resolving that?

Dan Moore: It is an absolute priority, and you are entirely right regarding the position on TUPE. We are now comfortable about COSOP, which is the Cabinet Office statement of practice, as an appropriate means to effect an orderly transfer process. We are also very much conscious of the triple-lock guarantee that has been given by the Scottish Government in that regard.

My strong sense is that the introduction of secondary legislation to the UK Parliament later in the year represents an important milestone for the project. Quite a number of the transitional questions will have to be properly resolved by that point. My sense is that, if we are not in a position to give a substantially greater level of assurance by the late summer, we will have some challenges. However, it is really important—I stress this—for the Scottish Government ultimately to be in position as the employer if the Scottish Parliament passes the bill, so that it can provide that reassurance as soon as practically possible. We think that the triple-lock guarantee is a very good first step in that regard.

The Convener: So, by the time that we reach the end of our stage 1 process, which is likely to be in early May, we will still not have a definitive idea of exactly what the terms and conditions will be, and neither will the workforce.

Dan Moore: Those are complex issues, to be sure, and it is absolutely the case that it will take us a bit of time to work through them properly in the right way. My sense is that we and, in particular, the Scottish Government, are trying to give as much assurance as possible at this point, but there will still be issues that we need to work through over the summer.

Oliver Mundell (Dumfriesshire) (Con): My constituency is right on the border. How much has the joint programme board focused on that section of railway—in particular the west coast main line between Carlisle and Lockerbie—and have there been any detailed discussions on how that section of the network will be managed?

Dan Moore: There has been quite a lot of discussion on cross-border questions more generally on both the east coast and west coast main lines. One of the UK Government's strongest interests in the process, which has been manifested in the discussions with the joint programme board, is to have a seamless and effective process for cross-border policing. The

joint programme board has set up an individual work strand on that question. It is effectively an operational-based work strand, which is led by Police Scotland and the British Transport Police. It is trying to get to brass tacks on the questions of the cross-border arrangements.

11:30

The issues can come up in a number of ways, such as what operational relationships we need to see and what agreements we need to have in place to ensure cross-border policing. Furthermore, statutory instruments will be an important mechanism for effecting devolution because they will set out some of the jurisdictional questions at a later point in the process. We have been thinking carefully about how those instruments should be framed.

The guiding principle that we have been trying to work to is to have effective and seamless cross-border policing. The Scottish Government has also expressed that ambition on a number of occasions. We are moving in the right direction. I assure you that that principle is of substantial importance not only to the joint programme board but to ministers at the Scotland Office and the Department for Transport.

Ben Macpherson: I will follow on in the same vein as the convener and ask about terms and conditions. First, however, I must say how encouraging it is to see the enthusiasm for partnership and collaborative working that you expressed in your initial answer. That is to be noted and commended.

You mentioned pensions. Will you illuminate where we are with pensions? What are the different discussion strands? Is there an openness to allowing members to maintain membership of their current scheme or will membership be opened to other schemes? Will there be the creation of a new scheme? Is a line of thought being progressed or are all options being explored?

Dan Moore: Pensions is a really important area. As the convener mentioned, there is a pensions work strand. The short answer is that a number of options are open at this stage, with thinking on the implications of remaining within the current arrangements and potential future arrangements. We do so in the context of a clear position—it is one of the three aspects of the triple lock, which the Scottish Government has talked about. At this stage, we are making sure that we fully understand the implications for the staff and, as you would expect, the finances associated with any transfer arrangements.

All options are on the table, but I cannot emphasise enough that, when we have been

talking about the issues, money—public financing—is clearly important. You would not expect me to say anything else. Providing the right approach to the appropriate transfer of staff has been an important aspect, too. You heard clearly from the chief constable when he was before you a couple of weeks ago that that is an important issue that the BTP continually brings to the table.

I apologise, because that is a somewhat woolly answer. We are still—

Ben Macpherson: It is helpful to get an indication of where things are right now. Considering different arrangements is an appropriate course of action, given that individuals will have pension conditions that they will hope—and look—to maintain. It is good that the issues are being progressed.

