

Justice Committee

Railway Policing (Scotland) Bill

Written submission from the Transport Salaried Staffs' Association

Please find enclosed the response of the Transport Salaried Staffs' Association (TSSA) to the above consultation.

TSSA welcomes the opportunity to contribute to the Scottish Parliament's Justice Committee's Call for Evidence. We are an independent trade union with approximately 20,000 members throughout the United Kingdom and Republic of Ireland. Most of our members work in the British rail industry in management, technical, professional, supervisory, retail and administration functions. TSSA is the union recognised for collective bargaining purposes by the British Transport Police (BTP) in respect of civilian Police Staff.

The evidence that follows is based on dialogue with members in BTP's D Division in Scotland as well as in railway companies within the country and as such represents the views of TSSA.

Introduction

In August 2016, TSSA made a submission to the Scottish Government's consultation on the integration of BTP's D Division with Police Scotland. Our position at the time was to oppose the integration on the grounds that:

- BTP should remain a whole entity because of its focus on the British railway network that will continue to require a distinct cooperation and coordination across Britain;
- effective, skilled and experienced policing in the railways in Scotland would be lost to wider police priorities at a time of a heightened threat from terrorism. It will also be marked by many Officers and Staff choosing to leave or, in pursuance of the Police Scotland cuts programme, being made redundant;
- Our view at the time was that the idea of integration is first and foremost that of a political agenda that overrides the implications for policing that ensures the safety and security of rail passengers and workers as well as the infrastructure of the railway system.

We hope that the Justice Committee's Call for Evidence will lead to a re-think and withdrawal of the proposal.

Call for Evidence

Adopting the Committee's list of areas to be considered, we present the following evidence, obtained from TSSA members within BTP Scotland and railway companies in the nation:

The anticipated impact of the move on skills retention

We understand that it has been claimed that specialist railway policing skills will be retained and that a unit will be formed within Police Scotland (as described in the consultation document). Should this come to pass, TSSA would point to a series of reasons why this is impractical:

- BTP Officers and Support Staff will transfer with no detriment and will receive a level of protection¹ that means they will remain within railway policing but we question how likely this will be in practice, whether staff will be put under pressure to change - and not the least because the locations for railway policing in Police Scotland has not been clarified;
- In reaction to this uncertainty, members advise us that many Officers are considering either retirement or alternative employment which may be more convenient to where they live;
- Job security for Support Staff is a key concern but members have told TSSA that they doubt that there are any actual vacancies in Police Scotland, aware that the organisation has been cutting jobs and noting the low morale amongst its civilian staff.

The Committee should note, therefore, that in consequence of the above staff concerns, it is highly likely that trained and experienced Police Officers and Support Staff will not transfer to Police Scotland. This will lead to a shortage of the necessary specialist skills, knowledge and experience that has made BTP an integral part of the railway industry. What this means in turn is that Police Scotland will be faced with rapidly catching up with policing the railways – or imposing changes from its non-railway work that will endanger the consent and general goodwill amongst railway staff that currently exists (something that has been experienced already when police from county forces become involved with the railways).

Amongst the issue of skills are the specific railway safety requirements, including Personal Track Safety which requires both training and practical experience, without which Officers and Staff will be at personal risk when on or about the operational railway. In addition, knowledge of how the railway industry actually works is paramount. None of these areas has apparently been thought about.

In our submission to the Scottish Government's Consultation, and from conversations with colleagues in Police Scotland and research in official documents, we are aware that redundancies are being carried out in that organisation. The Justice Committee should be asking what information has been given to BTP Officers and Staff about this factor and who would be interested because our feedback is that a lot of workers would consider this, with the consequent loss of skills and experience.

