

<b>Meeting</b>	<b>SPA Board Meeting</b>
<b>Date</b>	<b>26 June 2019</b>
<b>Location</b>	<b>Pollock Halls, Edinburgh</b>
<b>Title of Paper</b>	<b>Devolution of Railway Policing</b>
<b>Presented By</b>	<b>Graham Stickle – Risk and Policy Specialist, SPA (Lead on BTP)</b>
<b>Recommendation to Members</b>	<b>For discussion, endorsement and approval</b>
<b>Appendix Attached</b>	<b>Yes – Proposed Terms of Reference Proposed Memorandum of Understanding</b>

**PURPOSE**

To update Members on progress towards the establishment of a committee to oversee railway policing in Scotland and seek Members approval of the proposed Terms of Reference and Memorandum of Understanding supporting the Scottish Railways Policing Committee.

## **1. BACKGROUND**

- 1.1 In September 2018 the Cabinet Secretary for Justice announced his intention to reconsider all of the options available to achieve enhanced accountability of railway policing in Scotland. He subsequently convened a stakeholder event on 6<sup>th</sup> November 2018 which included representatives of the British Transport Police (BTP), British Transport Police Authority (BTPA), British Transport Police Federation (BTPF), Scottish Police Authority (SPA), Police Scotland, Department for Transport, the rail industry, Her Majesty's Inspectorate of Constabulary Scotland and Audit Scotland.
- 1.2 There was a general consensus among stakeholders that legislation currently in force could be used to create an arrangement that facilitates a stronger oversight role for the SPA in relation to railway policing in Scotland, based on the key design principles which were agreed by the Joint Programme Board (JPB) on the 6<sup>th</sup> of December:
- Addressing the democratic deficit in Scotland;
  - Meaningful accountability and transparency for railway policing in Scotland;
  - Safe and effective management and operational delivery of railway policing in Scotland;
  - Designed on best value principle and provide an appropriate mechanism to ensure value for money.

## **2. FURTHER DETAIL ON THE REPORT TOPIC**

### **Proposed Scottish Railways Policing Committee**

- 2.1 Officials of the SPA and BTPA have worked closely together to give practical effect to the guidance from the JPB and have developed a proposal for the establishment of a Scottish Railways Policing Committee to be established as a sub-committee of the BTPA under paragraph 12(b) of Schedule 4 of the Railways and Transport Safety Act 2003. Draft Terms of Reference (ToR) and a Memorandum of Understanding (MOU) have been prepared and are appendices to this paper.
- 2.2 Engagement between SPA and BTPA supporting the development of the ToR and MOU has included:-

- Regular communications at officer level;
- Meeting of the BTPA and SPA Chief Executives;
- Tele-conference with participants including the Chairs of the two authorities and Chief Constables of BTP and Police Scotland;
- Meeting to finalise the content of the ToR and MOU attended by the SPA Chair, BTPA Scotland Member and officers from SPA and BTPA.

2.3 SPA governance and oversight, since December, has included:-

- Chair of the SPP providing input/direction to officers developing the ToR;
- Update to the SPA Board in February;
- Progress update to the Strategy and Policy (SPP) Committee in February and March;
- Opportunities for SPA Members to comment and contribute to the development of proposals and the content of the supporting documentation.

2.4 It is proposed that the new Committee is chaired by the Scottish member of the BTPA Board and will comprise two members of the BTPA Board and two members of the SPA Board. The two Authority Chairs and Chief Executives will have standing invitations to attend Committee meetings and the Committee's Secretariat will be provided by the BTPA. The Committee will meet quarterly and meetings will be held in Scotland. As is the practice of the SPA, papers will be publically available in advance and meetings will be open to the public, except where there are stated and justifiable reasons for business being considered in private. The Committee's responsibilities will include:-

- Review and report on the planning and performance of railway policing in Scotland;
- Review and report on the cooperation and joint working of the BTP and Police Scotland;
- To scrutinise BTP's public and stakeholder engagement work in Scotland.

2.5 The proposed ToR for the Committee and Supporting MOU are shown at Appendix 1 and 2 respectively.

## **Enhanced Joint Working between BTP and Police Scotland**

- 2.6 In tandem with the work to develop a new and strengthened level of accountability for railway policing in Scotland, the Chair of the BTPA and the SPA have worked jointly with the Chief Constables of BTP and Police Scotland to encourage and support the further development of areas of interoperability between the two police services to ensure that the optimal policing service is provided to Scotland's communities, the travelling public and train operators.
- 2.7 It is anticipated that the Scottish Railways Policing Committee, if agreed, will provide an effective vehicle through which these operational arrangements can be monitored, scrutinised and further developed.

