



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Justice Committee

**Tuesday 1 May 2018**

**Session 5**



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**Tuesday 1 May 2018**

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**JUSTICE COMMITTEE**  
**13<sup>th</sup> Meeting 2018, Session 5**

**CONVENER**

\*Margaret Mitchell (Central Scotland) (Con)

**DEPUTY CONVENER**

\*Rona Mackay (Strathkelvin and Bearsden) (SNP)

**COMMITTEE MEMBERS**

\*George Adam (Paisley) (SNP)

\*Maurice Corry (West Scotland) (Con)

\*John Finnie (Highlands and Islands) (Green)

\*Jenny Gilruth (Mid Fife and Glenrothes) (SNP)

\*Mairi Gougeon (Angus North and Mearns) (SNP)

\*Daniel Johnson (Edinburgh Southern) (Lab)

\*Liam Kerr (North East Scotland) (Con)

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

Liam McArthur (Orkney Islands) (LD)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Donna Bell (Scottish Government)

Chief Constable Paul Crowther (British Transport Police)

Nigel Goodband (British Transport Police Federation)

Tom McMahon (Police Scotland)

Dan Moore (Department for Transport)

Tavish Scott (Shetland Islands) (LD) (Committee Substitute)

Calum Steele (Scottish Police Federation)

**CLERK TO THE COMMITTEE**

Peter McGrath

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



## Scottish Parliament

### Justice Committee

*Tuesday 1 May 2018*

*[The Convener opened the meeting at 10:00]*

### Decision on Taking Business in Private

**The Convener (Margaret Mitchell):** Good morning and welcome to the 13th meeting in 2018 of the Justice Committee. It feels like it might be the 30th meeting. We have received apologies from Liam McArthur; Tavish Scott will join us shortly as his substitute.

The first item on our agenda is to decide whether to take in private item 3, which is consideration of the committee's forward work programme. Do members agree to take item 3 in private?

**Members indicated agreement.**

## British Transport Police

**The Convener:** Agenda item 2 is evidence on the proposed integration of the British Transport Police in Scotland into Police Scotland. I refer members to paper 1, which is a note by the clerk, and paper 2, which is a private paper.

We will have two panels of witnesses today. I welcome the first panel, who are: Chief Constable Paul Crowther from the British Transport Police; Nigel Goodband, who is the national chairman of the British Transport Police Federation; Tom McMahon, who is the director of business integration at Police Scotland; and Calum Steele, who is the general secretary of the Scottish Police Federation. I thank the witnesses for their written submissions. It is always immensely helpful to the committee to receive written submissions prior to asking questions.

Before we go to questions from other members, I would like to pose a question to all the panellists. Given that full integration has not yet started, and given the escalating costs that are yet to be quantified and the risks that have been identified, what do the panellists think about the suggestion that was made by Kath Murray in her submission, which is that a general rethink is needed and that the commissioned service model—option 2—should be considered at this stage?

**Nigel Goodband (British Transport Police Federation):** First, I thank you for allowing us the opportunity to attend the Justice Committee and to provide evidence on the integration of the British Transport Police with Police Scotland.

As the committee will be aware, we have suggested that the welcome pause is the right time to consider the benefits and disadvantages of alternatives. We encourage the Scottish Government and the joint programme board to give consideration to the commissioned service model. We know more detail than we did when the plan was originally proposed; it is important that we take that detail and assess it in order to evaluate whether there are alternative methods to achieve devolution.

I assure the committee that the British Transport Police Federation's stance is not against devolution. Our position is simply that we do not believe that full integration is the way to achieve that.

**Chief Constable Paul Crowther (British Transport Police):** The British Transport Police and the British Transport Police Authority have submitted papers in the past; the debate has gone on for some time. My position is that the Smith commission recommendation that was converted into law in the Scotland Act 2016 gives the Scottish Parliament the decision on how the

function of the British Transport Police will be devolved, and that it is for the Scottish Government to decide how that is carried out. People have put forward various options, but the decision on how devolution is to be implemented is a matter for the Government.