Dan Moore: We are certainly considering the matter carefully.

The Convener: Has it been taken into account that, if the issue is not resolved and there is still a question mark, people may vote with their feet rather than wait to see whether the uncertainty will be resolved to their advantage?

Dan Moore: That is a fair point. When we manage risks as part of the joint programme board, the risk of people leaving a highly specialist and important organisation is part of that work. We are trying to provide as much certainty as soon as we possibly can, taking into account the complexity of the situation; we are also trying to work with the BTP in ensuring that as much certainty and clear messaging is provided as soon as possible.

I assure you that, when we look at the risks that we are trying to manage on this project, the question about loss of expertise is at the top of the list.

Liam McArthur: You have outlined the efforts that have been made to address the concerns that have been raised about terms and conditions on the point of transfer. Similarly, there will no doubt be concerns in Police Scotland, which is going through its own consultation on how the force will look.

How are you balancing the risk of losing officers and staff—and, therefore, expertise—and people's concerns that their terms and conditions might be affected by the transfer with the risk that Police Scotland will have its own anxieties if officers and staff are seen to be coming into that organisation on better terms and conditions than the existing officers and staff?

Dan Moore: That is a fair point, and we are trying to understand that in the work that we are doing.

Although we have been meeting for some time and a considerable amount of work has been done, we recognise that this is the stage at which some of the really difficult and complex issues need to be fully worked through. Trying to understand the implications for individuals and the circumstances that they would go into is an important part of the project as we go forward. My strong sense is that a lot of the issues will depend on the approach that the Scottish Government ultimately takes on questions of pensions and other things. That is why we have been so encouraged by the triple-lock position and the reassurances that you heard from Mr Higgins a couple of weeks ago.

It is a significant work in progress, but we are very aware of the issues that you raise.

Liam McArthur: Is that discussion approaching those issues from the perspective that we need to focus on the interests of the individuals who are transferring and that those who come in their wake—those who are recruited in the coming years—will have to be taken on on terms and conditions that are more reflective of those that exist in Police Scotland at the moment? What is the strategy for handling those who are currently in the service and those who, I presume, will be recruited over the coming years?

Dan Moore: Our focus at the moment is very much on providing reassurance and as much clarity as we can for those who are currently in the service. Over the next several months, we must be clear about how we see the workforce strategy going forward. Mr Higgins was able to give some reassurance on that a couple of weeks ago. For me, one of the most important aims of the workforce workstream that we have set up as part of the joint programme board is to get under those issues and provide as much certainty as we can.

Liam McArthur: You have highlighted the fact that a lot of the detail around the merger will be taken forward in secondary legislation.

Dan Moore: Indeed.

Liam McArthur: That is an understandable approach, but there will be concerns that, whatever is agreed in broad terms, the secondary legislation may have either unintended or unexpected consequences. What assurance can you give us that the consultation around the secondary legislation will be sufficient to allow those concerns to be teased out and thereby avoid a situation, which we have seen in the Parliament on many occasions, in which the secondary legislation presents a take-it-or-leave-it option that does not do justice to the complexity of the issue?

Dan Moore: That is understood. It has to be a collaborative process over the next six months. We are trying to establish a clear lead for each of

the individual work strands. For example, the British Transport Police Authority, as the employer, acts as the clear lead on workforce questions but the BTP is also very involved. We envisage not just further conversations but an active process of dialogue with the British Transport Police Federation and others over the next several months as we try to work through some of the questions.

The comments that the earlier panel made about the level of dialogue that there has already been with the Scottish ministers was quite illuminating. I am conscious that a number of these decisions will, ultimately, be questions for the Scottish ministers. I sense that we are moving in a fairly collaborative and open way but that, over the next couple of months, we will also need to uptick the engagement with both the operators and staff representatives.

