

Minister for Transport and the Islands
Humza Yousaf MSP



Scottish Government
Riaghaltas na h-Alba
gov.scot

T: 0300 244 4000
E: scottish.ministers@gov.scot

Margaret Mitchell MSP
Convener of the Justice Committee
Scottish Parliament
By email:
Margaret.Mitchell.msp@parliament.scot
justicecommittee@parliament.scot

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Dear Margaret,

I am writing to thank you for the report published by the Justice Committee on 28th April following its Stage 1 consideration of the Railway Policing (Scotland) Bill, and for the Committee's detailed scrutiny of the Bill as introduced.

I am very pleased that the Committee's report supports the general principles of the Bill, and that the Committee is of the view that integration of the British Transport Police in Scotland into Police Scotland will provide a more integrated and effective approach to infrastructure policing in Scotland.

The Committee raises a number of important points in its report, including some significant recommendations for both the Scottish Government and our key partners in delivering the programme of work of which the Bill represents the first stage to integrate the BTP in Scotland into Police Scotland.

The attached Annex provides the Scottish Government's response to these recommendations for members' consideration ahead of the Stage 1 debate. As some of those recommendations also seek input from Police Scotland, I will request that they respond directly to the Committee on those points ahead of Stage 2.

I would also be happy to provide any further clarification on the attached response that would be helpful to the Committee.

Best wishes
H. Yousaf
Humza Yousaf

ANNEX: Scottish Government response to the Justice Committee Stage 1 Report for the Railway Policing (Scotland) Bill

Engagement with railway operators

48. Conclusion: *The Committee notes ScotRail's evidence that it had received assurances about retaining police numbers and that the financial contributions from railway operators would be spent on railway policing. The Committee further notes the acknowledgement of the importance of transparency in terms of these issues.*

49. Conclusion: *The Committee considers that railway operators have the necessary expertise and knowledge of railway policing and should be involved in setting the railway policing priorities and objectives in collaboration with Police Scotland and the ongoing issues they raised need to be fully addressed to maintain confidence. These should be reviewed regularly to assess performance.*

The Scottish Government agrees with the Committee's view that railway operators should be involved in setting railway policing priorities and objectives in collaboration with Police Scotland and SPA, and have important expertise and knowledge of railway policing to bring to those discussions. The railway industry's voice in Scotland's railway policing will be maintained and strengthened with a clear mechanism for regular engagement to ensure transparency for railway operators.

Scottish Ministers and officials have held a number of formal meetings with the rail industry on the proposed approach to integrating the BTP in Scotland into Police Scotland, and it is clear from these that all parties share the desire to ensure that the industry retains its strong relationship with railway policing. Representatives of the railway industry have clearly set out to us their desire for a formal mechanism of engagement to agree the service, performance and costs of railway policing in Scotland following integration.

The specific provisions in the Bill (85J and 85K to be inserted into section 85 of the Police and Fire Reform (Scotland) Act 2012) place this involvement on a statutory footing, going beyond the arrangements under the existing UK legislation. These provisions place an obligation on SPA to establish a formal mechanism to engage regularly with railway operators and the Chief Constable of Police Scotland on railway policing. As the provisions specify, the purpose of this engagement will be for the SPA to discuss and seek to agree with railway operators the priorities and objectives for the policing of the railways and railway property in Scotland.

These provisions also set out that the railway policing management forum will discuss and seek to agree the proposed arrangements for meeting those priorities and objectives, as well as the performance and cost of providing railway policing services.

The approach we have set out in the Bill therefore seeks to enhance the current working practices, and embed these in statute, ensuring that the rail industry continues to have a voice in the development of railway policing priorities, objectives and costs for the longer term.

55. Conclusion: *Should integration of the BTP in Scotland into Police Scotland proceed, the Committee welcomes proposals in the Bill for a Railway Policing Management Forum, to help ensure regular and effective governance as well as engagement between Police Scotland and railway operators. In the interests of transparency the Scottish Government should provide details of the proposed remit, membership and functions of the Forum. The Committee notes ScotRail's suggestions in relation to abstraction and invites the Scottish Government and Police Scotland to comment on this evidence.*

The aforementioned provisions in the Bill set out that the purpose of the forum is for SPA and the Chief Constable to engage on a regular basis with those railway operators who are a party to a Railway Policing Agreement, or are subject to a requirement to enter into one. It also sets out in this context that the SPA must, for each yearly period beginning on 1 April, take steps to agree with relevant railway operators and the Chief Constable:

- the priorities and objectives for the policing of the railways and railway property in Scotland,
- the proposed arrangements for policing the railways and railway property in order to meet those priorities and objectives (and the means by which performance may be assessed), and,
- the expected overall costs involved in providing such arrangements.

