



OFFICIAL REPORT
AITHISG OIFIGEIL

Justice Committee

Tuesday 28 March 2017

Session 5



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JUSTICE COMMITTEE
13th 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:

Michael Matheson (Cabinet Secretary for Justice)
Don McGillivray (Scottish Government)
Humza Yousaf (Minister for Transport and the Islands)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Justice Committee

Tuesday 28 March 2017

[The Convener opened the meeting at 09:46]

Decision on Taking Business in Private

The Convener (Margaret Mitchell): Welcome to the Justice Committee's 13th meeting of 2017. Agenda item 1 is a decision on taking business in private. Is the committee content to take in private item 3, which is consideration of the committee's approach to stage 1 scrutiny of the Domestic Abuse (Scotland) Bill?

Members *indicated agreement.*

Railway Policing (Scotland) Bill: Stage 1

09:46

The Convener: Agenda item 2 is consideration of the Railway Policing (Scotland) Bill. This is our closing evidence session on the bill. I refer members to paper 1, which is a note by the clerk, and paper 2, which is a paper from the Scottish Parliament information centre.

I welcome Michael Matheson, Cabinet Secretary for Justice, and Humza Yousaf, Minister for Transport and the Islands, as well as their officials, Don McGillivray, deputy director of the police division, and Kevin Gibson, a solicitor from the directorate for legal services in the Scottish Government. I also welcome Gordon Macleod, rail standards and sustainability manager at Transport Scotland.

Does the Cabinet Secretary for Justice wish to make an opening statement?

The Cabinet Secretary for Justice (Michael Matheson): Yes. Thank you for the opportunity to address the committee today. Our Railway Policing (Scotland) Bill follows on from the transfer of legislative competence over railway policing to the Scottish Parliament under the Scotland Act 2016. As members will be aware, the Scottish Government's input to the Smith commission sought the devolution of railway policing, to bring the staff and powers of the British Transport Police within the remit of the single Police Service of Scotland. The Smith commission's recommendation, reached through cross-party agreement, was indeed that the functions of the BTP in Scotland should be a devolved matter.

The bill before the committee forms part of a wider programme of work to integrate the BTP in Scotland into Police Scotland. Members have heard about that programme in a number of previous sessions. You have heard that, through the joint programme board, we are working closely with the United Kingdom Government, the BTP, the British Transport Police Authority, Police Scotland and the Scottish Police Authority to make integration a success. You have heard about our regular and constructive discussions with representatives of the railway industry, which has a crucial role as both funder and recipient of railway policing services.

I will underline some of the key benefits that the integration of the BTP in Scotland into Police Scotland will deliver. It will make railway policing in Scotland accountable, through the chief constable and the SPA, to the people of Scotland. It will enhance railway policing through direct access to

the specialist resources of Police Scotland. It will provide an integrated approach to transport infrastructure policing, bringing railway policing alongside the policing of roads, sea ports and airports and border policing.

The committee has heard about other benefits of integration during previous evidence sessions. Assistant Chief Constable Higgins has identified a greater ability to deploy more resources to locations that currently do not receive them. Rail industry representatives have flagged up an opportunity for cross-fertilisation of best practice, an opportunity for improved efficiency and the potential for improvements to the existing police service agreements.

The committee's evidence sessions so far have enabled concerns about integration to be aired and some of our key partners in delivering integration to speak about how those can be addressed. In response to concerns that our railway policing specialism would not be maintained, ACC Higgins has given a clear assurance of Police Scotland's intention to maintain a specialist railway policing function within the broader Police Scotland structure. In response to concerns that railway police officers would be diverted to duties outwith the railway, ACC Higgins gave a clear assurance that that would not occur, with the obvious exception of a crisis situation.

In response to concerns about the terms and conditions of officers and staff who transfer into Police Scotland, members have heard that we have offered a triple-lock guarantee that secures jobs, pay and pension conditions throughout the course of integration. On that front, I can tell the committee that positive discussions are now under way with the BTPA to establish the way in which we deliver our commitment of no detriment to pension provision for BTP officers and staff who transfer. Our starting point is that officers and staff retain access to their current pension scheme. Officials are working on the financial and legal issues that are associated with delivering that approach.

The committee will want to move on swiftly to questions so, in conclusion, I emphasise our on-going commitment to working in partnership with members of the joint programme board, the rail industry and officer and staff representatives to ensure that railway policing in Scotland has a strong future.

The Convener: Thank you for that opening statement.

You will be aware that the BTP branch of the Police Superintendents Association stated:

"counter terrorist related matters, bomb hoaxes and bomb threats on major lines ... or targeted at train operators

on a single transport network are currently handled by one force—BTP".

It also said that

"Devolving railway policing and causing the introduction of dual controls at the border with different bomb threat categorisation arrangements"

will introduce "an element of risk". At a time of heightened security alert, do you consider that taking that risk can be justified?

Michael Matheson: When it comes to putting in place plans to deal with any type of security issue, it is important that all of our police services in Scotland and the rest of the UK work in a collaborative fashion. Currently, if there were a major incident in the form of a terrorist threat to railway infrastructure, the BTP in Scotland would receive considerable additional resource support from Police Scotland to deal with it, based on Police Scotland's capabilities. For example, at present, if there is a need for firearms capability, the BTP in Scotland is dependent on Police Scotland to provide that specialist resource for the BTP as and when it is required.

With the integration of railway policing into Police Scotland, I have no doubt that the protocols and arrangements that will be put in place to deal with issues such as bomb hoaxes on our railways—of course, those can occur outwith the railway system in any part of our society that Police Scotland deals with—will be the same as the arrangements that are already in place to deal with them. The police will do that in a co-ordinated fashion that recognises the potential impact that a decision in Scotland can have on the wider network and considers how that decision can be communicated to those in other parts of the network in the UK that might be affected.

The Convener: I will delve down a little further. The Transport Salaried Staffs Association stated that

"BTP currently has ... UK wide intelligence, crime recording and command and control systems"

that enable it to

"seamlessly 'follow' real time incidents".

It also asserted that

"This system will not be available to Police Scotland who will have to use their comparatively inefficient information protocols".

I note what the cabinet secretary is saying, but that is evidence to the effect that Police Scotland simply does not have sufficient information protocols to handle and avert the risk, and I am asking you whether taking that risk is justified.

Michael Matheson: I am surprised at the question, because I would have assumed that you

would be aware that Police Scotland has access to the UK-wide intelligence network at this time.

If there is an incident such as the one that happened last week in Westminster, Police Scotland will be directly engaged in the network across the UK in assessing and responding to that with colleagues across the rest of the UK. Those direct links into the intelligence network will continue with the integration of railway policing into Police Scotland.

A single command structure for how we respond will be created. At present, the BTP has access to the intelligence gathering and sharing structure, as does Police Scotland. With integration, there will not be two separate command structures in Scotland; there will be a single command structure in Police Scotland, which will take that information—the intelligence—and respond in an appropriate way in Scotland in dealing with any matter. That will include all aspects of our infrastructure—not just our railways, which of course are an important part, but our roads, ports and airports, all of which have different threat and risk assessments carried out on them.

Police Scotland will use intelligence to inform the approach that it takes in responding to any particular threat in Scotland. That will be done in a single command structure and in a way that is reflective of the other aspects of our infrastructure, given where the threats may be at the time and depending on the intelligence that Police Scotland receives.

The Convener: Are you confident that Police Scotland will be able to follow real-time incidents and have the same recording and command and control systems that are in place at present?

Michael Matheson: I am surprised that anyone would think that Police Scotland does not have access to that live information. It has that access now and that will continue to be the case. The idea that the BTP has preferential access to intelligence on terrorism matters over and above the access that Police Scotland has is simply not true—

The Convener: If I could interrupt, cabinet secretary, I am asking whether the cross-border aspects of the service will be seamless. If an incident starts in Scotland and the perpetrators cross the border into England, the service will continue. Is that correct?

Michael Matheson: That happens right now. If there were a need for specialist capability to support the BTP in Scotland relating to such an incident, that would be delivered by Police Scotland, because it is the only force in Scotland that has the capability to meet that need. It would supplement the present resource. However, there are two different command structures in taking

forward that work. When those are integrated, there will be a single command structure for that.

When it comes to assessing any of those matters, Police Scotland operates at a UK level. Actually, the committee should look at the Prime Minister's comments from yesterday about Police Scotland. She was exceptionally complimentary about its capability to deal with such threats and its technical capacity to do so as the second biggest force in the UK.

Police Scotland has the access routes into information and the technical capacity to interpret and use it appropriately. I would expect that to continue when railway policing is integrated into Police Scotland. In fact, the service will be enhanced by having in place a single command structure, which will remove any duplication or different lines of decision making and ensure that decisions are made on the basis of looking across Scotland's infrastructure and the arrangements that we have in place for it.

The Convener: I will let in other members in a moment. The point has been made about, for example, a football incident that started in Scotland and continued on to Birmingham. The jurisdiction ends at the border—Police Scotland has no jurisdiction thereafter.

10:00

Michael Matheson: Cross-border work takes place on such incidents. For example, it takes place in ports between Scotland and Northern Ireland; in road policing, where we have in place protocols with forces in England and in partnership with Police Scotland; and in airports, where we share intelligence not just at domestic level but at international level.

That type of integration, sharing of information and co-operation therefore already takes place at domestic level. When it comes to things such as travelling football fans, Police Scotland could probably give very good examples from the approach that was taken for the recent England-Scotland game. Although the BTP was involved in that, Police Scotland was heavily involved. Through its football intelligence unit, it worked in co-ordination with the Metropolitan Police and the BTP on how to manage the situation, and resources from Police Scotland were deployed to manage it. The BTP was part of the approach, but Police Scotland, working in partnership with its colleagues in the Met, was involved in the passage of Scotland fans all the way down. Indeed, officers from Police Scotland were based down there to help to deal with the type of scenario to which you refer.

The Convener: Your evidence is now on the record, cabinet secretary, and it will be for those

who are steeped in this to look at it and see whether you have addressed their concerns. Mary Fee has a supplementary question.

Mary Fee (West Scotland) (Lab): My question follows on from the points that the convener has raised. Counterterrorism is reserved within the BTP and the control for that is held centrally. Although I appreciate the comments that the cabinet secretary has made about having a single command structure when Police Scotland takes on responsibility for the transport police, there is already a single command structure across the BTP for dealing with issues related to terrorism. I would like an assurance from the cabinet secretary that there will be no break in the flow of information, because if the transport police become part of Police Scotland there will be two commands of operations, as there will be the rest of the BTP and Police Scotland.