We fully understand your point about unintended consequences in how the detail is worked out. I have been in circumstances such as those that you described, in which secondary legislation has not quite worked out in the way that we wanted it to. I am very committed to making sure that, over the next several months, this is a collaborative process with the representatives of those who are most directly impacted.

To some extent, the choice that we made at the start of the joint programme was a really big one for us. We had two basic choices. We could have tried to put in place a highly centralised project structure, with a very substantial project management unit and a project management core. However, we have tried to use the workstreams to make sure that we are using both the day-to-day experts—those who understand all the issues—to actively take forward the work, and those who are closest to the operators and the staff to identify issues that we as a central board might not identify immediately.

I hope that the reassurance of the approach that we are taking in this area—of being as close as possible to those who know best about those questions—will result ultimately in exactly such issues being properly picked up.

I cannot emphasise enough, in the discussions of the board, the real importance of understanding the practical staffing impacts. That is very important to us.

The Convener: To be clear, would an example be a formal consultation with bodies such as the Law Society of Scotland, which might have definite views on the statutory instruments?

Dan Moore: I am always wary of speaking directly for the Scottish Government on formal, as it were consultative, processes. There will be a number of Scottish Government issues, and,

consistent with the devolution process, ultimately quite a lot of the process must be driven by decisions that are made by the Parliament and by the Scottish Government. I do not want to speak too much about the Government's process.

With regard to the statutory instrument process, there are a couple of statutory instruments that we would look to use to effect transfer. I do not know whether this is the time to get into that detail, but there are two such instruments. The section 90 order would transfer assets and liabilities and would be subject to the scrutiny of this Parliament as well the United Kingdom Parliament. The section 104 order would be a UK Parliament measure but would cover a range of jurisdictional consequential issues. I absolutely see that being the process of engagement and discussion.

At this stage, we have not established exactly the formal public consultation process that we would follow, but I cannot emphasise enough the premium that we place on engagement and that we have placed on it throughout the joint programme board process, from its first day. It is one of our guiding principles. I would not want anybody to come to this committee in two years' time because of an issue that is the responsibility of the United Kingdom Government and say that that Government has not given them an opportunity to be heard. That is what we are trying to secure as part of this process.

The Convener: I appreciate that point. Taking it a little bit further, you might take it on board that dialogue and discussions behind closed doors are one thing, but a formal consultation process provides an opportunity for responses to be seen, for transparency, and for accountability to follow. I hope that you take that on board.

Dan Moore: I will certainly take that away. I very much agree with the spirit of that.

John Finnie: I would like to raise two points with you. One is on your last point about engagement. I do not know whether you heard last week's evidence from Mr Steele, the general secretary of the Scottish Police Federation. If it was not he who said this, it might have been Mr Higgins, who alluded to the fact that there is already within Police Scotland a range of terms and conditions, not least in relation to issues such as formal housing allowance and pensions. This would be another complication thrown into the mix. Has the JPB engaged with the Scottish Police Federation?

Dan Moore: At this stage there has not been a strong process of engagement, although there will absolutely have to be one as part of the process. We have identified a group of parties and broadened the board in the last couple of months to include the forces that we envisage having a

greater level of engagement with from now on, including the Scottish Police Federation and the British Transport Police Federation.

I emphasise—this is something that Scottish Government colleagues might be able to say more about when they appear before the committee next week—that there has been an extensive set of discussions with Scottish Government colleagues, the Scottish Police Federation and other representative organisations in an effort to understand their interests. I am very conscious that quite a number of the practical day-to-day decisions will ultimately be decisions for the Scottish Government. In many respects, quite a lot of the consultation in this area must follow that decision-making tree, as it were.

11:45

John Finnie: My other question is about operational issues, in the event that the Scottish Parliament passes the bill. There are long-standing conventions between Dumfries and Galloway Constabulary, as it was, and Cumbria Constabulary and between Lothian and Borders Police, as it was, and Northumbria Police. When the convener and I considered the single service as members of the session 4 Justice Committee, the question of jurisdiction came up. Similarly, when we dealt with legislation about hot pursuit at sea in session 4, there were issues of jurisdiction.