Cross-border security arrangements

Professional Officers and Support Staff within BTP have advised us that it is incorrect to suggest that cross border sea, road and air travel and their current security and policing arrangements are the same as those in the railways. The reasons given are:

- Those modes of transport carry manifested passengers and crew - it is known who is on board and has been subjected to stringent security pre journey (including inebriation, so can be declined travel);
- Disruption to route will not result, as routings can be varied. Railway routes are defined;
- Not one of these forms of transport has intermediate stations, especially unstaffed halts, where a train may stop to put down or pick up passengers;
- Unstaffed railway stations – or those with only a railway worker on duty for a part of the day – can attract a particular type of transient criminal which BTP understands and can combat;
- BTP currently has a UK wide intelligence, crime recording and command and control systems which enables it to seamlessly “follow” real time incidents. This system will not be available to Police Scotland who will have to use their comparatively inefficient information protocols. The information that TSSA has cites the example of how BTP can competently deal with cross border football traffic because it doesn't have the cross border issues that Police Scotland will have by being unable to operate in England. For example, BTP in Scotland regularly police fans travelling from Edinburgh to Newcastle, and Newcastle officers will bring them back up. This would not be possible under the new draft bill as the officers would not have the correct powers, specifically “sworn in” powers, to deal with an offence once over the border.

TSSA would relate the following examples that a member has made known to us:

- BTP Scotland, or any intermediate BTP post en route, can adopt and take ownership of crimes in progress, physically and electronically, know how to deal and cope with legislative and procedural differences and all the time system readers can see and know the latest information, and with clearly defined supervised status. An Officer can task any Officer in BTP nationally to conduct a crime enquiry task, irrespective of that crime's locus, immediately. *Can a Police Scotland Crime Manager based in one legacy Force area do the same with another legacy Force area in Scotland never mind UK?*
- In answer to our own question, we know they cannot do so efficiently due to different systems, etc, with the result that delays will occur, justice outcomes could be adversely affected and delayed while victim and witness service will be reduced;
- In our view, criminals aware of the integration of Forces will be looking forward to integration as it is likely to mean an increase in cross border crime with a corresponding decrease in effective police tactics. We are advised that this might not be realised or seen via crime statistics. Currently, BTP Officers and Support Staff can accurately produce cross border BTP crime statistics. *Will Police Scotland be able to?*
- As an example, a crime has been committed on a train travelling between London and Glasgow and the exact location is not known. BTP's approach is to record and investigate the issue using the end

location (Glasgow in the example), making it a Scottish crime. As a result, the investigating officer can easily arrange retrieval of all relevant on and off train CCTV archive which is usually the most prudent first action because on train CCTV archive is overwritten within 7 days. Adopting the end station locus approach also means that the investigating officer will know where the subject train is and can get to it, even if it has subsequently travelled to another part of the UK national rail network. This means that the officer can deal with victims, witnesses, etc, and, if necessary, ask BTP colleagues elsewhere in the UK to obtain evidence and statements on their behalf. All of this will be audit trailed in real time.

For Police Scotland, this same scenario would present some serious difficulties, including:

1. Scottish Crime Recording Standards dictate the start location of the journey would be the locus and a transfer of crime from Police Scotland to BTP England and Wales would be sought but declined as Home Office Crime Recording and Counting Rules dictate the end location is the locus (not an English crime). This means that an enquiry gap definitely will result as, while that issue is resolved, the enquiry is stalled (because of the differences in Scottish or English crime recording issues;
2. When an investigator is identified and can proceed, the CCTV on train archive will be in danger of expiry or already have been overwritten, and that's even if the Investigator knows where to get it from;
3. Victims will experience reduced and maybe ineffective Police service compared to the way BTP Scotland deal now;
4. To prepare statistics, the BTP can quantify cross border crime for the reasons described above. To prepare this information, the crime flow, type and quantity in both directions must be measured but this will be defeated post integration because of the previously mentioned locus of crime issue and this will preclude an accurate measure being made. In future, if Police Scotland had a cross border crime count (recorded on any one of their eight different legacy Force crime recording systems which do not "talk" to each other), they will have to obtain "both directions" crime flow data, something which is only possible once they have the full both directions crime picture (noting the evidential and recording issues mentioned above).

In the light of this information, our members advise us that the impact of the Scottish Government's integration plan will be to see an increase in cross border crime on the railways because it:

- cannot be measured with accuracy
- cannot be tasked to investigators efficiently
- is totally different to the current BTP Scotland abilities.

Terrorism

Members have particularly drawn attention to the concern of the flow of cross border terrorism. In our consultation response we referenced to the BTP's Operation Alert that operates on a mutual basis between railway staff and BTP Officers and Support Staff. The effect of separating BTP in Scotland from the rest of the GB operation and then integrating it with Police Scotland is that Operation Alert will cease at the border.