Michael Matheson: To be clear, are you referring to an incident taking place on the railways or are you talking about a terrorist threat in general?

Mary Fee: I am talking about an incident on the railways.

Michael Matheson: Right now, if there was a significant terrorist threat on the railways in Scotland, the BTP would require the support of Police Scotland to deal with it. The BTP in Scotland does not have the specialist capacity to deal with such an incident, so it would already have support from Police Scotland to deal with those things. Two command structures would be involved in trying to respond to such an incident in Scotland. Following the integration of railway policing into Police Scotland, a single command structure would deal with such an incident. The change would remove the need for decisions to be made, for example, at the BTP's command and control centre in Birmingham about how it responds to the situation up here in Scotland, because the chief constable or the senior officers who were dealing with the incident would make the decisions. We would therefore remove the element of the present arrangement that involves two different command structures dealing with such an incident. Police Scotland would be the single command that would make the decisions. You heard from ACC Higgins when he gave evidence about how that can help to streamline the process.

I am confident that, following the integration of railway policing into Police Scotland, there will be no doubt about the capacity of Police Scotland to deal with terrorist incidents if they occur on our railway network. Indeed, it will allow us to ensure that the approach that we take to infrastructure policing as a whole in Scotland puts us in a strong position to look at all the potential threats to the

major elements of our infrastructure. If anything, it will help to reinforce the way in which we manage and protect our infrastructure. It is worth keeping in mind that one element that the strategic defence and security review that the UK Government published in 2015 looked at was the creation of infrastructure policing. That was with a view to looking at how to co-ordinate responses to such threats much more effectively. Whether the UK Government chooses to go down that route is a matter for it, but that was a key area that it said it would want to consider addressing to ensure that there is more effective policing of our major infrastructure in the UK as a whole.

I believe that one benefit that will come from integrating the BTP into Police Scotland will be that we will be in a position in which we can future proof in regard to that. Whatever route the UK Government chooses to go down—whether it proceeds on an informal protocol basis or whether it wants to legislate—is a matter for it but, in Scotland, we will already have taken forward that element of work and we can ensure that we manage our infrastructure and its security in a co-ordinated fashion under a single command through Police Scotland.

Mary Fee: The concern was raised because terrorism could of course be cross-border. There is one chain of command across the BTP and a seamless flow of information, and there has been concern that there could potentially be a breakdown or not the same seamless flow of information across the country.

Michael Matheson: In theory, that is an argument for having a single police force for all aspects of policing for the whole of the UK, not just for the railways. Currently, information is exchanged at the UK national level. Intelligence is shared, and Police Scotland is completely engaged in that process. The tragic events that unfolded last Wednesday provide an example of where Police Scotland was engaged at UK level in looking at a matter, assessing the situation and discussing the issue with police forces in other parts of the UK to inform the response in Scotland.

I am confident that the sharing of information on the counterterrorism matters that Police Scotland deals with day in, day out—whether they are to do with our roads, airports, ports or policing in general—is an on-going daily process and that Police Scotland is well engaged at UK level not only with police forces across the UK but with our security services in assessing risks. Indeed, it goes beyond that. That sharing of intelligence and joint working is done on a pan-European Union basis through Europol. We have embedded officers there to share intelligence and work in a co-ordinated fashion, whether that is on international crime, serious and organised crime or

human trafficking. Work goes even beyond that, into Interpol and work on a multinational basis across the world.

There is the ability to share intelligence and information and operate in a co-ordinated fashion now. That is not new; it already happens and Police Scotland does that on a daily basis. I have absolutely no doubt that, with railway policing coming into Police Scotland—if that is the will of the Parliament—that will be reinforced, because that will create a single command structure, allow us to make decisions and allow the police to make decisions on and assessments of how to respond to matters across our public infrastructure in Scotland in a way that it sees as appropriate to the situation in Scotland.

John Finnie (Highlands and Islands) (Green): Cabinet secretary, the Scottish Government has stated that it recognises the importance of providing “early clarity” to BTP officers and staff on their terms and conditions following integration, should that go ahead. That said, I absolutely understand why the British Transport Police Federation would have concerns when it sees phrases such as “The Scottish Government aims to ensure”.

Can you provide clarity, please, on why the Transfer of Undertakings (Protection of Employment) Regulations are not applicable, what the status is of the Cabinet Office statement of practice, and how that will manifest itself in the triple-lock assurance that you keep referring to?

The Minister for Transport and the Islands (Humza Yousaf): I will take that question, as I lead on that side of things for the Government.

From the outset, we have understood that BTP officers have concerns about terms and conditions. I know that from meeting Chief Superintendent McBride, and we were aware of that very early on in discussions. The cabinet secretary and I thought that we would like to give assurances early on to the British Transport Police Federation, the unions and others that, in our minds, a triple-lock guarantee in respect of the jobs, terms and conditions and pensions of officers and staff would be absolutely appropriate. That is how we are approaching any discussions.

The work is being carried out through the joint programme board. Earlier this month, the committee took evidence from Dan Moore, of course, and he explained things very well. The issue is so important that pensions is one of the key workstreams that is being undertaken.

We have set out some of the reasons why, in our opinion, TUPE does not apply. TUPE covers only what are known as “relevant transfers”. The Transfer of Undertakings (Protection of Employment) Regulations 2006 state:

“An administrative reorganisation of public administrative authorities or the transfer of administrative functions between public administrative authorities is not a relevant transfer.”

The Scottish Government’s view in this case is that it involves the transfer of an administrative function between public authorities, and the exclusion therefore applies. We are using the Cabinet Office statement of practice on staff transfers in the public sector, which states:

“in circumstances where TUPE does not apply in strict legal terms to certain types of transfer between different parts of the public sector, the principles of TUPE should be followed (where possible using legislation to effect the transfer) and the staff involved should be treated no less favourably than had the Regulations applied”.

I hope that the committee acknowledges that, even though TUPE does not apply, the COSOP provides reassurance in that regard.

We are absolutely determined to ensure that there is no detriment. The triple-lock guarantee exists to reassure officers that their terms and conditions will remain as they are. I hope that the evidence from Assistant Chief Constable Higgins reflected that position.

John Finnie: Thank you for that. For the avoidance of doubt, is the free travel provision for officers and families part of what the triple lock would seal in?

Humza Yousaf: Yes—again, that will be determined through the work that we are doing with the joint programme board. We have to go through the detail of that, but it would be detrimental to officers’ terms and conditions if the provision did not remain in place. We are very much looking for the transfer to be as seamless as possible and to be based on the principle of no detriment.

John Finnie: Are you able to give us a timetable for when there will be absolute clarity for individual officers and their families and for the rail staff?

Humza Yousaf: From a Government perspective, we understand that the earlier we can give those assurances, the better it is for officers. However, some of those issues—pensions are an obvious example—have to be worked through in a lot of detail, and we have to allow the joint programme board, which consults and holds discussions regularly with the BTPA, the BTPF and others, the time and space to do that. We completely understand that the earlier we can give those assurances in detail, the better. However, in the absence of that detail, the cabinet secretary and I have put on public record and in writing—in black and white—that the triple-lock guarantee will protect terms and conditions for BTP officers once the integration takes place. We hope that that offers some level of comfort and assurance.

In evidence to the committee, Chief Constable Crowther of the BTP said:

“I am encouraged by the Scottish Government’s commitment to the triple-lock approach around terms and conditions, pensions and so on.”—[*Official Report, Justice Committee*, 7 March 2017; c 22.]

I hope that his confidence in the Government’s commitment translates into confidence among BTP officers.

John Finnie: I am sorry to flog the issue, but it is apparent that the commitment does not provide comfort to the federated ranks at this stage. Can you indicate the priority that you are giving the matter? If the Government wants to win hearts and minds, it needs to reassure the people who are directly involved in delivering the service—that is, by and large, the federated ranks of the British Transport Police in Scotland.

Humza Yousaf: It is a huge priority for the Scottish Government. When I look at the joint programme board and the various workstreams, I see that the pension workstream, the workforce project and operational integration are right at the top of the list of what we are doing. When it comes to integration, safety is our number 1 priority, as I think everyone round the committee table would appreciate. Terms and conditions are a priority alongside that.

We understand that there is some nervousness, but whatever I can do, and whatever assurances we can continue to give, we will do that. Nevertheless, it must be understood that some of the issues are complex—again, I cite pensions as an example—and involve a lot of detail, and it is therefore appropriate that we give the joint programme board time to work through those issues.

The Convener: Oliver Mundell has a supplementary.

10:15

Oliver Mundell (Dumfriesshire) (Con): I have listened very carefully to what the cabinet secretary has said so far. The current context is one in which there are positive benefits from cross-border working and information sharing, and I appreciate that the Scottish Government believes that there are further benefits to be had from going ahead with the integration of the BTP in Scotland with Police Scotland. However, does the cabinet secretary agree that things are working well at the moment?

Michael Matheson: Do you mean in terms of devolving railway policing?

Oliver Mundell: Are things working well at present within railway policing in Scotland?

Michael Matheson: We are where we are on the basis of the Smith commission’s decision to devolve railway policing.

Oliver Mundell: Leaving the Smith commission aside, is the BTP operating well on a practical, day-to-day basis in Scotland?

Michael Matheson: By and large, the British Transport Police provide a good service in Scotland and across the whole UK. However, the reality is that a cross-party decision was made to devolve responsibility for railway policing to the Scottish Parliament. Given that that now has legislative force and that it falls within the competence of the Scottish Parliament, we need to put in place a structure that ensures that railway policing in Scotland is accountable to the people of Scotland. That is exactly what we have done in taking forward the bill. I respect that some people disagree with the approach that we are taking in doing that, but I have not heard a detailed, viable alternative for how that could be achieved. However, the reality is that where we are is a reflection of the Smith commission’s decision.

Oliver Mundell: Okay. I understand that, but if things are working well, there is no imperative to undertake the integration straight away. The integration process seems very rushed to me. Can you give any practical examples of where the current model has failed?