We believe that passenger and staff representatives, the rail regulator and other key stakeholders, as outlined in section 85L, should be engaged, but it is the role of the SPA, Police Scotland and railway operators to discuss and agree between themselves further specific details on how the Forum will operate following integration. We agree with the Committee that in the interests of transparency further details agreed between the parties on the remit, membership and functions of the Forum should be made publicly available by the SPA.

We can confirm that the SPA and Police Scotland have already met twice with the railway industry to discuss integration, and how best to continue their engagement. All parties have warmly welcomed this proactive early engagement, and we understand that they have agreed to examine long term engagement arrangements and will meet once the Bill has completed its passage to discuss further details.

On the issue of abstraction, we agree with ScotRail's suggestion that the Railway Policing Management Forum would present a suitable opportunity for the railway industry, Police Scotland and SPA to monitor the abstraction of railway policing officers, to ensure that there is no detriment to the performance of the railway and the travelling public. However we would expect close working relationships between senior police officers and rail management to enable railway policing matters to be handled immediately as part of day to day operational engagement.

During the Committee's evidence sessions, Police Scotland gave the Committee clear assurances that railway police officers would not be abstracted to other duties. ACC Higgins stated that there will be "a bespoke specialist unit that is dedicated to policing the rail network, and we would have to maintain the service level agreement that we have with the rail providers." The one caveat ACC Higgins made to that statement was that in the event of a crisis the chief constable reserves the right to deploy officers as he sees fit. However, as ACC Higgins highlighted, in a crisis such as a terrorist attack or security-based incident, resources on the rail network would be strengthened rather than diluted, because the rail network is key national infrastructure.

The Costing Model

75. Recommendation: *The Committee recognises the importance of linking in the proposed Railway Policing Agreements the costs for the railway policing services being provided. The Committee notes the broader cost issues including concerns that costs may increase. The Committee considers that transparency on the costs of future contracts is essential. It considers that all railway operators must know what they are paying for. To reassure the railway operators the Committee asks the Scottish Police Authority to consider whether guidance can be provided on what should be included in a Railway Policing Agreement.*

BTPA is currently considering a review of its existing Police Service Agreements and will publish details before proceeding. The Scottish Government and SPA have been invited to participate in this workstream.

It is expected that the scoping of this work will be concluded by the end of May 2017, and while alignment with this BTPA-led work is likely to be welcomed by cross border operators to provide them with consistency either side of the border, the Scottish Government remains of the view that there is the potential to secure further improvements through the provisions of the Bill. Engagement has already started between the rail industry and SPA, with the format of RPAs and role of the forum a key part of those discussions.

76. Recommendation: *The Committee requests that Police Scotland provide details on its training needs analysis and the cost prior to Stage 2 deliberations. Any additional costs as a result of integration should not be met by the railway operators. The Committee asks the Scottish Government to clarify who will pay any additional training costs incurred by Police Scotland.*

We will ensure that Police Scotland is aware of the Committee's request and of the timescales for responding. ACC Higgins has previously stated in responding to the Committee's request for further details that while an in-depth training needs analysis is required to determine the range of specific training requirements and delivery options, Police Scotland hopes to avoid additional costs being incurred.

As set out in paragraphs 18 and 19 of the Financial Memorandum to the Bill, the Scottish Government expects the overall costs of railway policing in Scotland to operate within the current BTPA cost estimates, whose assumption is that annual railway policing costs should not rise by more than the cost of RPI inflation. As set out above, the expected overall costs of railway policing will be a matter for agreement between the SPA, Police Scotland and railway operators through the Railway Policing Management Forum.

Service Standards

95. Recommendation: *The Committee recognises that a visible presence of railway police officers at train stations and on trains provides reassurance to railway users and staff and can act as a deterrent to criminals. The Committee recommends that the Railway Policing Agreements should, without compromising operational matters, detail where railway police officers will be based and the Scottish Police Authority should regularly monitor whether police officers are being routinely abstracted to other duties or are being supplemented to railway policing.*

As set out above, Police Scotland has given the Committee clear assurances that railway police officers would not be abstracted to other duties, with the obvious exception of a crisis situation.