The cessation of Operation Alert at the border also means that BTP's tried and tested categorisation of such incidents (based on intelligence and which is understood by all involved who know and understand what is expected of them), will vanish with integration.

Passenger safety and confidence

Noting what has been presented above, BTP in Scotland also knows from carrying out surveys that victims of crime very highly rate the service BTP Scotland gives them. Integration will reduce this experience. Similarly, railway workers have told us that their safety at work and the confidence they have in being safe in their employment will reduce – as it will for passengers – and simply because they expect to no longer see Police Officers and Staff on the stations or on trains in the right places at the right times, and perhaps never at all.

BTP also gets involved when issues occur on the railway lineside which has prompted some members in Network Rail to relate the poor experience and lack of confidence that they have felt in the police when Officers, other than from BTP, get involved on the railway infrastructure.

Relationships with rail operators and Network Rail

BTP provides a high level of service to the rail industry and is well respected in all quarters. This is based on a professional and dedicated relationship which we see as being undermined by the integration.

From a trade union and staff perspective, there is a strong sense of reassurance (in terms of personal safety) alongside a fundamental trust in the BTP and its knowledge and experience of how the railway operates. It is also based on the proportionate way that the BTP operates, routinely working in close cooperation and consultation with staff. In other words effective Community Policing. This is likely to be lost by integration, yet has historically enabled the industry, service users and staff to operate together effectively in the most trying of circumstances. All of it is based on foundation relationships that simply will not exist if staff for example, do not know the Police Officers that they chance to deal with.

It should also not be lost that the railway industry pays significant sums for a dedicated police force via the Police Service Agreements that individual railway companies enter into. In effect, the integration proposal will see a reduction in the service paid for at a time when many railway workers are worried about threats to

their jobs, pay, conditions and pensions. If the integration goes ahead, we will be asking railway companies to re-consider what they are spending their money on and asking them to use it instead to guarantee railway workers in their employment.

TSSA is also in the midst of industrial action within London Underground because of job cuts that have dramatically increased safety concerns at work and it is possible that we will take similar action if such fears are encountered in Scotland because of reduced policing.

How the role or terms and conditions of BTP officers could be affected

There is no reference in this question about BTP Support Staff which is a regular omission and one that is deeply resented by committed workers who happen not to be Police Officers but still play a vital role in the BTP's work.

In essence, our response is that there has not been very much detail presented to date and reassurances are very general in their nature to our members. As such, those reassurances have been quoted in a letterⁱⁱ from Humza Yousef to Manuel Cortes, TSSA General Secretary as follows:

“We fully recognise the importance of providing early clarity to BTP officers and staff on terms and conditions following integration and will continue to engage with officer and staff associations and representatives in order to determine a way forward that provides appropriate protections.

The Scottish Government consider that the transfer is not likely to fall within regulation 3(5) of the Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006, because it is a transfer of administrative functions between public authorities. Accordingly, it is not a “relevant transfer” for the purposes of the TUPE Regulations and those regulations therefore do not apply. We intend, however, to abide by the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector (COSOP), in particular by ensuring so far as possible that the transfer (including terms of transfer) is developed through secondary legislation and, the staff transferred are treated as if TUPE had applied. This will provide certainty as to the terms on which staff are transferred.

The Scottish Government will ensure that pension entitlement is maintained without detriment upon integration. This will be achieved by considering options in line with the Scottish Government's established principle that public service pensions should be affordable, sustainable and fair. I recognise that BTP officers and staff would prefer to retain their existing arrangements, and we are engaging with the British Transport Police Authority and Railways Pension Scheme trustees to ensure the best outcome for all. It is hoped that agreement will be reached well in advance of integration.

Clearly, there is a great deal of uncertainty in what is written here because so much is open to interpretation (eg, a pension entitlement is not the same thing as remaining a members of the existing pension scheme). TSSA would also draw attention to issues of jobs that staff might be transferred into and potential pressures

that they may be exposed to change to Police Scotland pay (conditions that are regarded as inferior to BTP arrangements).

Frank Ward
Assistant General Secretary
23 January 2017

ⁱ Chief Constable of Police Scotland's statement conveyed in letter dated 6th December 2016 from Minister Yousef to Manuel Cortes, TSSA General Secretary

ⁱⁱ From above letter of 6th December 2016