Michael Matheson: Your point is that the process has been very rushed. We set out our position on the matter back in 2011 and set it out again in 2013, prior to the move to a single police force in Scotland. We then set out our position in our submission to the Smith commission in October 2014, which gave our rationale for the integration of the BTP in Scotland with Police Scotland. The process has not been rushed. Further, you will have heard ACC Higgins say that the two-year timeframe for considering the integration has been “a luxury”, compared to the challenges that the police faced in integrating all the police forces in Scotland into a single force.

I am confident that there will be sufficient time to take forward the integration. I certainly do not view it as being rushed, given that we have set out, over an extended period, our belief that integration will create greater efficiency and coherence in how policing is delivered in Scotland.

Oliver Mundell: I note that you sidestepped my principal question. Are there any examples of the failure of our current policing model for railways in Scotland?

Michael Matheson: The principal issue is how railway policing is accountable in Scotland at present. Some committee members might recall that there were concerns a number of years ago about British Transport Police’s approach to stop

and search, because a disproportionate number of people from black and minority ethnic communities were being stopped and searched. My predecessor raised concerns about that at the time, but the issue was outwith the scope of what the Scottish Parliament could deal with. The BTP was not accountable in Scotland for that approach because it is a UK force that is accountable to the British Transport Police Authority and to the Department for Transport and the Secretary of State for Transport in England and Wales.

Members will also be aware that an issue at present is that the policing response to incidents on our railways that occur beyond the central belt or major conurbations, particularly in our rural areas, is largely delivered by Police Scotland. That is because of the length of time that it takes for the BTP to respond to such incidents. For example, I have four train stations in my constituency, none of which has a permanent BTP presence. If there is an incident in any of those stations, the local police service will respond. If a specialist resource is required for an incident, the local police must wait for the BTP to arrive with it.

One of the benefits of integration, as ACC Higgins highlighted, is a greater understanding of operating on our railways, because, alongside that very specialist division that will deal with the specialist elements, Police Scotland officers will receive more training on dealing with railway issues.

At the moment, the service is, by and large, good where it is received, but there are significant parts of the country where BTP has very little resilience to respond to matters and Police Scotland has to step in to fill the space. That is a reflection of where we are presently, but I believe that, as ACC Higgins has highlighted in the approach that Police Scotland intends to take, integration will lead to Police Scotland having greater capacity to meet these needs across the network in Scotland, alongside the specialist capacity that BTP delivers at the moment to deal with incidents that require specialist input. There is an issue with resilience in the existing system, and I think that moving this function to our national police service will provide greater resilience and access to a wider range of specialist supports that, at the present, we do not have with BTP in Scotland.

Oliver Mundell: I think—

The Convener: I will stop you there, because your question was supposed to be a supplementary to John Finnie's question. However, we seem to have gone on to a different subject.

Oliver Mundell: I am sorry, convener—I had thought that we were still on the previous line of questioning.

The Convener: No. We had moved on to John Finnie's questions about TUPE.

I know that Fulton MacGregor wants to continue with that issue, and Ben Macpherson is happy for him to go first. Members will have an opportunity to come back in later.

Fulton MacGregor (Coatbridge and Chryston) (SNP): My question is actually similar to Oliver Mundell's. For how long has BTP's integration into Police Scotland been Scottish Government policy?

Michael Matheson: As I said to Oliver Mundell, we first set out this approach when we started to look at moving to a single police force in Scotland, which would have been back in 2011. If I recall correctly, I believe that John Finnie previously raised the issue at parliamentary level—

John Finnie: That is correct.

Michael Matheson: I vaguely remember the member's interest in the issue back then.

When we started to look at having a single police force in Scotland, we looked at other aspects of policing in Scotland that could be included in that wider force, and in 2013, when we moved towards establishing the single force, my predecessor made further representations to the UK Government about integrating the BTP with Police Scotland. In 2014, we set out the issue in greater detail to the Smith commission when it was considering the matter; indeed, we proposed that not only the BTP but civil nuclear policing be integrated into Police Scotland. Again, the civil nuclear force forms a major part of infrastructure policing, largely providing an armed response for the facilities that it covers.

I am not saying that the Smith commission said that one model or another should be put in place, but it agreed that the responsibility should be devolved. With this bill, we are now taking forward a policy intention that we have been setting out for a number of years. We need to ensure that, if the matter falls within the competence of the Scottish Parliament, we have a clear line of accountability for the delivery of the service. Ultimately, whoever delivers the service is accountable to the Scottish people, and we believe that this model best effects that type of integration and accountability.

Fulton MacGregor: What response did you get from other political parties to your consultation on BTP integration?

Michael Matheson: I am not aware of any formal responses from other political parties, but anyone who looks at our submission to the Smith

commission and our proposal for legislative competence for railway policing to be devolved to the Scottish Parliament will be left in absolutely no doubt of our view on what should happen to that service once responsibility for it has been devolved. As I said, I am not aware of any responses made by other parties to the consultation, but I note that there was cross-party agreement on the proposal to devolve responsibility for the BTP.

Liam McArthur (Orkney Islands) (LD): I take your point about the Smith commission, and I accept that it has been the long-standing position of the Scottish Government to fold the British Transport Police into Police Scotland. However, it would be fair to say that, out of the Smith commission recommendations, there were perhaps two, three or four options that could have been used to give effect to that. Is it good practice for the Government to consult solely on one option, or should it at least posit the notion that there are other possible options—albeit at the same time outlining the shortcomings that it may see in those other options?

Michael Matheson: It is not unusual for Governments to take a policy decision and then to pursue it. The integration of the BTP into Police Scotland has been the Government's policy position for a number of years.

Liam McArthur: Is that a good approach to the development of good legislation? We do not have a revising chamber here, and the consultation process is front loaded. Are we and the process not better served if the consultation appraises all the options, albeit that the Government would frame the consultation in such a way as to make absolutely clear its preferred option and what the benefits of that option might be? I take your point that the Scottish Government has made clear its position over some time.

Michael Matheson: Before I discuss the other options, it is important for us to recognise that the Government will make policy decisions on matters and then pursue them. For example, we made a policy decision that we would try to reduce the number of children who are cross-examined in our courts, and then we consulted on how we could ensure that that happened. That is not based on whether it should happen or not. It is about taking that policy forward to its implementation. That is what we have done with the BTP.

However, let us consider the options. The model that we are developing just now was one of the options that was advanced by the BTP and the BTPA. They suggested three models, prior to legislative competence for railway policing being given to the Parliament.

First, there is the model that we are pursuing.

Secondly, there was a model that involved changing the name of the organisation—I think that it was to “transport police Scotland”. That was a cap badge change and it did not deal with the fact that railway policing is now devolved and that we have to put a structure in place. That did not seem to be viable.

The third option was to consider having some sort of statutory accountability to the Parliament or to the SPA, while at the same time also having a line of accountability through the British Transport Police Authority, the Department for Transport and the Secretary of State for Transport, which in my view would have created greater confusion. It was difficult to understand how that would have created a sustainable line of accountability, because BTP policing in Scotland is a very small element of the BTP's work across the whole of the UK. It was difficult to imagine how we would have asserted a level of accountability at a Scottish level that would have resulted in decisions being made across the rest of the UK. If there were disputes, how would they be resolved? My view was that that option would potentially have created greater confusion around accountability on such issues.

That brings us to the option that we are taking forward, which is that railway policing should be integrated, with a clear line of accountability to the chief constable, the Scottish Police Authority, the Parliament and the people of Scotland. There is greater transparency for how that will be taken forward.

I suppose that there is a fourth option, which could be to have a stand-alone transport policing constabulary in Scotland. Keep it in mind, however, that the BTP in Scotland has just over 200 officers. That option would not be sustainable, and such a force would not have the capacity to operate as a service with that level of personnel. In my view that would not have been a viable option.

Having clear accountability, a single command structure and specialist railway service delivery through Police Scotland, with access to the wider, specialist resources that Police Scotland has as and when necessary and on a routine basis, offered the best option to pursue, in our view, because we could not see how the other options would be viable.

10:30

Liam McArthur: It is interesting that the option that you discounted as being too confusing and which would, perhaps, lead to misunderstandings around accountability, was the option that was being pursued by the Government in relation to energy regulation, as I understand it. Clearly, that

option seems to have been satisfactory for some areas, but not this one.

Your point about stop and search, and your predecessor's concerns about accountability and practice within the BTP, would be a little more convincing if that same predecessor Cabinet Secretary for Justice had accepted some responsibility for the levels of stop and search that were undertaken by Police Scotland at that time, which he dismissed as being an operational matter. To give you credit, you recognised the issue and took action. That is hardly a convincing argument for going down the route in the bill to fold the BTP within Police Scotland.

Michael Matheson: In fairness to my predecessor, the issue with the BTP existed pre-Police Scotland. The particular issue was not the numbers—

Liam McArthur: In that case, it makes what happened with Police Scotland even more of a grievance.

Michael Matheson: No. The issue was pre-Police Scotland. It was not about the volume of stop and search; it was about the number of people from black and minority ethnic communities who were being stopped—

Liam McArthur: It was also about the fact that stop and search was happening to children below the age of eight.

Michael Matheson: The principal issue—the very issue that you have highlighted in respect of Police Scotland—is that this is a very good and clear example of the benefits that come from accountability. I was pursued by one of your former colleagues in Parliament and acknowledged the concerns about the issue. We put in place a process to take the matter forward that involved Police Scotland, which resulted in a significant change in policy approach. That was because of the scrutiny that was applied by Parliament, and the process that the Government put in place to address the issue. We now have in place a policy and process to deal with the matter. At present, we actually do not have that opportunity with the BTP.

Liam McArthur: I presume that the action on stop and search addressed concerns that had been raised. I am not aware that profiling has been used for stop and search by the BTP.

Michael Matheson: The approach that was taken at that time reflected a pan-UK approach. The BTP is a pan-UK body, so it operated based on that principle.

Notwithstanding that, the difference is that with the integration of the BTP into Police Scotland, the accountability that we have in relation to Police Scotland on such issues is exactly the

accountability that we will now have with BTP on railway policing, which we do not have at present.

Humza Yousaf: I will make a personal reflection, if I may. I understand that time is short. Before I was Minister for Transport and the Islands or even elected as an MSP to this Parliament, I was one of those young Asian males who were stopped often in the years after 9/11. Whether it happened at an airport or a train station, I did not, at the age of 18, 19 or 20, know that there was differentiation between the British Transport Police and other police. All I knew was that a copper was stopping me and I had no idea why. When that happened at airports, I was, as a young SNP activist in Glasgow, able to call the justice secretary and, indeed, people in the police. At that time, Allan Burnett was, I think, leading in the police in Scotland on counterterrorism work.