As requested by the rail industry, we have attempted to provide broad similarities between the statutory requirements and provisions relating to the Railway Policing Agreements and the existing Police Service Agreements, while the detail of the RPAs will be a matter for agreement between the Scottish Police Authority and the individual operators. Nevertheless, as also set out above, we agree with ScotRail's suggestion that the Railway Policing Management Forum would present a suitable opportunity for the railway industry, Police Scotland and SPA to monitor the service that is being delivered. Our expectation is that this will be supported by a range of management and performance information, with the detail to be agreed between operators and the SPA. If operators decide that location and abstraction data is a key component of the information required to monitor delivery of the service, then we would expect SPA and Police Scotland to work positively to support this requirement.

Governance

102. Recommendation: *The Committee welcomes the Scottish Police Authority's commitment to expand its Board membership, should integration proceed, to include someone with railway experience and asks the Scottish Government to seek assurance from Police Scotland that staff with the necessary railway skills and expertise will be retained at senior levels. The Committee seeks an assurance from the Scottish Government that the Scottish Police Authority will successfully absorb these additional responsibilities, given in particular recent concerns around governance.*

The Scottish Government proposals as set out in the Policy Memorandum are based on an assumption that the same level of railway policing capacity and the same number and rank of specialist officers will be maintained as part of the transfer. This means that staff with the necessary railway skills and expertise will indeed be retained at senior levels.

Police Scotland has also given the Committee the assurance that any British Transport Police officer who migrates into Police Scotland will have their legacy right to police the railways honoured, and that if they choose to remain within the railway environment for the remainder of their career, that will be respected.

The Scottish Police Authority has given clear assurances in its evidence to the Committee that they can take on the additional governance responsibilities required of them for railway policing. Their preparedness for doing so will be regularly reviewed as part of the work of the Joint Programme Board.

Disputes

110. Recommendation: *The Committee notes the Scottish Government's intention to take a proportionate approach to resolving disputes between railway operators and Police Scotland, should integration proceed. As dispute resolution has previously proven to be difficult, the Committee asks the Scottish Government to clarify what other mechanisms would be available to it in the circumstances where it is unable to resolve a dispute.*

As noted in the Committee's report, the Delegated Powers and Law Reform Committee also asked the Scottish Government for further explanation of the mechanisms available to settle any dispute between a railway services provider and the SPA or Police Scotland. The DPLRC's report concluded that that Committee was content with the Scottish Government's response on the issue. The additional clarification provided by Scottish Government was as follows:

“As noted by the Committee, the 2003 Act [i.e. the Railways and Transport Safety Act 2003] provides that a railway service provider who provides railway services without entering into a Police Services Agreement (PSA) commits a criminal offence, and is liable to sanctions in the form of a fine if found guilty. The policy objective of that approach is to ensure that railway service providers enter into PSAs when required to do so. To our knowledge these sanctions have never been applied in practice, and the Scottish Government is not convinced that the threat of criminal sanctions is the most effective way of securing the policy objective. Even if sanctions might have the desired effect, the Scottish Government considers that this approach would be disproportionate. The Bill therefore takes an alternative approach to ensuring that RPAs are in place for operators who are required to enter into them.

Section 1 of the Bill inserts sections 85D to 85I of the PFRA, creating a dispute resolution mechanism in relation to RPAs. Paragraphs 17 to 24 of the Explanatory Notes to the Bill describe the dispute resolution mechanism in more detail, though it may be helpful to draw attention here to the fact that this mechanism allows disputes to be referred to the Scottish Ministers where the parties have failed to agree the terms to be included in an RPA and that failure to agree is likely to cause (or has caused) a breach of a requirement to enter into an RPA imposed by regulations under section 85C (section 85D(2)(a)). Section 85F(4) requires a person determining that dispute to specify the terms to be included in an RPA and those terms are to be treated as if they had been agreed between the parties. In other words, where there is a requirement to enter into an RPA and that requirement is not met, powers exist under sections 85D and 85F enabling the Scottish Ministers (or a person appointed by them) to put an RPA in place. It is considered that this is a more proportionate, direct and effective means of addressing failure to comply than imposing a criminal sanction.”