## **Decision Making and Approval Process**

- 2.8 Summarised below are the proposed steps to implement the Scottish Railways Policing Committee and approve the supporting ToR and MOU:-
- i. SPA and BTPA Boards approve the ToR and MOU for onward submission to Ministers (Scottish and UK) for final clearance
  - ii. Scottish and UK Ministers approval
  - iii. Stakeholder notification from Scottish Government
  - iv. Update to Scottish Parliament
  - v. Final meeting of the JPB convened to close programme
  - vi. First meeting of the Committee - Autumn 2019

## **3. FINANCIAL IMPLICATIONS**

- 3.1 There are very limited financial implications for SPA as a result of implementing the Scottish Railways Policing Committee. Additional costs will be incurred relating to member time supporting and attending the committee.

## **4. PERSONNEL IMPLICATIONS**

- 4.1 There are no personnel implications for SPA associated with this paper.

**5. LEGAL IMPLICATIONS**

5.1 There are no further legal implications beyond those detailed in the paper.

**6. REPUTATIONAL IMPLICATIONS**

6.1 There are positive reputational implications for both SPA and BTPA associated with this paper.

**7. SOCIAL IMPLICATIONS**

7.1 There are no social implications associated with this paper.

**8. COMMUNITY IMPACT**

8.1 There are possible positive implications for the travelling public associated with this paper.

**9. EQUALITIES IMPLICATIONS**

9.1 There are no equality implications associated with this paper.

**10. ENVIRONMENT IMPLICATIONS**

10.1 There are no environmental implications associated with this paper.

**RECOMMENDATIONS**

Members are requested to:

- I. Note and discuss the information contained within this paper;
- II. Endorse the establishment of the Scottish Railways Policing Committee and
- III. Approve, for onward submission to Ministers, the supporting Terms of Reference and Memorandum of Understanding.

## APPENDIX 1

### British Transport Police Authority The Scottish Railways Policing Committee

#### Draft Terms of Reference

##### Definition

British Transport Police Authority	BTPA
British Transport Police	BTP
Police Service of Scotland	PSoS
Scottish Police Authority	SPA

##### Background

The British Transport Police Authority (BTPA) has been specified as a cross-border public authority in Section 46 of the Scotland Act 2016.

The Scottish Railways Policing Committee is established as a sub-committee of the BTPA under paragraph 12(b) of Schedule 4 of the Railways and Transport Safety Act 2003. The Committee will provide:

- accountability and transparency for railway policing in Scotland;
- oversight and scrutiny of the safe and effective management and delivery of railway policing in Scotland;
- an appropriate mechanism to assess and report to the BTPA in respect of value for money in relation to those elements of the BTPA Fund invested in railway policing in Scotland.

The Committee will operate in accordance with the Memorandum of Understanding agreed between the SPA and BTPA [dated.....] and as may be subsequently amended.

##### Purpose and Scope

The committee will provide oversight of the development of plans and policies, scrutinising policing performance against agreed plans and statutory requirements, and ensuring agreed improvements recommended by external inspections and reviews are implemented.

The Committee will provide assurance to the BTPA, SPA and Scottish Ministers on the delivery of railway policing in Scotland.

In performing its functions, the Committee will have regard to the UK-wide police priorities set and reviewed by the BTPA, and police priorities set and reviewed by Scottish Government.

These terms of reference have been agreed by the BTPA and SPA and are endorsed by UK and Scottish Ministers.

A copy of these Terms of Reference has been laid before each House of Parliament and the Scottish Parliament.

## **Responsibilities**

To keep under review the delivery in Scotland of the BTP Strategic Policing Plan, Police Service Agreements and other documentary agreements relating wholly or mainly to Scotland and report progress, including concerns and observations, to the BTPA Board.

To recommend to the BTPA Board the Scottish Railways Policing Plan (hereinafter referred to as the plan), ensuring due regard has been taken of policing priorities set by Scottish Government, strategic plan set by SPA and Police Scotland, Police Scotland's annual policing plan and that effective consultation has informed the development of the plan.