The Convener: I ask you to be brief—we are rather off the subject.

Humza Yousaf: My point is that I was able to get the police to engage with the mosque and the community. When stop and search happened under section 44 at a railway station, the same accountability did not exist. When I was within a mixed group of Asians and white people and I had been the only one who had been pulled out for a stop and search at a railway station, it did not feel like there was the same level of accountability as with the other police forces. I will not go on about the issue, but from the perspective of somebody who has been stopped and searched a number of times over the past 10 years, there seemed to be different levels of accountability. I want to put that on the record.

The Convener: The cabinet secretary outlined various options that he said would not work. The fact of the matter is that only one option was available—take it or leave it. Why were the other options not at least put out for consultation?

Michael Matheson: The Government had already come to a position; our view was that the best model was integration of railway policing into Police Scotland. We set that out over an extended period of time.

The Convener: I think that people will regret that. It has been a case of the Government deciding that an option will work and saying, "Take it or leave it," whereas other options could have been looked at and fully fleshed out to see whether they were viable.

Ben Macpherson will be followed by Stewart Stevenson, then Rona Mackay. I have a long list of members who want to come in, so I ask members to be reasonably brief.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): I want to go back to retention of

specialisms. Many of the concerns that we have heard from the British Transport Police are oriented around maintenance of a transport policing ethos, should the will of Parliament be that railway policing becomes part of Police Scotland. In your opening remarks you spoke about ACC Higgins's commitment to maintaining a bespoke transport unit in Police Scotland, and his assurances that specialisms would be retained for the railway policing function. You also said that abstraction would not occur. So that we have a Government perspective as well as a Police Scotland perspective, will you state clearly that the Government is committed to maintaining a specialist railway policing function in Police Scotland, and to maintaining the specialisms and skills in the here and now, and in the medium to long term, through training?

We have spoken about the possibility of enhancing accountability by bringing railway policing into Police Scotland, but will you touch more on the operational benefits of the bill, as you see them?

Michael Matheson: We have been clear from the outset about our intentions on the integration of the BTP into Police Scotland. The specialist railway policing in Scotland that is currently delivered by the BTP is greatly valued, and we want that specialism to be retained and maintained in the railway policing that will be done by Police Scotland. You have heard evidence from ACC Higgins, who is leading on the matter for Police Scotland. He is an officer who has considerable expertise. When I heard that he had started his policing career back in 1988, I was struck by the fact that I was still at school then. He set out clearly the intention to have a specialist division, and you have had a letter from him that sets out how Police Scotland intends to enhance training for all police officers and how the specialist cohort for railway policing will receive enhanced training, as happens with other specialisms.

There is no doubt that, within the various specialist divisions in Police Scotland, there is a variety of cultures and ethoses; the ethos and culture around policing in more rural areas, for example, are different from those around policing in urban areas. I have witnessed that at first hand and spoken to officers in different areas. Within the same organisation, different approaches are taken in order to reflect circumstances, with different ethoses and cultures. That is already the case in general policing. The ethos in a highly specialised area such as armed policing is very different from the ethos in, say, community policing. The approach reflects the specialism and the highly skilled nature of the role. We have that in a variety of specialist areas of policing, including road, port and airport policing. I therefore expect

the current ethos to be recognised and maintained and taken forward in how railway policing is delivered. From the comments that the committee received from the chief constable of the BTP and ACC Higgins, it seems that there is a determination on their part to work together to preserve, protect and maintain that ethos.

As I mentioned, ACC Higgins has set out clearly how Police Scotland will change the training for new officers coming into the force to extend the provision to cover railway policing. Therefore, officers will have a greater skill set and an understanding of railway policing, which does not exist at present. I believe that that will create more resilience and capacity in Police Scotland to deal with transport policing issues. At the same time, it will have a highly specialised cohort of officers to deliver the service that the BTP provides at present.

There is absolutely no doubt that policing in Scotland is now, since we moved to a single force, more accountable than it has ever been. Scrutiny of policing is also greater than it has ever been. It is a positive thing that additional scrutiny and accountability are being delivered.

The BTP is a United Kingdom-wide force—

Don McGillivray (Scottish Government): The BTP is Great Britain wide.

Michael Matheson: I am sorry; I must get my terminology correct. The BTP is a GB-wide force whose command is based in Birmingham. The resource that it has here in Scotland serves us well, but it is of limited size and it depends on Police Scotland to supplement it in services in which it requires assistance. Integrating it will create greater accountability and give us greater coherence in how policing is delivered in a key part of Scotland's public infrastructure.

Ben Macpherson: For clarity, what are the operational benefits of integration, as you see them?

Michael Matheson: The committee has heard from ACC Higgins, who said that integration will mean greater effectiveness and efficiency, and will allow routine use of resources and joint training exercises for events that the BTP must currently ask Police Scotland for. There will not be any such special requests: there will be no need for requests for special operations to be set up because such operations will happen as a matter of routine.

When it comes to decision making, a single command structure will speed up the process and give a better line of accountability. As I mentioned, the model that Police Scotland intends to use will create greater resilience in the service because more police officers will have an understanding of

railway policing that they do not have at the moment, while we continue also to have the important cohort of specialist railway police officers.

Finally, one of the operational benefits will be that we will be able to look at how we police our infrastructure—roads, ports, airports, and railway system—to ensure that we benefit from the different approaches that they take, and that they learn from one another. The committee heard from rail service providers that such cross-fertilisation of ideas could be beneficial, as could learning from the BTP and how its skill sets can be used in other parts of Police Scotland to improve efficiency and effectiveness. No doubt the transport minister would talk about road policing and being able to open up roads more quickly. A variety of operational benefits will come from the merger; benefits will come to Police Scotland through learning from the approach that BTP officers take in handling situations.

Ben Macpherson: That is reassuring. Oliver Mundell made points that the legislation has the direction to improve and enhance the policing of our railways.

Michael Matheson: Nobody should be in any doubt that we want to deliver a service that is as good as, or better than, the one that we have at the moment on our railways, and to make sure that that standard of service puts safety as its top priority.

The other assurance is in the provision that is made for the railway policing agreement, which sets out for the railway industry and railway users what is expected of, and what will be delivered by, Police Scotland's policing of our railways. It will give clear detail about what will be delivered and how it will be delivered, as the police service agreements do. The agreement will give assurances about the specialism that is being delivered and what will be delivered for the purposes of railway policing in Scotland.

The Convener: I have a list of members who have questions, so I am not going to allow supplementary questions. If members have a supplementary question, they should incorporate it into their first question. I would also be grateful if questioners and the cabinet secretary could cover their points as succinctly as possible.

10:45

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I want to develop a line of questioning about railway policing agreements, which have just been raised. When the railway operating companies appeared before the committee, I asked them whether their two tests for railway policing were, in what is essentially a

commercial relationship, effectiveness and the cost of provision. They agreed that those were the two areas in which they would take most interest.

ACC Higgins has, *inter alia*, told us that there will be increased training for everyone up to the rank of inspector who might be first responders, so that they are better able to assist in incidents on the railway. There will therefore clearly be additional costs. Will those costs be incorporated into the railway policing agreements or will the situation be as it is at present—as was indicated to us by the rail companies—which is that when Police Scotland or the territorial force, rather than the BTP, attends a railway incident, Police Scotland simply bears the cost? Will that be the case with all the extra capability and the additional training that Police Scotland officers will have, too?

Humza Yousaf: There are a couple of points to make about that. First, I was pleased that, at the evidence-taking session with rail operators, every single one of them said that the engagement with Government had been constructive and positive. We wanted to ensure, from the very beginning, that engagement was constructive.

Secondly, on the substantial point about RPAs, I was pleased that rail operators viewed those as an opportunity to improve the current PSAs, for there to be more cross-fertilisation—as the cabinet secretary said—and for them to go into a greater level of detail, as opposed to their being a burden or a hindrance. I was very pleased that the operators shared our view on the matter.

ACC Higgins's letter provides more detail to the committee: he makes the point that training is part of one of the joint programme board's work streams. I think that everyone would agree that upskilling of 17,000 officers is a positive measure. ACC Higgins's view—training is, of course, an operational matter—is that the service has been able, when it has had to adapt its training when previous legislative changes have been made, to do so within existing budgets and provision, and he will look to do the same with future changes.

We believe that integration of the BTP into Police Scotland will bring efficiencies that might well cover any costs that are associated with that integration. ACC Higgins—rightly—made the point that, if there are additional costs that the service cannot make provision for, he will revisit what he set out in his letter to the committee. That is a sensible approach.

Stewart Stevenson: There are clearly areas in which Police Scotland and the British Transport Police work together; I understand, for example, that the BTP gave up its cells in 2013 and has since then been using Police Scotland's cells. I take it that such co-operation has not led to additional costs being fed through to the PSAs,

and that similar collaboration, where there is no marginal cost to Police Scotland—because essentially it has no cost to Police Scotland—will not lead to additional costs for the rail operating companies to support what I understand to be an average of six arrests a day by the BTP.

Humza Yousaf: Your understanding is correct.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Before I ask my question, I want to pick up on the convener's point about options. No other party made alternative proposals during the Scottish Government's consultation. In addition, there was cross-party agreement in the Smith commission on the transfer of railway policing powers.

What is your position on deployment of Tasers? Will the use of Tasers change after railway policing is integrated into Police Scotland?

Michael Matheson: Deployment of Tasers for BTP officers is a matter for the British Transport Police's chief constable. The current approach is based on a pan-UK assessment of their use; Tasers are deployed at stations at which the assessment has been that there is greater risk.

On integration of railway policing into Police Scotland, deployment of Tasers or any other specialist asset of that nature—firearms officers and so on—will be a matter for the chief constable of Police Scotland. Again, that will be based on threat-risk assessment and consideration of what the proportionate response would be.

Rona Mackay: I believe that, in Scotland, it is firearms officers who use Tasers, but that that is not the case south of the border. How would that situation pan out?

Michael Matheson: That is correct. In Scotland, officers who are deployed with Tasers are qualified firearms officers, but that is not the case in England and Wales. My understanding is that the BTP officers who are deployed with Tasers are trained in the use of Tasers but are not firearms officers. The model that is taken forward by Police Scotland—again, this is an operational matter for the chief constable—is that officers who are deployed with Tasers should be qualified firearms officers, and it would be for the chief constable to determine both whether he felt that there was a need for Tasers and how that asset would be appropriately deployed.