The BTP has existing arrangements to deal with matters of jurisdiction, and I do not envisage that they will necessarily change. Is there engagement with the Crown Office and Procurator Fiscal Service and its counterpart the Crown Prosecution Service to address some of the concerns relating to where a crime is alleged to have been committed and where it would be dealt with, which to me seem doable issues?

Dan Moore: That is a very reasonable question, but I am afraid that I cannot give you a detailed answer. My expectation is that such arrangements exist.

The important issue on which I want to reassure the committee is that, on a range of practical, operational questions, we are very much relying on the British Transport Police, which has specialist knowledge and expert judgment, to tell us what it needs in that area. Before we went down this route, we had to be comfortable that, whether on practical hot pursuit questions or on day-to-day operational matters, we had a sensible set of arrangements to ensure that there would be seamless cross-border policing.

You fairly referred to the existing very good bilateral cross-border arrangements. We want to strengthen those on railway policing issues. I mentioned the section 104 order. We want to

ensure that we have done all the necessary work through the joint programme board so that we are fully clear about all such jurisdictional matters before the order gets to the UK Parliament. I reassure the committee that jurisdiction is one of the top issues on our agenda. We are relying to a substantial degree on those who know best—the British Transport Police—to advise us on that.

John Finnie: That is very important for a reason that goes beyond the bill that we are considering—that of security and, in particular, the threat of terrorism, which is a global issue. It is an obligation for not just Scotland, but the rest of the UK and the UK collectively, to get the procedures right.

Dan Moore: Absolutely. We are very conscious of that. I am also very conscious of the existing arrangements between Home Office forces in England and Wales and Police Scotland. Mr Higgins talked about those when he appeared before the committee two weeks ago. Those arrangements are incredibly important.

We are clear that the transport policing reforms—if they are adopted by the Scottish Parliament—should not inject any degree of security or other risk into arrangements that work well.

John Finnie: Many thanks.

Claire Baker: We discussed with the previous panel the possibility of one-off costs and the issue of who would meet the project costs. Is that being looked at by the board's governance and finance group? The operators put the case that that is not their responsibility. Does that mean that the responsibility will lie with the Scottish Government?

Dan Moore: There are two questions there. Costing questions have occupied a reasonable proportion of the board's time over the past few months. In many cases, it is just a question of understanding what the costs are—both the transitional costs and any longer-term costs that arise in this area. We have tasked the BTPA to make sure that we fully understand those costs and cost implications over the next several months, so that we can take a view on their appropriate allocation. It is a matter that is still under discussion. In relation to the operators' point, I have heard the railway delivery group very clearly, and I have had many discussions with the RDG over the past several months on the question of the transitional cost.

A number of legislative changes affect the BTP on an annual basis. My team deals with a substantial number of pieces of Home Office legislation that go through the UK Parliament and impose a degree of cost on the operators. We see the transitional cost as having a similar basis—it

will be a chargeable cost to the operators, but I have heard their concerns on that. That is why we are trying to push the question as far as possible, to understand what the delta—the level of cost—is so that we can make an appropriate decision as to how it should be allocated.

Claire Baker: At the moment, then, there is no clarity about who will meet the transitional costs, once they are known. Is it possible that the operators will meet those costs? I know that that may not be your decision to make.

Dan Moore: That is a very fair point. Speaking frankly, the UK Government's starting position is that it is a chargeable expense that would be paid by the operators in the normal way. However, I am very conscious of the strong representations that the operators have made both this morning and in discussions to date. For some time the BTPA has been doing as we asked and working to understand the scale and nature of those costs, so that we can reconsider whether they should be dealt with in a different way. I apologise for the fact that that is not a comprehensive answer, but we are genuinely trying to listen to operators as we go through the process and we are willing to think again about some principles in order to effect the process in the most collaborative and sensible way.

Claire Baker: You have said that the UK Government believes it to be a chargeable cost, but the legislation is not being brought forward by the UK Government—it is being brought forward by the Scottish Government. Does it come down to the UK Government because of the way that things are constituted at the moment?