111. Recommendation: *The Committee highlights the Law Society of Scotland's concerns relating to the criteria for a suitable person to resolve disputes and on a perceived lack of clarity as to their power to determine the procedure for resolving disputes, which it saw as potentially engaging human rights issues and believes the Scottish Government must fully respond to these concerns.*

The Scottish Government acknowledges that the dispute resolution mechanism may give rise to the determination of civil rights and obligations and that the process for that dispute must therefore be compatible with Convention rights (particularly under Article 6 of the Convention and Article 1 of the First Protocol). The Bill puts in place a procedure for determination of disputes which requires, at a minimum, the person determining the dispute to give the parties to the dispute an opportunity to make representations before the final determination. Otherwise, however, the Bill leaves the procedure for these determinations to the discretion of the person making them. That provides flexibility to that person to put in place a procedure which is appropriate and proportionate to the particular circumstances, but in no way diminishes the need for the proceedings put in place to comply with Convention rights.

There is further a right of appeal to the Court of Session under inserted section 85H against any determination made. That provides a Convention-compliant remedy to any person who considers that a determination made under inserted sections 85F or 85G has interfered with any procedural or substantive rights that person may have under the Convention.

Engagement

120. Recommendation: *The Committee asks the Scottish Government to confirm the mechanism by which the Scottish Police Authority is to engage with railway users and other interested persons should integration proceed. The Committee also asks the Scottish Government to respond to the concerns of the Scottish Women's Convention about the safety of women travelling by train.*

The Bill places a clear requirement on the SPA to engage with the railway industry and other interested persons to discuss service, performance and costs. The SPA and Police Scotland are already engaged with the railway industry to discuss a range of issues including how the railway policing management forum will operate and how this engagement will be progressed and widened to include other interested bodies before integration.

We welcome the input provided by the Scottish Women's Convention in response to the Justice Committee's call for written evidence, and their conclusion that the integration of BTP into Police Scotland has the potential to create a more joined-up way of policing overall, as well as opening up opportunities for officers of both organisations to develop their careers. Safety will always be our top priority, and rail passengers and staff will continue to receive the high standards of security on our rail network that they are used to, on integration and beyond. We will write to the Scottish Women's Convention responding to their concerns in this respect, and in particular to highlight the assurances given to the Committee by Police Scotland which make clear that the capability and capacity of specialist railway policing will be maintained following the integration of BTP in Scotland into Police Scotland.

Potential Benefits of Integration

131. Recommendation: *It is imperative that police officers from both police forces are clear about their respective roles and legislative responsibilities when policing cross-border trains. The Committee recommends that, should integration proceed, Police Scotland and the Scottish Police Authority consult with the British Transport Police in order to ensure that agreed protocols are in place well before the date of integration. The Committee notes the request for more clarity on exactly how jurisdictional arrangements would operate following integration and asks Police Scotland to respond to this request.*

140. Recommendation: *The Committee notes that there is the potential for a single command structure for policing in Scotland to provide a more efficient, effective and accountable approach to policing the railways. The Committee asks the Scottish Government to reflect on the concerns raised by a number of key stakeholders about the wider implications of its approach to ensure that there are not any unintended consequences for the UK-wide rail network, and in particular for cross-border services.*

146. Recommendation: *The Committee recommends that, should integration proceed, prior to this, a mechanism must be established to ensure that Police Scotland and the British Transport Police continue to work collaboratively to identify any difference in policies and to determine how these will be managed in relation to the policing of cross-border trains.*

The Scottish Government wrote to UK Transport Ministers on 14 Dec 2016 seeking their cooperation in ensuring seamless cross-border policing arrangements following the proposed changes. The UK Government has responded positively, and we are working closely together to deliver that objective.

The Committee heard from the UK Government Department for Transport that effective and seamless cross-border policing is a guiding principle of the Joint Programme Board's work, and in the shared interest of all parties, including the UK Government. Chief Constable Crowther and ACC Higgins confirmed to the Committee that they are fully engaged in discussions and will undertake careful scrutiny of the cross-border legislation in due course.

All JPB partners are fully engaged in the process of developing appropriate jurisdictional and operational arrangements for cross-border services and co-operation across the border to ensure that high standards of safety and security are maintained. Planning is already underway, with Police Scotland recently hosting a workshop involving BTP, Department for Transport and Scottish Government, with a further event planned in late June. We will keep Parliament updated on further progress through the 6-monthly progress reports on the work of the JPB.