The Convener: On options, the Smith commission said that the British Transport Police would be devolved—it did not say integrated. However, there is only one option on the table. That is the point.

Liam McArthur: I would like to follow up on training provision. What is expected to be the likely

cost of the additional training provision for Police Scotland officers?

Humza Yousaf: That is being worked on as part of the work of the joint programme board on which we, the UK Government and stakeholders sit. Of course, there would have to be a training needs assessment—there have been such assessments when other pieces of legislation have passed through this Parliament—and if it is the will of Parliament to pass the bill, that work will be done.

I cannot give Liam McArthur a figure right now, but I think that ACC Higgins gave a clear answer when he said that the cost of that training could be met under the current provision. However, he also said in his letter that he would revisit the issue if that was found not to be the case after the process has had some time to work through.

Liam McArthur: I can understand that there might be some detail that has to be worked through, but we have been told very confidently about the efficiencies that will be delivered through the bill and the integration of the BTP and Police Scotland. However, if a training provision of such magnitude is going to be required across the force, it is not entirely clear how that confidence is justified at this stage.

Humza Yousaf: As ACC Higgins said in his letter, the only difference between the training of a Police Scotland officer and that of a BTP officer is the additional two weeks. He is saying that, for new recruits, an additional two to three weeks of training provision will be included, so that they have capability with regard to track safety and so on. As the cabinet secretary has said, ACC Higgins has considerable experience; if the cabinet secretary was still at school when ACC Higgins started in the police force, I was still in nappies.

We are looking at where we can secure efficiencies, and we believe that that will be possible with the corporate functions. Just to take one element of that, we believe that we can secure roughly £800,000 of savings with regard to the amount that is paid to senior management GB-wide, and we believe that those efficiencies can cover the additional training cost. However, I go back to the fact that training is an operational matter, and that ACC Higgins is right to say in his letter to the committee that, if the costs are beyond what Police Scotland thinks can be covered, the matter will be revisited.

Liam McArthur: So each officer will have the track safety certificate as a result of that training. Will officers also be subject to the on-going biennial training and pass-or-fail process to retain those certificates?

Humza Yousaf: That will be a decision for Police Scotland to make. In ACC Higgins's letter to

the committee, he said that there would have to be a training needs assessment. Officers already have continual training on a regular basis, with refresher courses throughout their career.

Liam McArthur: In response to legitimate questions that we have asked about the bill, we are being told things that are meant to provide reassurance. However, we know that Police Scotland is under pressure to increase training on dealing with people with mental health issues, and the cabinet secretary has talked about firearms issues—there are continuing pressures on the police to adapt their training to respond to different demands and risks. Is it realistic to assume that three, four or five years down the line, the undertakings on training that ACC Higgins gave us are likely to be maintained, or are they simply part of an offer that is being made at a point of transition in order to facilitate the bill's passage through Parliament?

Michael Matheson: I will pick up on that, because it is largely an operational matter. There are three elements in what ACC Higgins set out. First, Police Scotland is looking to change the training module for new recruits to provide them with an extra two weeks' training of the sort that BTP officers currently get. ACC Higgins also said that he is looking at how to upskill existing officers, and a training needs analysis will be done to find out how that can best be achieved.

It is not unusual for such training to be provided for existing officers. For example, officers are currently going through a training programme on the new code of practice for stop and search. There is also a training module on the provisions in the Criminal Justice (Scotland) Act 2016, including the new provisions on custody and interim liberation that were considered by your predecessor committee. That type of on-going training, which builds in modules on changes in legislation and process, is not unfamiliar to the police, and is actually quite common.

I have mentioned two areas in which training is taking place. The 2016 act makes provisions in a range of areas that will result in changes for the police—

Liam McArthur: Sorry, but you are making almost the same point that I made. Should it be a priority for Police Scotland to build in the training module that you have described, which covers two to three weeks at the initial stage followed by on-going training, given the existing pressures on the police to adapt to new legislation, changing circumstances and the like?

Michael Matheson: We will move towards that training further down the line if the Parliament agrees to integration. That type of upskilling is not unusual in Police Scotland. Training will be built in

for officers when they come into the service, and there will be upskilling for those who are already in the service.

The other important aspect relates to specialist service provision: there will be training for officers who will be carrying out the type of specialist functions that the BTP currently undertakes. ACC Higgins referred to specialist training to gain what I think he called an in-card qualification—for example, firearms officers and other specialist officers receive on-going training on the area in which they operate.

Training will be taken forward at different levels. It is worth keeping in mind that the bill proposes a model for delivering railway policing that is the same as the current cost-charging model, in which the railway industry pays the police for the service that it receives. We have set out in the legislation our intent that the on-going provision of railway policing will be paid for by the railway industry. In that sense, the bill provides greater financial security and certainty around the resources that will be deployed, as that will be part of the railway policing agreement.

Liam McArthur: On the point that you make about specialism, the industry has a couple of key concerns—as Stewart Stevenson highlighted—about the effectiveness and cost efficiency of the set-up. It has expressed understandable concern at suggestions that around 40 per cent of the BTP officers are expressing some anxiety about remaining in the force, and are thinking about either taking redundancy or leaving the force, simply because it will not be the force that they chose to join. What assurances can you give the committee in that regard?

On the point about the future structure, the financial memorandum to the bill states:

“No changes to the senior command structure within Police Scotland are planned.”

Is there a concern that BTP officers will be folded into a Police Scotland command structure that does not currently recognise at a senior level the specialisms and expertise that they possess? How will that expertise and specialist knowledge be represented in a command structure that will not change?

Michael Matheson: You mentioned the concern about the 40 per cent. I am not sure where that figure comes from.

Liam McArthur: The BTPA staff assessment says 37.5 per cent.

Michael Matheson: Is that from the TSSA survey?

Liam McArthur: Yes.

Michael Matheson: That was not police officers—it was police staff.

11:00

Liam McArthur: Even for police staff, is that not a concern?

Michael Matheson: I just say that for clarification. The figure that you referred to was in the survey of police staff that the TSSA carried out.

Liam McArthur: Are you confident that there is not a similar figure among officers?

Michael Matheson: You made reference to there being 40 per cent who are near leaving, so I am just clarifying that.

I understand from the survey details that the 40 per cent who said that they would leave said that on the basis of expecting to retire or to be made redundant. There is no redundancy policy: all staff will transfer to Police Scotland, if they choose to do so.

Liam McArthur: From the discussions that you have had, you do not believe that the figure is anything like 37.5 per cent.

Michael Matheson: No—I am not questioning the validity of the 37.5 per cent figure; I am clarifying that it is not 40 per cent of people in the BTP. It was a survey of the BTP staff, which I understand was carried out by the TSSA. The figure was based primarily on staff saying that they thought that they would be made redundant or be taking retirement.

The only point that I am making to you is that there is no redundancy policy. We as a Government do not have a compulsory redundancy policy and, as has already been made clear, the BTP staff will transfer to Police Scotland—both officers and staff will transfer to Police Scotland.

I am just clarifying exactly what that figure of 40 per cent is about. It was not a survey of officers, as far as I understand; it was a survey of the staff cohort.

In relation to the Police Scotland command structure, it is worth keeping in mind that a number of our ACCs hold responsibility for a range of specialisms in the service. For example, ACC Higgins holds responsibility for policing airways and roads; he also has responsibility for the dog and under water specialisms, and for some aspects of custody. It is not unusual for senior operational officers to have responsibility for a range of specialisms. You will often find, below those ranks, officers who have the specialist skill set to deliver those services. As ACC Higgins said in his evidence to you—if I recall correctly—the

staff who will transfer into Police Scotland will include the senior ranks of the BTP.

I just want to reassure you that, on there being no plans to change the command structure within Police Scotland, having another specialism would not be unusual, given the way in which the police service presently operates.

Liam McArthur: Are you saying that there would be senior roles, albeit within the same command structure?

Michael Matheson: It will be for one of the senior officers within that command structure to have command responsibilities for railway policing, in the way that they now have for road, air, port, airport or border policing, or for the dog unit. ACCs have specific responsibilities in those areas, as well as in areas such as counter-terrorism and tackling serious and organised crime. We have ACCs who have specialist responsibility for taking those policy areas forward.

It is an operational matter for the chief constable, but from what ACC Higgins has said, railway policing will move into one of those specialist command areas. It will then be for the police to ensure that a structure is in place that ensures that the right skill set is there to deliver that specialism, as they do with existing specialisms.

Oliver Mundell: I will ask three brief questions, and then I will return to my original line of questioning.

How many requests from the British Transport Police have been turned down by Police Scotland?

Michael Matheson: I do not have that information, but we can ask Police Scotland to provide it to the committee.

Oliver Mundell: Okay. My next question is probably for the transport minister. To set the whole cross-border jurisdictional issue in context, do you know how many passengers and rail services cross the border on a daily basis?

Humza Yousaf: I can get that information to you. I have written to the UK minister with responsibility for railways, Paul Maynard, at the DFT. I will share his response with the committee as it might be helpful. He simply says that, whatever we in Scotland decide to do, constructive cross-border working will continue. That is his perspective, and it is ours.

I can get you the exact figures for services and passengers.

Oliver Mundell: That would be helpful.

Do you have any idea of where you envisage BTP officers being based? I am thinking in

particular of my Dumfriesshire constituency, which the west coast main line runs through. Where do you see the first rail specialist officers across the border being based?

Humza Yousaf: Again, that is, of course, an operational matter for Police Scotland, but I do not envisage the BTP officers who are currently based in your constituency having to move away from it. The cabinet secretary might want to add to that; indeed, Police Scotland might want to answer that question.

Oliver Mundell: That is the point of my question. The BTP officers who currently cover my constituency might well be based at Carlisle station, just over the border. I am not aware of them being based at Lockerbie, Dumfries or Gretna, for example. Where do you see them being based?

Michael Matheson: It will ultimately be for the chief constable to determine where they should be based in order to give effect to the agreements that will have been put in place for the delivery of railway policing in Scotland. The reality is that the vast majority of the BTP's assets in Scotland are held in the central belt, largely at our major train stations. However, it will ultimately be for the chief constable to determine where officers are located, as is the case for police officers just now. We do not determine where they are located; that is an operational issue.