Dan Moore: It is the way that it is constituted at the moment.

Claire Baker: Even though it is not the UK Government's legislation or decision?

Dan Moore: Indeed. That is exactly where the challenge arises. At the moment, a lot of changes are made in relation to the BTP on an annual basis. That normally results in cost implications for the operators, who directly pay for and benefit from the policing service. Our starting proposition was that this was a change like any other, but we are very conscious of the representations that have been made both today and previously. We want to understand the nature of the costs further, in order to make a better and clearer decision.

I want to make it really clear that there is a substantial interest for the operators in ensuring that the right arrangements are in place for the transfer. As I mentioned earlier, we want to make sure that the arrangements work on a cross-border and an England and Wales basis well into the future—well past 1 April 2019, if the devolution takes place at that point. There is a strong interest

on the part of operators to make sure that any arrangements that are put in place over the next couple of years continue to work for cross-border and England and Wales policing after that point. We think that there is a reasonable argument in that area, but I have heard the points that have been made by the RDG.

Claire Baker: I have one final point. It is anticipated that there will be a very busy legislative programme in the UK Parliament over the next couple of years. Are you confident about the timescale that has been proposed? Will there be space for the legislation?

Dan Moore: That has been on our radar for some time and we have done what we can to programme it in.

As I sit here today, I am comfortable that we have done enough to ensure that this particular secondary legislation—I stress that it is secondary legislation; if it were primary legislation there might be more of a question—contains enough detail that we can have confidence in the date. For me, the critical question on the date concerns the fact that there is a huge amount of work to do between now and 1 April 2019—I want the committee to be in no doubt about that. Through the joint programme board, we need to ensure that that work is properly done. The greater risk to the date would arise in a situation in which that work was not taken forward in the most orderly manner. At the moment, I am not factoring in any risk in relation to parliamentary time, not least because of the fact that the matter has been on our forward agenda for some time.

The Convener: As you will have heard today, the train operators want to be consulted from the outset. Has the joint programme board formally met with them?

Dan Moore: As chair of the joint programme board, I have met with the RDG several times, including one meeting with the policing and security representative last week. We will continue that process of detailed engagement. The RDG is one of our most important stakeholder groups in this area, and we will absolutely keep that process of engagement going on. That includes bilateral discussions and discussions involving the RDG's policing and security committee, which, as Mr Cooper said, is a really important forum.

Douglas Ross: ScotRail and others told us about issues around the governance arrangements. Can you give us some details about the discussions that the board has had about governance?

Dan Moore: So far, the main discussions have involved us going through some of the benefits that we see of having bespoke governance arrangements in place. Previously, we have talked

in the context of the board about the sort of arrangements that the British Transport Police Authority currently has, the core aspects of which are that it is able to set policing objectives that reflect operator priorities, that it is able to plan in a way that reflects the specialism and priorities of the force and that it is able to hold the force accountable for delivery. We have tried to talk through some of those questions. Speaking frankly, we were quite pleased to see the forum suggestion that is before you in the legislation, because we think that one of the really important aspects of what we are doing concerns the need to maintain the specialism of this, in my view, quite special force. It is important that the governance arrangements reflect that. If properly implemented, the forum arrangement should be capable of maintaining that focus on the specialism.

Douglas Ross: However, decisions will still be taken by the Scottish Police Authority and the single chief constable for the whole of Police Scotland. In this Parliament—indeed in this committee—there are concerns about scrutiny and the role of the SPA. We set up and still maintain a separate sub-committee specifically on policing, and it does a lot of the work that many people expected the SPA to do. Is it not concerning that, at a time when people are expressing concerns about the ability of the SPA to scrutinise and lead Police Scotland in terms of strategies—leaving the operational side to the chief constable—we are now adding another layer to that with the potential absorption of the BTP?