162. Recommendation: *The Committee heard that the proposal to integrate BTP Scotland into Police Scotland could provide an opportunity to enhance the police service provided across the rail network in Scotland. The Committee asks the Scottish Government to provide more information about the deployment of resources on the railway by the British Transport Police and Police Scotland, in the light of evidence that Police Scotland is the first responder to 1.8% of incidents on the railways.*

The Committee has heard evidence that BTP's presence in Scotland is concentrated in the central belt, and that resources are more thinly spread in other parts of the country. Evidence has also highlighted that Police Scotland are first to attend a number of railway-related incidents where the time for BTP officers to respond would be significantly higher due to the distances involved, particularly in rural areas, similarly to the relationship BTP has with territorial forces in other parts of the UK.

Our understanding is that Police Scotland does not routinely gather statistics on who attends first at railway-related incidents at present, and we will request that Police Scotland liaise with BTP and respond to the Committee on this matter.

Risks from Integration

173. Recommendation: *The Committee asks the Scottish Government to confirm whether the Joint Programme Board is pursuing the suggestion of an agreement on managing cross-border trains between Police Scotland and the British Transport Police prior to integration.*

As explained above, JPB partners are all involved in the development of legislative and operational arrangements for cross-border railway policing following integration, and practical planning is already under way. Police Scotland and BTP will be responsible for the operational policing of cross-border trains on integration. Although we would anticipate that the two police services would wish to establish an agreement on cross-border trains prior to integration, this is an operational decision and we will therefore ask Police Scotland to comment on this along with other issues where the Committee has asked for their input.

196. Conclusion: *At the time of publishing this report, agreement on the terms, conditions, benefits and pensions of British Transport Police staff and officers has not been reached. The Committee notes that the commitments the Scottish Government has given the British Transport Police and the Transport Salaried Staffs' Association have not reassured these representative bodies that current conditions of employment would be retained upon integration into Police Scotland. The Scottish Government has said that "it will apply a principle of no detriment" to terms and conditions. The Committee notes the use of terms by the Scottish Government such as "the aim, where possible" has not yet provided stakeholders with sufficient reassurance.*

197. Recommendation: *It is clear from the evidence that resolving this issue is critical to achieving a seamless transfer of railway policing to Police Scotland. The Committee asks the Scottish Government to provide an update on progress during the Stage 1 debate on the Bill. The Committee seeks an assurance that the terms, conditions, benefits and pensions of BTP officers and staff will not be adversely affected.*

We agree with the Committee's emphasis on the importance of agreement on the terms, conditions, benefits and pensions of BTP officers and staff on transfer. As requested by the Committee, an update on progress will be provided during the Stage 1 debate. The Scottish Government has listened closely to the issues raised by the rail industry, police, the BTP Federation and staff union, and offered a triple-lock guarantee that secures jobs, pay and pension conditions through the course of integration.

The wording of the assurances the Scottish Government has given to the staff association and unions is not intended to imply any qualification of our commitment to protect the terms and conditions and pensions of officers and staff. Ministers are clear that terms and conditions, pay and pensions will either be the same as they are currently, or an equivalent level of benefit will be provided to ensure transfer on a 'no detriment' basis in line with COSOP.

As the Committee is aware, the Bill is a necessary first step towards the integration of railway policing into Police Scotland. It enables the substantial programme through the Joint Programme Board which will give direction to, amongst other key aspects of implementation, further detailed work with a range of partners on the Terms and Conditions of transfer. The Committee is also aware that various aspects of the transfer will need to be carried out by secondary legislation that is triggered by passage of this Bill.

The first Joint Programme Board update, provided to the Committee by the Department for Transport, included details of progress on the workforce project that is considering the transfer of officers and staff. The BTPA, BTPF and TSSA have been included in initial discussions about terms and conditions, and officials will engage fully with them as the detailed work takes place in order to ensure that there is no detriment on transfer.

On pensions, discussions are now under way with the BTP Authority to establish the way we deliver our commitment of no detriment to pension provision for BTP officers and staff transferring into Police Scotland. Our starting point is that officers and staff retain access to their current pension schemes, and officials are now working on the financial and legal issues associated with delivering that. It is also our intention to mirror the current travel entitlements on the transfer of officers and staff to Police Scotland and the SPA. Officials are working with BTPA and Rail Delivery Group to understand the current provisions for concessionary travel for BTP officers and staff in Scotland, in order to ensure that appropriate arrangements are in place for 1 April 2019.