To scrutinise progress and performance against the plan and to recommend to the BTPA Board any improvement required.

To scrutinise BTP's public and stakeholder engagement work.

To consider the effectiveness of interoperability between BTP and Police Scotland and recommend any improvements to the BTPA Board and the SPA.

To make recommendations and provide oversight on performance standards of railway policing in Scotland taking cognisance of stakeholder engagement and make recommendations to the BTPA Board on any changes required.

To provide visibility and oversight of the funding as it applies to rail provider(s) operating in Scotland, with a view to achieving best value and to recommend any changes to the BTPA Board.

In carrying out its functions, to take into account relevant data and research available in relation to policing, including independent evidence and benchmarking information from across the UK and internationally.

To review recommendations from Government Internal Audit Agency, Her Majesty's Inspectorate of Constabulary in Scotland and other organisations with an inspection, audit, or evaluation remit in relation to railway policing in Scotland, and ensure that action is taken within agreed timescales, subject to BTPA approval.

## **Meetings**

The Scottish Railways Policing Committee will meet quarterly. Meetings are to be scheduled to coincide with the BTPA annual planning cycle. Prior to the beginning of each calendar year, a provisional schedule of meetings will be approved by the BTPA Board and published on its website. Notice of meetings will be advertised on both the BTPA and the SPA websites. The Chair of the Committee may vary meetings, as deemed necessary.

Meetings will usually be held in Scotland. Public meetings will be in venues that are accessible to all people.

All meetings of the Committee are open to be observed by members of the public and media, with the exception of meetings or parts of meetings where business is to be conducted in private. The circumstances in which meetings may be held in private include where:

## OFFICIAL

1. information relating to identified or identifiable individuals (including members of staff) could be disclosed where there is no consent for disclosure and/or where there is a risk of harm to any individual from the disclosure;
2. public discussion of the information may prejudice any police operation or the prosecution of offenders;
3. disclosure of information could prejudice national security;
4. matters to be discussed are the subject of legal proceedings (including misconduct or disciplinary proceedings) or where information to be discussed consists of or includes legal advice provided to either Authority or to a third party;
5. an obligation of confidentiality exists in respect of the information to be discussed;
6. confidential, commercial or financial information not already in the public domain could be disclosed;
7. proposals for significant organisational change, significant changes to the terms and conditions of staff or other sensitive matters are being considered;
8. discussion in public would be likely to inhibit the free and frank provision of advice or the free and frank exchange of views for the purpose of deliberation;
9. other, exceptional, circumstances exist that would justify considering the matter in private, such circumstances to be agreed by the Committee and included in the minute of the meeting.

### **Stakeholder engagement**

The Committee will scrutinise BTP's public and stakeholder engagement work in Scotland.

The Committee welcomes engagement with the Rail Delivery Group, rail provider(s) in Scotland and with Transport Scotland informally and formally to understand their requirements.

The Committee welcomes engagement with academia to collaborate and develop railway policing in Scotland.

### **Reporting**

A forward-looking work plan for the year will be produced by the Committee, describing objectives, actions and proposed outcomes. This will be agreed by the BTPA with consultation, as necessary, with the SPA.

The agenda for each Committee meeting will be circulated to members at least five days prior to the meeting and will be published on the BTPA and SPA websites, excluding matters to be taken in private as outlined above.

Any member of the Committee may ask for an item to be placed on the agenda of a meeting, this to be done at least 15 days in advance of the meeting. The Chair will consider the request, taking advice from the BTPA Chief Executive as appropriate. If the Chair decides not to include the item on the agenda, the member will be advised and the Committee informed during the Chair's opening remarks.

A draft rolling action log will be available no later than five calendar days after each meeting. Draft minutes will be available to the Committee Chair no later than 14 calendar days after the meeting.

## OFFICIAL

Once agreed with the Committee Chair, draft minutes will be circulated to all Board Members of BTPA and SPA noting that they are still subject to formal approval at the next Committee meeting.

A summary report will be provided by the secretariat to the Chief Executives of each Authority after each Committee meeting. This will be used as the basis of reporting to the BTPA and the SPA Boards.

Committee members and BTP representatives may be required to provide evidence to Scottish Parliament Committees.