Oliver Mundell: With such a big change coming and with the M74/M6 motorway corridor, some of the principal power lines that transfer electricity south of the border and the west coast main line all sitting close together, do you think that, ahead of the bill going through Parliament, my constituents deserve some reassurance about the specific cover that will be in place for that section of the railway and how things will operate on a practical basis?

Michael Matheson: That is a good illustration of the need to ensure that we have a single command structure to deal with major infrastructure issues and that we consider all those issues. In policing the roads or major bits of infrastructure, including the railways, we must have a command structure that is able to look at things in a broader context and respond in an appropriate way. However—

Oliver Mundell: I am sorry to interrupt, cabinet secretary, but that is exactly the point. It is impossible to have a single command structure in the section of the west coast main line between Carlisle and Lockerbie, where there are a number of important pieces of infrastructure. Co-operation by Police Scotland, the management of the motorway and others is already required. We need to be very clear about how things would operate in

practice. Saying that the matter is an operational one is not enough. People need to know at least what the operational intention would be under that model before the bill goes through the Parliament.

Michael Matheson: Right now, the motorway is policed across the border, and that functions well.

I will differ from the member here, because I think that we get on to very dangerous ground if politicians start to set down where resources will be deployed. That has been a long-standing issue for chief constables, not only in the territorial forces, but in the BTP. I am confident—

Oliver Mundell: In principle, would you be open to the British Transport Police officers who are based in Carlisle continuing to cover that section of the railway and operating within Scotland?

Michael Matheson: I would have no problem with that, if that was the approach of the chief constable of Police Scotland. If Parliament agrees that we should integrate railway policing into Police Scotland, and if that would be the best way to deliver the service, I would have no problem with that at all in principle. However, that is ultimately a matter for the chief constables, and we should respect their operational independence.

Oliver Mundell: I want to go back briefly to my original line of questioning. I have heard you talk about scrutiny and accountability. Obviously, a number of transformational changes and significant challenges are still on-going in Police Scotland. Do you accept that, with a current system that appears to be working well and in which Police Scotland does not routinely turn down requests from the British Transport Police, this is an odd time to further add to the burdens that exist? There have been proposals to close police stations in my constituency, and there is a budget that seems to be out of control. We heard that there would be big efficiencies in creating Police Scotland, but they simply have not transpired. Is this a risky point in the process to add further complexity and change?

Michael Matheson: The reality is that the responsibility for railway policing is being devolved to the Scottish Parliament and we need to put in place a structure to deliver that. We might differ on—

Oliver Mundell: But you have chosen the timing. You have talked about accountability, but are you not accountable for choosing to undertake integration at a time when there are big challenges for Police Scotland in pushing ahead with another substantive change?

Michael Matheson: The decision to devolve was taken with cross-party agreement. We might differ—

Oliver Mundell: But there is a difference between devolving and implementing.

Michael Matheson: If you let me finish, I have a point to make. We might differ in our views of the model that we are taking forward, but the reality is that there was cross-party agreement on—

Oliver Mundell: I differ on the timing.

Michael Matheson: If you will let me finish my point—

The Convener: Let the cabinet secretary finish.

Michael Matheson: There was cross-party agreement that railway policing in Scotland should be devolved. That has been taking place and we need to put a structure in place to take account of that. We might differ in our view of what that structure should be, but the reality is that the status quo is not an option and that we need to put a process and structure in place. We are taking forward the approach and the model that we think can best deliver accountability. Clearly, you have a different view on the matter, but the status quo is not an option, given that a decision was made on a cross-party basis that railway policing in Scotland should be devolved.

Oliver Mundell: But there is a big difference between devolving something and implementing it. What I question is whether this is the right time to push ahead with implementation—that is what we differ on. However, I thank you for your responses.

Michael Matheson: You might disagree with our choice of model, but the status quo is not an option, because we have been given legislative competence on the matter but we do not have a process of accountability for the exercise of that competence. If something happens on our railways that the Scottish Parliament and its members are not happy about, they expect the Government to be held to account for it and explain matters, which is what has happened with our transport minister recently. It cannot be a case of, “It’s been devolved, but we’ll just ignore it even though we’ve got responsibility for it.” We have to put something in place. You might disagree with our choice of model, but we need to put a process in place.

The Convener: Could I just press the cabinet secretary on that point? Has any other legislative competence been devolved on which you have not done anything but are deferring action until a better time?

Michael Matheson: In relation to policing?

The Convener: No, in relation to anything that has been devolved to the Scottish Parliament.

Michael Matheson: To my knowledge, there is nothing in relation to policing matters.

The Convener: For example, it has been decided that welfare powers will be devolved, but perhaps that has been delayed because the time is not right. I think that Oliver Mundell’s point was that the fact that something has been devolved does not mean that the Government has to act on it at this moment. Is that the case, or is that wrong?

Michael Matheson: It would be wrong to characterise the social security provisions as not being taken forward. The timeframe for those is because of—

The Convener: Can you respond to the substantive point?

Michael Matheson: —the complexity relating to some of the pan-UK benefits. It is therefore about making sure that those provisions are taken forward correctly; it is not about not implementing them.

We have to put something in place for railway policing in Scotland because the status quo is not an option, as we have been given devolved competence for railway policing. We cannot have devolved competence for it but say that we will not do anything about it and just leave it as it is. You might take issue with the timeframe involved, but the fact is that responsibility for railway policing has been devolved. If the Parliament passes the bill, there will be almost a two-year window before the BTP in Scotland will be integrated with Police Scotland. Bernard Higgins described that timeframe as “a luxury” compared with what Police Scotland went through with—

The Convener: I think that we have got the answer to the question. Thank you, cabinet secretary.

Michael Matheson: You cannot ignore the reality of where we are.

The Convener: Thank you.

Mairi Evans (Angus North and Mearns) (SNP): Harking back to a point that was made earlier, I have a supplementary question. Cabinet secretary, you said that you have four train stations in your constituency that have no British Transport Police officers; in my constituency of Angus North and Mearns, I have three train stations that are in exactly the same position. We have also talked about the BTP presence being mainly focused on the central belt, with little coverage of the areas outwith that. The figures that the BTP sent us show that, north of Edinburgh and Glasgow, Dundee station has about five officers and Aberdeen and Inverness stations have similar numbers. I certainly feel that I can take some comfort from the fact that, if officers in Police Scotland receive more training, we will have an enhanced service when it comes to incidents

on the railways in areas such as the north-east and the Highlands and Islands. Can you confirm that that will be the case?

11:15

Michael Matheson: It is probably more important to ascertain the view of Police Scotland on those matters. That was made clear in the evidence that you heard from Assistant Chief Constable Higgins and in the letter that he provided on upskilling a greater number of officers in Police Scotland to deal with railway issues while at the same time having the specialist skill set that is necessary to meet some of the specific challenges that arise in the railway sector.

Benefits will come to Police Scotland from some of the processes that the BTP uses, which could be used to reform or change some of the ways in which Police Scotland operates. A two-way benefit will come from the process.

One of the wider results that I believe will be achieved is greater resilience in how we police our railways. It will no longer be necessary for the BTP to make a request or for particular operations to be organised on a joint basis. As and when resource is required, it will be deployed. If that is done on a routine basis, it will be done on a routine basis. If it is done on a specialist basis, it will be done on a specialist basis. The process will be much simpler than what we have at present. I believe that it will provide greater capacity in delivering railway policing in Scotland, alongside a service of a specialist nature that can be deployed as and when necessary, in the necessary locations and where the chief constable views that it should be based.

Mairi Evans: I will move on to a point that Liam McArthur raised, on the staff survey that was carried out by the TSSA. I would like confirmation of the point that you made earlier. The TSSA said that it was a "reasonable belief" that, as BTP-contracted staff were being forced to switch employers, redundancy must become an option prior to or after 1 April 2019. I asked the TSSA witness whether he believed that to be the case—if TSSA had checked out that information either with Police Scotland or with the Government. He answered:

"It is the case. We have checked it out."—[*Official Report, Justice Committee, 14 March 2017; c 61.*]

Can you provide clarity on the issue of redundancy?

Humza Yousaf: Just to reiterate what the Cabinet Secretary for Justice has said, the point about that staff survey is that 37.5 per cent of respondents expected either to retire or to take redundancy. We have a no compulsory redundancy policy, so I can give an absolute

assurance that, when we are talking about transferring staff and officers, the triple-lock guarantees their jobs, so there should be no concerns about that. The Government's policy has absolutely been that there should be no compulsory redundancies.

I sent a letter to Manuel Cortes, the head of the TSSA, reiterating those points. I do not know why there would be a gap in information. I would certainly be happy to continue conversations with the TSSA, but our policy is one of no compulsory redundancies, if the transfer takes place with staff as employees of Police Scotland.

Mairi Evans: There is a further point that I wish to clarify. I also asked the TSSA witness at the same Justice Committee meeting how many people had taken part in that survey. He did not answer that question, nor did the TSSA answer it in the supplementary written evidence that it provided.

The TSSA also said that it believed that its staff would receive £3,000 less. From its supplementary evidence to the committee, it seems that it was making a comparison between the positions that its staff hold now and similar positions being advertised in Police Scotland. Can you confirm the situation with salaries? When I asked the witness whether that was just something that the TSSA believed to be the case or whether it had pursued it with either Police Scotland or the Government, he said:

"It is the case. We have checked it out."—[*Official Report, Justice Committee, 14 March 2017; c 61.*]

I would like to clarify that with you.

Humza Yousaf: The triple-lock guarantee involves terms and conditions. In his evidence to the committee, ACC Higgins made the point that a number of sets of terms and conditions and pension schemes operate. He gave his own personal example of the allowances that he is able to get that other officers cannot, because they joined later. Police Scotland is able—as a structure, an organisation and an institution—to incorporate a number of different terms and conditions, and that is nothing new for it. The protection for terms and conditions would of course apply to salary levels; the TSSA should have every assurance about that from the letters that I have given and the conversations that I have had—I met Manuel Cortes directly on that issue. I will continue to give assurances where I can that, when we talk about a triple-lock guarantee protecting the terms and conditions, that includes salaries, entitlements and pensions. Those issues are all being worked on through the joint programme board at the moment, and the BTPA and BTPF have been very engaged in that.