217. Conclusion: *Providing railway policing training for all police officers provides an opportunity to make Police Scotland more resilient and effective in policing the railways. There are areas of the railways that police officers should not enter without a Personal Track Safety Certificate. The Committee requests further information from Police Scotland as to how this currently plays out in practice when Police Scotland officers respond to incidents on the railway estate.*

We will ask Police Scotland to respond to the Committee on this point regarding officer safety and operational railway policing.

223. Recommendation: *The Committee notes that the British Transport Police's approach to identifying and developing specialisms to improve railway policing has added value and recommends that, should integration proceed, Police Scotland build on the specialisms that have been developed.*

The Scottish Government agrees with the Committee's view of the value that specialist railway policing provides, and welcomes Police Scotland's commitment to retaining a dedicated railway policing function, and that any British Transport Police officer who migrates into Police Scotland will have their legacy right to police the railways honoured.

The Committee has heard that Police Scotland also shares the view of the importance of specialist railway policing – as ACC Higgins stated in giving evidence, “there is a very strong ethos in the BTP, which we would want to retain.” ACC Higgins also emphasised the value Police Scotland places on the range of specialisms which exists within Police Scotland, and that “one of Police Scotland's strengths is the multiple cultures that we have within the organisation.”

235. Conclusion: *The Committee is reassured that the UK-wide systems for dealing with terrorist threats on the railway work effectively.*

The Committee's reassurance on this matter is welcome. We also note that Police Scotland's counter-terrorism capability was described to the Committee by the BTP Chief Constable as first-class, and as working really closely with BTP, other forces and the security services.

236. Recommendation: *The Committee notes on-going concerns around Police Scotland's IT systems. The Committee further notes Police Scotland's view that there may be a requirement to invest in ICT systems to ensure operational compatibility with the British Transport Police and asks the Scottish Government for confirmation that it is their view that there will be no detriment to information sharing, should an incident occur.*

The Cabinet Secretary for Justice has previously provided substantial assurance to the Committee that Police Scotland has access to the UK-wide intelligence network and that Police Scotland has the access routes into information and the technical capacity to interpret and use it appropriately.

Police Scotland and BTP currently communicate and exchange policing and incident information using a range of national police ICT systems and will continue to do so. Police Scotland are currently working closely with the BTP to agree the practicalities of future joint operational policing; we will request that Police Scotland give an update to the Committee on this work.

252. Recommendation: *The Committee notes a willingness to work collaboratively to meet the April 2019 deadline should the integration of the British Transport Police into Police Scotland proceed. However, the Committee recommends that the railway operators, relevant unions, staff associations and passenger groups be included in the progress of the Joint Programme Board's workstreams as soon as possible, to ensure that any risks are identified and mitigated prior to integration.*

253. *The Committee further notes that some evidence received questioned whether this was the right time to integrate the British Transport Police in Scotland into Police Scotland, as the latter was going through transformational change.*

Appropriate engagement is currently in place with railway operators, staff representatives and passenger groups to ensure that risks are identified and mitigated prior to integration. This engagement will continue and broaden to encompass wider engagement as recommended by the Committee through the work of each of the workstreams as these develop following passage of the Bill. Together with our joint partners we will include details of engagement undertaken in future JPB updates to the Committee.

The Scottish Police Authority and Police Scotland have both provided assurance to the Committee that they consider integration on 1st April 2019 to be achievable.

Alternative Approaches

266. Conclusion: *The Committee acknowledges that there are alternative options for providing railway policing in Scotland, and different views on which options should be pursued. It is clear from the evidence that the majority of respondents oppose full integration. The Committee's role is to scrutinise and report on the general principles of the Bill and it therefore notes the evidence received on alternative approaches to delivering railway policing in Scotland.*

As the Scottish Government has set out in the Policy Memorandum and in giving evidence to the Committee, our view is that the integration of the BTP in Scotland into Police Scotland will ensure a railway policing function within Police Scotland that is fully accountable to the people of Scotland and the Scottish Parliament. On the other hand, the alternatives that have been proposed offer a complex, shared model of accountability at best, and would not provide the benefits of integrated policing across all of Scotland's transport infrastructure. Our intention is therefore, in light of the Committee's approval of the general principles of the Bill, to proceed with our proposal to integrate the BTP in Scotland into Police Scotland.