### **Membership and Attendees**

The Committee will comprise the Chair (“the Committee Chair”) and no more than four other Board Members. The Chair will be the Scotland member for the BTPA or such other member of the BTPA as nominated by the Chair of the BTPA. The Chair of the BTPA will consult and obtain approval by Scottish Ministers prior to appointing the Committee Chair.

The Committee will include up to two co-opted members from the SPA and up to two members from the BTPA. The Chair of each Authority will be responsible for the nomination of Committee members, and Committee members will be agreed by respective Boards.

The quorum for the Committee will be three Members including the Chair and must include at least one member from the SPA and at least one member from the BTPA.

All members including the Chair will have voting rights. In the event of a split decision, the Chair will have a casting vote.

Members of BTPA and SPA staff and BTP and Police Scotland representatives may be invited to attend Committee meetings. The Chairs of each Authority and Chief Executives have standing invitations to attend meetings. Any other Board Member may attend after consultation with the Committee Chair.

The Committee chair may invite representatives from external stakeholders or partner organisations for consideration of specific agenda items or subject areas.

### **Secretariat**

The BTPA will provide secretariat support to the Committee. The Chief Executive of the BTPA will ensure that appropriate support, data and advice are provided to the Committee, and will consult as necessary with the Chief Executive of the SPA.

The Secretariat will be responsible for all arrangements associated with supporting meetings, other than venues for meetings which will be provided by the SPA.

### **Governance**

The Committee, as a sub-Committee of the BTPA, will comply with the BTPA’s Code of Governance in all relevant aspects.

### **Effectiveness and evaluation**

The Committee will review progress against the work plan for the year.

The Committee will be open to external evaluation of its work and the extent to which accountability is enhanced for railway policing in Scotland, and against the design principles<sup>1</sup> and in accordance with BTPA's legislative framework.

Any changes to these terms of reference or to the operation of the Committee will be made only by mutual agreement between the BTPA and SPA.

The operation and effectiveness of the committee will be kept under review. It is recognised that this is an administrative arrangement, and as such the committee will consider if further changes could enhance or support its role on an ongoing basis.

A Memorandum of Understanding will be agreed between the BTPA and the SPA to support the work and ethos of the Committee.

### **Dispute resolution and mediation**

Where members are unable to reach agreement on an issue, the dispute will in the first instance be raised for discussion with the BTPA. The Chair of the BTPA will consult the Chair of the SPA as necessary. If required, mediation options will be explored by the BTPA. If disagreement between both Authorities persists, escalation of disputes can be made to relevant sponsor teams in Government and to Ministers.

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<sup>1</sup> [http://www.parliament.scot/S5\\_JusticeCommittee/Inquiries/20181213SGtoMM-BTP.pdf](http://www.parliament.scot/S5_JusticeCommittee/Inquiries/20181213SGtoMM-BTP.pdf)

**APPENDIX 2**



MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE BRITISH TRANSPORT POLICE AUTHORITY  
AND  
THE SCOTTISH POLICE AUTHORITY  
FOR THE OPERATION OF  
THE SCOTTISH RAILWAYS POLICING COMMITTEE

**INTRODUCTION**

**ROLES & RESPONSIBILITIES**

**PROVISION OF DATA**

**WORKING TOGETHER**

**STAKEHOLDER & COMMUNITY ENGAGEMENT**

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## INTRODUCTION

1. This Memorandum of Understanding (MoU) is between the British Transport Police Authority (BTPA), and the Scottish Police Authority (SPA).

The purpose of the MoU is to set out the principles for effective liaison, engagement and co-operation between the two Authorities through the Scottish Railways Policing Committee (SCRPC).

2. In establishing the committee and nominating members the Authorities will ensure oversight of railway policing is enhanced. The Committee's responsibilities are outlined in the Terms of Reference.

3. The MoU recognises that both Authorities have a responsibility to ensure the success of the Scottish Railways Policing Committee and that each, in fulfilling that responsibility should appropriately take into account the respective roles and responsibilities of the other party.

4. The MoU recognises the statutory responsibility of the BTPA for ensuring BTP delivers effective and efficient railway policing across the whole of Great Britain and recognises that this new committee and approach, involving both Authorities achieves enhanced accountability through the oversight of planning and performance and stakeholder and public engagement in respect of railway policing in Scotland.