Douglas Ross (Highlands and Islands) (Con): I was not going to mention this matter, but the cabinet secretary thinks that it is a significant issue and we have heard from Fulton MacGregor and Rona Mackay that they have questions about Opposition parties not responding to the Government consultation. From 1999 to 2007, how often did the Scottish National Party respond to Executive consultations offering viable alternatives? I take it that that was 100 per cent of the time?

Michael Matheson: I do not think that that would be the case. I see that Stewart Stevenson—

Douglas Ross: I am asking you the question. You do not think that that always happened.

Michael Matheson: I do not think that what always happens—that parties respond to consultations?

Douglas Ross: That the Opposition parties responded to the Scottish Executive consultations.

Michael Matheson: Yes; there have been times in the past when they have.

Douglas Ross: You are suggesting that every party should have responded this time. Do you accept that the SNP—

Michael Matheson: I do not think that I have suggested that.

Douglas Ross: I think that you have.

The Convener: I think that the position was brought up by Rona Mackay. It is not really germane to the issue. Perhaps Rona should not have brought it up in the first place. I ask Douglas Ross to move on.

Douglas Ross: The cabinet secretary raised the matter as well.

I ask the cabinet secretary and the minister whether they base their decisions on evidence and advice from senior officers and officials.

Michael Matheson: The answer is yes—on many issues.

Douglas Ross: I will give you a couple of quotes to see what your response is.

Deputy Chief Constable Hanstock of the British Transport Police said:

“We have not been able to identify any operational or economic benefits”

of this merger. Steven Mannion, former commander of the BTP in Scotland said:

“You can police the railways without BTP, but you cannot it police it as effectively.”

The chief executive of the BTPA has said that it has identified several hundred security risks to the

merger, and ACC Higgins—an officer whom the cabinet secretary described as having “considerable” experience—said to this committee:

“There is a risk that, on transfer, the skill base will be diluted ... There is a risk that the terms and conditions might be diluted ... There is also a risk on the financial side. It is necessary to ensure that Police Scotland is properly compensated for taking on the additional responsibility.”— [Official Report, Justice Committee, 7 March 2017; c 29.]

Those are all risks that we recognise. What is the Government’s views on the risks that have been highlighted by Police Scotland, by the BTP, by the BTPA, and by many others?

Michael Matheson: I do not think that anyone would dispute that there are risks associated with the integration of the British Transport Police into Police Scotland. The question is how we manage those risks and how we put in place the appropriate processes to deal with them effectively. That is exactly what the joint programme board is about—identifying those risk factors and then putting in place the appropriate mechanisms and processes to deal with them and to make sure that we have a process of oversight on how they are taken forward.

I do not think that anybody would suggest that there are no risks associated with this merger. There were risks associated with moving to a single force. There are risks day in, day out in how policing is taken forward, and in how any of our emergency services are taken forward. The merger of any element of our public services will have risks associated with it. I am confident from the advice that I have been provided and from the approach that we are taking that those risks can be appropriately managed and that we can put in place a process that will ensure that we have a mechanism that is able to mitigate the risks and put in place the appropriate level of service agreement with the industry that reflects what it believes is necessary to deliver railway policing in Scotland effectively.

Douglas Ross: Cabinet secretary, you said:

“Nobody should be in any doubt that we want to deliver a service that is as good as, or better than, the one”

that is currently delivered. Do you therefore agree with the Rail Delivery Group that integrating the service is not in the interests of passengers?

Michael Matheson: I believe that this will deliver a better service for passengers.

Douglas Ross: Do you not agree with the Rail Delivery Group?

Michael Matheson: I do not agree with it. We will deliver a better service. The reason for that is the range of officers who will be trained to operate within our railway service alongside the specialist

function, which will give greater capacity than what we have at the moment.

Douglas Ross: That neatly comes on to training, which I want to focus on now. You could not answer Liam McArthur's questions about the cost of training. However, I presume that you will be able to provide to the committee the average cost of the current 11-week training process and, from that, you can calculate the weekly cost, multiply that by the additional three weeks of training that ACC Higgins refers to in his letter and say what the costs will be based on the number of new recruits. Those costs will be available to the committee. Is that correct?

Michael Matheson: Information of that type will be available to the committee, although I would warn you against applying such a simple analysis to how the cost is calculated. You are being overly simplistic in how the cost would be calculated, which would be rather naive. You must recognise that, although additional training capacity might be provided, the cost will be different. There will not be all the same additional overhead costs of bringing in folk for a bespoke piece of training completely outwith their usual, routine programme, but the principle—

Douglas Ross: Yes, but the training will—

Michael Matheson: If the member will let me finish the point that I am trying to make, I will tell him that the information for which he is looking should be available and Police Scotland should be able to provide it.

Douglas Ross: But ACC Higgins said in his letter that there will be an additional three weeks of training—it will go up from 11 to 14 weeks. There are stable costs involved in putting all our new officers through an additional three weeks of training at Tulliallan. Therefore, on a basic and potentially naive level—I take on board your criticism—we will be able to look at those costs.

Michael Matheson: That data will be available.

Douglas Ross: What about the further costs associated with the personal track safety certificates. Did you suggest in your evidence to Liam McArthur that you do not believe that all 1,700-plus police officers in Scotland will have that PTSC?

Michael Matheson: We have 17,000 police officers in Scotland. It will be for Police Scotland to determine what the training programme will be, so—

Douglas Ross: Do you think that they should all have that certificate?

Michael Matheson: It is not for me to determine that; it is for Police Scotland to determine that.

Douglas Ross: Do you, as cabinet secretary, think that they should all have that certificate?

Michael Matheson: Let me just explain before you interrupt me again.

Bernard Higgins has set out that there will be a training programme for new recruits coming into the service, as well as for existing officers. How that training will be taken forward and what will be delivered will be determined on the basis of a training needs analysis—TNA. That will be developed in partnership with Police Scotland's colleagues at the BTP. On top of that, there will be additional training for those officers who are providing the specialist railway function. If officers require specialist qualifications, the training needs analysis will determine how that should be delivered and who should receive that special training. Whether it will be a case of all 17,000 officers receiving that certificate or whether it will be the cohort that will operate in railway policing is a decision for Police Scotland.

Douglas Ross: But what do you think? I am asking you a question as the Cabinet Secretary for Justice. Do you think that all 17,000-plus officers in Scotland should have that certificate? I am asking you because you are here giving evidence. I would appreciate you telling us your answer, your opinion, your belief. Should they all have that certificate or not?

The Convener: I wonder if—

Michael Matheson: Let me give you my opinion.

The Convener: The clerk has just passed me a note setting out what the BTPF has said—that no officer should go near the railway if they do not have a PTS certificate. That is the point.

Michael Matheson: Let me give the member an answer to his question—and I will be very clear about what that answer is. That is an operational decision for Police Scotland to make. I do not direct Police Scotland on how many officers it should have in air support, road policing or firearms roles, or on the qualifications that those officers should have. I am not going to start setting that out for railway policing.

Douglas Ross: When I asked Neil Curtis, of Direct Rail Services Ltd, and Darren Horley, of Virgin Trains, what their reaction would be if Police Scotland said that it would not put every officer through the PTSC process, Neil Curtis said that he would be "concerned" and Darren Horley said that he would be "very concerned". Do you accept that, if Police Scotland does not take that operational decision and the chief constable decides not to ensure that all officers have that certificate, rail operators would be "concerned" and "very concerned"?

Michael Matheson: I have no doubt that, as ACC Higgins made clear, if this Parliament makes a decision to integrate railway policing into Police Scotland, Police Scotland will engage with the railway industry. It has done that already—it has been engaged in some of the meetings that have been taking place with the Minister for Transport and the Islands in trying to address railway operators' concerns. It might be that their concern can be addressed. That might—or might not—result in more extensive training being provided. However, I have no doubt that Police Scotland will engage with them to explore and discuss that concern.

Douglas Ross: Is the level of additional training required more or less than the upskill that was required as a result of the stop and search procedural changes?

Michael Matheson: Are you referring to the training that will be delivered on railway policing?

Douglas Ross: Yes—the training that is needed to upskill all our officers. Do you accept my assumption that a larger process will be needed if we are to ensure that all 17,000-plus officers in Scotland are given training on railway policing that is more detailed than the training that was provided on the changes to the stop and search procedure?

Michael Matheson: I suspect that you will get a clearer answer on that from Police Scotland once it has completed its training needs analysis.

11:30

Douglas Ross: As parliamentarians and as a committee, we are taking a decision prior to that. Would you accept that, given that the bulk of the £2.8 million cost of the changes to the stop-and-search procedure was spent on training, we are looking at a far higher figure for training on the changes arising from the integration of railway policing, as more than 17,000 officers will need to be upskilled in that area?

Michael Matheson: We do not know that, given that the training needs analysis has not yet been completed.

Douglas Ross: Do you think that it is a fair assumption?

Michael Matheson: It is possibly a fair assumption on your part, but others may want to wait until the training needs analysis has been carried out.

Douglas Ross: Can we be realistic if possible? For stop and search, we are talking about a change to the procedure. For railway policing, we are talking about asking more than 17,000 officers, none of whom decided to go into a specialised

force that would allow them to concentrate on that area, to take over that role. It is a fairly safe assumption that the amount of money and time involved in training officers on railway policing will in fact be significantly greater than was the case for training on the amended stop and search procedure.

Michael Matheson: Again, we do not know that information until the training needs analysis has been completed.

Douglas Ross: Do you think that online delivery will be the most effective way to provide training, as ACC Higgins suggested?

Michael Matheson: Again, that will be an operational matter for Police Scotland, which will determine—as it does just now—how it can best effect the training of its officers.

Douglas Ross: I have concerns about that.

Oliver Mundell and others have raised the issue of timing. You mentioned the comment from ACC Higgins that having a timeframe of two years is a “luxury”, which I presume you accept is a criticism of the way in which the SNP Government centralised the police in Scotland.

Given the problems that occurred as a result of the merger that created Police Scotland, and the two-year timeframe that has been set out for the integration of the BTP, do you still think that now is the right time for that integration to take place? Oliver Mundell and the convener also asked about that. Powers have been devolved to the Scottish Parliament that enable integration to be enacted—although it does not necessarily have to be carried out in the way in which you are going about it—but there is no timeframe in that regard.

At a time when there are significant issues with low morale in Police Scotland, should it be taking on board the additional challenges that would arise from the integration of the BTP with Police Scotland?