Dan Moore: I understand that point. This is one of the areas on which I am reluctant to get into too much detail, largely because I think that the governance arrangements have to be fundamentally a matter for the Scottish Government, as it brings forward its proposals in this particular area. The joint programme board adds some value by demonstrating the value of ensuring that the governance arrangements support the effective provision of a specialist policing force. However, I am cautious about the UK Government specifically commenting on particular governance arrangements, and particularly the arrangements relating to the Scottish Police Authority.

I can give you some assurance, in that I have had a substantial level of discussions with the Scottish Government over the past few months on maintaining specialism. The recognition of the importance of specialism comes through in all the documents. That was not there when we started the joint programme board process 18 months ago. I think that the Scottish Government recognised the importance of specialism but did not underline it in the way that it has done in the past several months. That is a strong foundation point to build on.

12:00

Douglas Ross: That is an interesting point, but my concern is that, although one of the many things in the Police and Fire Reform (Scotland) Act 2012, which introduced Police Scotland and the single fire and rescue service, is that the SPA should be open and transparent and ensure good governance, week after week, we see that the SPA does not provide that. We will see what happens at its board meeting on Wednesday.

I will just make a final point about what you are saying. It is all very well to get that language from the Scottish Government but, before MSPs vote on the bill, we need to see that that approach will be implemented in any scrutiny body or governance arrangements. Although language is useful at this stage, we need some evidence that that will happen. I am just concerned that, of all the topic headings—

The Convener: Can I stop you there, Mr Ross? Those are matters for the Scottish Government. I think that Mr Moore has answered the question. Do you have something extra?

Douglas Ross: I was just going to finish the point. I wanted to ask about the various projects. I see that governance and finance have been put together in one project. Are you dedicating equal time to the various projects, Mr Moore, or is governance getting less attention paid to it?

Dan Moore: It is fair to say that it varies, depending on the issues under discussion. The legislative aspects have taken a significantly greater amount of time in recent months. That is probably for understandable reasons, given the bill before this Parliament and the proceedings in the House of Lords last year.

Just to rewind one point, the issues that have had most coverage in the joint programme board have been a combination of workforce and operational questions, and most particularly the cross-border issue that we have talked about. Governance has had relatively less prominence, but I do not think that that is because its importance has been understated in the discussions so far; it is because the Scottish Government has for some time been emphasising the importance of governance arrangements that preserve specialism. However, we see that as ultimately a question for the Scottish Government—I take the convener's point on that very clearly.

The Convener: If you cannot give us an answer now, perhaps you could write to us with the timescale for completing each of the workstreams and, in particular, under the operational one, the timescale for the jurisdictional issues, which seem pretty fundamental.

Dan Moore: I am very happy to do so. The joint programme board will meet again in a week and a bit to discuss and review the project. If it is convenient for the committee, I will provide an update to you after that discussion and after you have had the minister before you. My sense is that that would be a good point at which to provide an update, and I would be very happy to do so.

The Convener: The committee would appreciate that.

That concludes our questions. I thank Mr Moore for attending.

Dan Moore: Thank you very much for the opportunity.

Justice Sub-Committee on Policing (Report Back)

12:03

The Convener: Agenda item 3 is feedback from the Justice Sub-Committee on Policing on its meeting of 16 March. Following the verbal report, there will be an opportunity for brief comments or questions. I refer members to paper 3, which is a note by the clerk. As Mary Fee is absent, I will provide the feedback.

The Justice Sub-Committee on Policing met on 16 March, when it took evidence from the Auditor General for Scotland on "The 2015/16 audit of the Scottish Police Authority". The sub-committee heard about the lack of a long-term financial strategy for Police Scotland and about on-going governance issues. The sub-committee will next meet on Thursday 30 March, when it will take evidence from the Auditor General on Audit Scotland's report, "i6: a review". As ever, all members of the Justice Committee are very welcome to attend.

As there are no questions, we now move into private. The committee's next meeting will be on 23 March, when we will consider our report on the Crown Office and Procurator Fiscal Service inquiry.

12:04

Meeting continued in private until 12:58.

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