## ROLES & RESPONSIBILITIES

### British Transport Police Authority

5. The BTPA was established by the Railways and Transport Safety Act 2003 (RTSA) and is responsible for ensuring an efficient and effective police force for the railways. In addition, BTPA is specified as a cross-border public authority in Section 46 of the Scotland Act 2016.

### Scottish Police Authority

6. The Scottish Police Authority was established by the Police and Fire Reform (Scotland) Act 2012 and has five core functions;

- a) To maintain the police service in Scotland;
- b) To promote the policing principles set out in the 2012 Act
- c) To keep under review the policing of Scotland
- d) Support continuous improvement of Police Scotland; and
- e) To hold the chief constable of Police Scotland to account for policing in Scotland

### Scottish Railways Policing Committee

7. The Scottish Railways Policing Committee is established under the terms of paragraph 12(b) of Schedule 4 of the RTSA 2003.

7a. The Committee will have a shared understanding and awareness of railway policing in Scotland and through this increased knowledge and provide assurance to the Authorities and others as appropriate.

7b. The Committee will scrutinise the annual railway policing plan developed for Scotland that will have regard to, and where appropriate to do so, align with the priorities set by Scottish Government, strategic plan set by SPA and Police Scotland and Police Scotland's annual policing plan. The Committee will monitor performance against the plan.

7c. The committee will comprise a chair and two nominated members from the BTPA and two nominated members from the SPA. The Committee will meet quarterly in accordance with BTPA's annual planning and business meetings cycle and where possible align with SPA's meetings.

7d. The work undertaken by the Committee will feature in BTPA's and SPA's reports on policing produced for Ministers and published annually.

**PROVISION OF DATA**

8. In support of the work of the Committee the BTP will prepare and supply such data as is reasonably requested by the Committee in relation to policing the railways in Scotland. (See Appendix A)

8a. In so far as is reasonably practicable BTP’s senior officers will be available to report on and be held to account for the operation and delivery of railway policing in Scotland.

**WORKING TOGETHER**

9. The Committee will receive such information as is reasonably requested by the Committee from Police Scotland and the BTP on the extent and nature of cooperation between British Transport Police and Police Scotland. (See Appendix B)

**STAKEHOLDER & COMMUNITY ENGAGEMENT**

10. BTP will provide the Committee with information on engagement activity in Scotland including, significant feedback (See Appendix C)

Nominated Committee members may participate in planned engagement events to support the role of the Scottish Railways Policing Committee.

**TRAINING**

11. Members’ induction training sessions may be arranged and used to develop awareness and understanding for committee members on the railways and policing in a commercial operating environment. Opportunities to support shared awareness and understanding of matters relating to Police Scotland and BTP will be provided to members of the committee.

**COSTS**

12. Costs for members to attend committee meetings, training etc. will be borne by the appointing Authority.

13. The MoU recognises that any other costs associated with the running of and supporting the work of the Committee are likely to be small, therefore it is not anticipated that cross charging will arise.

**REVIEW**

14. The parties agree to review this MoU and the workings of the committee as appropriate.

..... for British Transport Police Authority

Date

..... for Scottish Police Authority

Date

**APPENDIX A**

Data that may be considered may include but not limited to;

1. Recorded railway crime and clear up rates;
2. A geographical breakdown of crime including analysis of crime trends;
3. Chief / Senior officer report including;
  - a. Review and forecast commentary for the period
  - b. Notable cases and initiatives
  - c. Planned organisational change
4. Financial data and reporting
5. Staff data including;
  - a. Establishment numbers and secondments
  - b. Sickness rates
6. Data on work undertaken with Police Scotland including;
  - a. Details of joint operations
  - b. Operational planning for sporting and other major events
  - c. User / steering and other policing boards / groups meetings

**APPENDIX B**

Cooperation information may include, but not limited to details on;

1. Any mutual aid that has been provided;
2. Joint investigations launched;
3. Joint planning undertaken for sporting or other major events;
4. Development / contributions to common policing policy / procedures;
5. Joint training being planned or undertaken
6. Attendance and participation in Police Scotland meetings

**APPENDIX C**

Engagement information may include;

1. BTPA and BTP planned rail industry / operator meetings;
  - a. In relation to objective planning and setting
  - b. Regular BTPA stakeholder meetings
  - c. Regular BTP stakeholder management meetings
2. A calendar of events in relation to;
  - a. Rail user / public engagement events
  - b. School and young people education and awareness.