Financial Considerations

286. Recommendation: *The Committee notes the Scottish Government's expectation that railway policing costs are to remain the same, or increase slightly, prior to efficiency savings being realised. It is clear from the evidence that the Committee has received that the Financial Memorandum does not provide enough detail on the expected costs of integration or who would pay, should railway policing costs increase as a result of integration. The Committee expresses disappointment at a lack of detail on costs set out in the Financial Memorandum and invites the Scottish Government to give an assurance that should these costs increase it will report to the Scottish Parliament to clarify who would pay any additional costs arising from integrating British Transport Police Scotland into Police Scotland.*

The specific costs of transition will be developed through the Joint Programme Board, in particular through ongoing joint work between the two police authorities and forces. It is

important to highlight that the majority of assets associated with BTP's operations in Scotland, would be expected to transfer at the point of integration, and will therefore continue to be used in the policing of Scotland's railways. The two police authorities and forces are currently identifying BTP assets in Scotland and UK-wide to inform their more detailed discussions.

Until that work of identifying the specific assets that will transfer is complete, it is not possible to spell out the detail of transitional and integration costs required for SPA and Police Scotland to achieve full integration. Our working assumption is that following integration costs can be accommodated within the current overall overhead spend associated with railway policing, given that there will also be scope for corporate efficiencies. As detailed in the Bill Financial Memorandum current BTPA cost estimates are based on an assumption that annual railway policing costs should not rise by more than the cost of RPI inflation.

We note that the Committee has asked for updates from the Joint Programme Board every six months, and we will request that our joint partners include further detail on the costs of integration in Scotland in those updates.

Delegated Powers

294. Recommendation: *The Committee recommends that the new section 85C(1) of the Police and Fire Reform (Scotland) Act 2012 (inserted by section 1 of the Bill) be amended at Stage 2 so that it is subject to the affirmative procedure.*

The Scottish Government notes the views of the Justice and Delegated Powers and Law Reform Committees that the subordinate legislation which will identify the railway operators or classes of operator who are required to enter into an RPA should be subject to the affirmative rather than the negative procedure.

The view the Scottish Government set out in response to the DPLRC is that the power is narrowly drawn and could only be used for the specified purpose, and that the negative procedure provides an appropriate balance between the need for Parliamentary scrutiny and the effective use of Parliamentary time and resource. However, in light of the comments of the Committee and the fact that these matters are always a fine balancing exercise, we are happy to accept the Committee's recommendation and will bring forward an amendment at Stage 2.

The Transition Process

303. Recommendation: *The establishment of a Joint Programme Board is both welcome and necessary as the Scottish and UK Governments would need to work collaboratively if integration is to be made to work, should it proceed. Many of the issues that are of particular concern to those who work in the rail industry are being considered by the JPB and will be included in future subordinate legislation in both Parliaments. The Committee seeks an assurance from the Scottish Government and other JPB members that they will ensure that the consultation process on these issues is transparent and inclusive.*

The Scottish Government agrees with the Committee that ongoing collaboration between the Scottish and UK Governments is necessary to delivering the integration of BTP into Police Scotland. As set out above, the work of the JPB will involve wider engagement with a range of stakeholders in addition to the railway industry and staff representatives. In terms of future subordinate legislation, the UK Government's section 104 Order will be subject to scrutiny in both houses at Westminster. As the Committee heard from the Department for Transport, public consultation on this Order would be a matter for the UK Government and they are yet to fully develop their approach to this. However, the Order will require to be developed in full collaboration with the Scottish Government and all relevant stakeholders.

304. Recommendation: *The Committee asks the Scottish Government to provide 6-monthly progress reports to the Scottish Parliament on the work of the JPB.*

During its oral evidence sessions, the Committee heard directly from a number of Joint Programme Board members of our shared commitment to deliver a smooth and effective integration in partnership, and of the ongoing and planned work programme of the JPB to put that into practice. We are happy to confirm that we will ensure that Parliament is kept up to date with progress on the JPB's work through 6-monthly progress reports.

General Principles

305. Recommendation: *Under Rule 9.6.1 of Standing Orders, the lead committee is required to report to the Scottish Parliament on the general principles of the Bill. Following a division, the Committee supports the general principles of the Bill. The Committee is of the view that integration of the British Transport Police in Scotland into Police Scotland will provide a more integrated and effective approach to infrastructure policing in Scotland.*

The Scottish Government welcomes the Committee's support for the general principles of the Bill, and its view that integration will provide a more integrated and effective approach to infrastructure policing in Scotland. We are grateful for the Committee's detailed consideration of the Bill and wider programme of work to integrate the BTP in Scotland into Police Scotland, and for the constructive and helpful recommendations the Committee has provided.