Michael Matheson: First, I will deal with the issue of moving to a single force. With all due respect, the legislation that provided for the move to a national service was supported by your party—

Douglas Ross: Not at stage 3.

The Convener: We—the Conservatives—abstained on the Police and Fire Reform (Scotland) Bill, the Liberals voted against it and others voted for it. I have put that on the record, so let us move on.

Michael Matheson: The term “luxury” was used by ACC Higgins—

Douglas Ross: You repeated it today.

Michael Matheson: He was talking about taking forward the integration of the BTP in the light of the challenges that were experienced in integrating eight territorial forces into a single police service. His view was that the timeframe of two years for integrating the BTP with Police Scotland was a luxury in comparison. You can interpret that as a criticism of what happened with Police Scotland, or you may say that it reflects the greater complexity involved in merging eight forces rather than integrating a specialist division that has around 200 officers who provide railway policing in Scotland.

On the timing, I suppose that, for those who oppose the idea of integrating the BTP with Police Scotland, no time would be a good time to do it. No matter what time we chose to do it, they would oppose it and argue that it was the wrong thing to do. From the discussions that I have had with Police Scotland, I believe that it is more than capable of taking forward over the next two years the integration of the BTP into the service—if that is the will of the Parliament—and delivering effective railway policing.

Douglas Ross: The concern about morale came from Calum Steele, the general secretary of the Scottish Police Federation, who spoke at the SPF conference today. He painted a depressing picture of relations with the SPA and morale issues in Police Scotland. He told the committee that the SPF has not taken a position on integration, as it is not for it to do so. However, when the Scottish Police Federation is telling its conference that your single police force has morale issues, you would surely consider that now is not the time to add to the burden on the force by integrating the BTP, which is a very successful organisation, with an organisation that is still struggling with the challenges of integrating eight legacy forces into one.

Michael Matheson: It is also fair to say that Calum Steele, in his evidence to the committee, recognised some of the risks and challenges of integration, but his view is that none of them is insurmountable. On your point that now is not the time, the reality is that it is not happening now. The legislation is before Parliament now, but integration would not take place until April 2019.

Mary Fee: I want to briefly return to the issue of Tasers, as I want to be absolutely clear about it, cabinet secretary. You said that, if integration goes ahead, it would be an operational matter for Police Scotland whether transport policing officers in Scotland carry Tasers, so we are left with two possible scenarios. If a decision is made that railway policing officers in Scotland do not need to carry Tasers after integration—if it goes ahead—we will have a situation in which they are not carried in Scotland but railway policing officers in

the rest of the UK carry them. However, if the decision is taken for railway policing officers in Scotland to carry Tasers, they will also be required to be trained in firearms—at substantial cost, presumably—although officers in the rest of the UK will not.

Michael Matheson: It is worth keeping in mind that the extent of Taser deployment, which is to a limited number of train stations in Scotland, is on a smaller scale than it is in other parts of the UK. I believe that that is reflected in part in the risk assessment that the BTP conducted with regard to where it thinks Tasers are necessary. For example, in many of the train stations that are now covered by Tasers, many of the BTP officers do not actually have Tasers, as only a limited number of Tasers are deployed in those locations. That deployment was discussed with the BTP and it reflects the pan-UK approach that it was taking at the time, based on its threat and risk analysis of those particular facilities.

That is not different from what Police Scotland would do now with regard to major infrastructure issues that it is responsible for policing. Police Scotland would deploy and respond to those issues in a way that it thinks is appropriate and proportionate given the intelligence and the risk and threat assessment that it makes. For example, nobody would question that some of the risks in places such as central London are greater than they are in other parts of the country and we would expect deployment to reflect a chief constable's risk analysis.

Mary Fee made the point about a difference in approach with the UK if the chief constable of Police Scotland were to decide not to deploy Tasers in train stations, but it is worth keeping in mind that there are already differences, because there are forces in England and Wales that routinely deploy Tasers in a way that Police Scotland does not. It is ultimately for the chief constable to make that determination.

Mr Finnie would probably be able to cite the approach that was taken by Police Scotland to the deployment of firearms officers in the Highlands, about which concerns were raised. That deployment was on the basis of a pan-Scotland approach to the threat assessment. It would be for the chief constable to look at the whole country, to determine whether to take a bespoke approach in different parts of the country based on the risk and to deploy an appropriate model.

It is a matter for the chief constable, and it is not as straightforward as deciding to do it or not to do it. A whole range of factors must be taken into account in the type of dynamic assessment that is carried out. The reality is that we already have differences across the UK with regard to the deployment of firearms officers—they are used for

different routine policing matters—and Taser officers. For example, the Police Service of Northern Ireland is an armed service.

I am confident that we have a command structure that will make sure that we can look at the wider issue of infrastructure policing in Scotland; take an informed decision on the basis of intelligence and understanding of the associated threat and risk; and then deploy appropriately.

Douglas Ross: All members have just received an email from the Parliament's chief executive that says that, from today, Police Scotland will be routinely patrolling the Scottish Parliament and the public area outside the Parliament with Tasers. That is not based on any threat to the building. You were talking about a dynamic assessment but, given the events in London last week, and in light of that email, do you think that the regular deployment of Tasers, whether it be in large public areas such as railway stations or indeed public buildings such as the Parliament will change?

Michael Matheson: I am conscious that we are going off the subject of the bill. I was aware of the approach that Police Scotland is taking. It is a good example of the dynamic nature of Police Scotland's assessment of such issues, looking at the intelligence and the threat, and deploying in what it believes to be an appropriate way.

Douglas Ross is correct that the deployment of officers with Tasers at the Scottish Parliament is not based on any specific intelligence or threat to the Scottish Parliament. It is being taken forward on a precautionary basis because Police Scotland and the parliamentary authorities are conducting a review of the policing and security arrangements in the Scottish Parliament while reflecting on the events that took place at Westminster last week. That review will be conducted during the next couple of weeks.

The announcement is a reflection of the ability to respond proportionately to a set of circumstances based on our understanding, until we learn the full story of what happened last week at Westminster and whether it will have any wider implications. Assessment is on-going. It is not done at a fixed point in time. The situation is constantly reviewed, refreshed and reconsidered when necessary, and the decision to deploy Tasers at the Parliament has been made by the chief constable based on that assessment and while the review is being conducted by Police Scotland, the security services and parliamentary authorities.

John Finnie: I also have a brief point about Taser deployment by the BTP. Before that happened, Chief Superintendent McBride engaged with the justice spokespeople of all the

parties and my understanding was that the assessment was based on the threat that was posed to transport hubs. That is part of an intelligence process and it is unlikely that it would have taken place without consultation with, for instance, the security services and Police Scotland. Can you confirm that, although it was an operational decision for the BTP, there would have been liaison with Police Scotland and others?

Michael Matheson: I can confirm that there was liaison between Police Scotland and the BTP before that decision was made.

Mary Fee: My final question is for the transport minister. In evidence at a previous meeting, the National Union of Rail, Maritime and Transport Workers said that it has

“not ruled out the option of taking industrial action to retain BTP officers on the railway, because we are concerned about the safety of railway staff and passengers on trains in Scotland.”—[*Official Report, Justice Committee*, 14 March 2017; c 41.]

Other unions have indicated a similar stance. Are you prepared for further disruption on the railways and does that statement concern you in any way?

Humza Yousaf: I know Mick Hogg and the RMT well and, on the back of that statement, I will look to reach out to the RMT to hear its concerns and give its members as appropriate an assurance as I possibly can. As the cabinet secretary said in his opening remarks, safety is paramount for passengers and commuters and, of course, for the dedicated staff who work on our railways, whether they are drivers, conductors, station staff or others. The safety of all who are involved on the railway is our paramount concern. If the RMT is concerned about that, I will of course meet its representatives. I do so regularly anyway, but I will try to allay some of those fears. I will certainly reach out to the RMT on that.

The Convener: I have one final question that perhaps the transport minister and the cabinet secretary would like to answer. A number of references have been made to infrastructure policing and to air and sea travel. Do you accept that there is a distinction between the security that is possible, for example, for sea and air travel, where passengers are manifested—that is, it is known who is going to be on board—and there are pre-journey security checks, and the railway infrastructure, where someone can literally get on at one station and off at another, which makes the risks much higher?

11:45

Humza Yousaf: The only point that I will make before I pass that on to the cabinet secretary is that Police Scotland has said that it recognises the specialism and the expertise that British Transport

Police officers have and that it would not look to diminish that expertise in any way, shape or form.

You mentioned the unique nature of railway travel compared with other forms of travel. That is recognised, and therefore Police Scotland would want to maintain that specialism. ACC Higgins also made the point that it makes sense to have consistency and, as Police Scotland already has responsibility for roads, ports and airports, adding railway policing into the mix would provide a degree of consistency.

The cabinet secretary will probably want to add to that.

Michael Matheson: It is important to recognise that nobody is saying that railway policing is the same as airport or port policing. They all have different challenges and risks associated with them. They are all important parts of our infrastructure, as are our roads. That brings particular challenges with it.

One issue that was highlighted in the UK Government's strategic defence and security review was how we could better police our infrastructure in the UK as a whole. One issue that the review looked at was having infrastructure policing that is delivered in a more effective way than it is now. I do not know what route the UK Government will decide to go down in England and Wales. Whether it chooses to go for infrastructure policing on a formal or informal basis is a matter for it. However, the review underlines the value that we get from having a single command structure for policing those infrastructure areas in a broader way than is possible when it is compartmentalised by having one command structure to deal with one element and another command structure to deal with another element.

The Convener: I think that you have covered that, cabinet secretary, in all fairness. There is the recognition that the challenges are so much more for railway policing because someone can literally get off at one station and on at another.

Michael Matheson: I do not agree that there are more challenges—I think that they are different.

The Convener: There are not the same checks as there are for air and sea travel. There are extra checks for air and sea travel that are not carried out on the railway.

Michael Matheson: By and large, the challenges are different; it is not that they are more.

The Convener: Thank you very much. That concludes a very detailed evidence session. I thank the minister, the cabinet secretary and the officials for attending.

We now move into private session. The next committee meeting will be on 18 April, when we will consider our draft stage 1 reports on the Limitation (Childhood Abuse) (Scotland) Bill and the Railway Policing (Scotland) Bill.

11:48

Meeting continued in private until 13:07.

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