**Tom McMahon (Police Scotland):** Police Scotland's simple position is that we respect the will of the Parliament. We work through the joint programme board, which is overseeing development of the subordinate legislation for the move towards full integration. We respect that. That is the basis on which we are progressing.

**Calum Steele (Scottish Police Federation):** The SPF position is the same as that of Mr Crowther and Mr McMahon. Simply, it is that we have to respect the will of Parliament.

**The Convener:** That is helpful.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** I have a supplementary question on what Mr Goodband said. Have you been in contact with the United Kingdom Government about the Conservative manifesto pledge to integrate the BTP into an infrastructure policing model?

**Nigel Goodband:** I have, indeed, been party to discussions with Home Office civil servants regarding infrastructure policing. The last instruction that we got was that the UK Government is not currently considering that model because of other priorities. I have since made inquiries because, as we all know, that appeared in the Conservative Party manifesto. However, as quickly as it appeared, it was removed from the final draft of the Queen's speech.

I am informed that the UK Government is conducting no work on infrastructure policing. It was alarming to hear Michael Matheson suggest in the Scottish Parliament that it is the Conservative Party's will to abolish the British Transport Police. Even if infrastructure policing was on the table, the suggestion was never to abolish the British Transport Police but to merge three forces and enhance a national policing service. The BTP was going to remain the force that polices the railway infrastructure.

My understanding of what the Home Office has told us is that there was never, even in the suggested plan, a proposal to abolish the British Transport Police. Since that meeting, we have been told that the UK Government has no current plans to consider infrastructure policing.

**Rona Mackay:** Thank you. That is helpful.

**Mairi Gougeon (Angus North and Mearns) (SNP):** I have a question for Mr Goodband and Mr Crowther on their responses to the convener's question. We had the debate about options, we

consulted on the Railway Policing (Scotland) Bill and the Parliament supported full integration. The date of full integration has been delayed because a number of issues have arisen, so rather than use the time to consider alternatives, surely it should be spent trying to iron out the problems that have been identified, so that the transition is as smooth as possible. It concerns me that the responses from Mr Goodband and Mr Crowther indicated that they think that the time should be spent considering alternatives when Parliament has decided to move towards full integration.

**Nigel Goodband:** I totally accept that. However, from our perspective, the reason for the pause is that there was a view that integration could not be achieved effectively and safely by April 2019. I am not suggesting for a moment that full integration should be totally ignored. However, there are concerns about the risk to, and the safety of, the public. Is it, therefore, the Scottish Government's will to try to manage the risks and continue with the high cost that is associated with trying to achieve full integration? Is there, on the other hand, an opportunity to find out whether devolution can be achieved in another way that might eliminate some of the risks that the mobilisation, transition and transformation project—MTT—and the joint programme board have identified?

**George Adam (Paisley) (SNP):** You said that the Tory manifesto initially included a commitment to an infrastructure policing model. Incidentally, the Scottish Tory manifesto had it as well, so it might have been cut and pasted into that. You also said that you believe that the UK Government is not moving towards infrastructure policing because it was not in the Queen's speech. However, quite a lot that was in the manifesto was not in the Queen's speech so, if I were you, I would be thinking that there might be something else.

You also made the point that the original idea behind the merger of the three services was that the BTP would continue with business as usual. Surely that is hugely naive.

**Nigel Goodband:** I did not use the term "business as usual"; I said that BTP would keep the responsibility for policing the infrastructure.

**George Adam:** So, the service would change, obviously.

**Nigel Goodband:** Yes—the service would change. There would not be three different forces with three different names. In essence, we were told that the new name would be something like "national infrastructure police force". Within the plan, we suggested that the officers, specialism and experience of the BTP would remain within the railways infrastructure.

**George Adam:** To me, that sounds similar to the Scottish Government's idea for Police Scotland

**Nigel Goodband:** No. With regard to the national infrastructure, it was envisioned that there would be a national police force throughout England and Wales and Scotland. I believe that the Scottish Government's will is to dismantle the BTP in its current form—

**George Adam:** —but to keep its expertise, as you said.

**Nigel Goodband:** Well, the Scottish Government wants to create a national force within Scotland alone—

**George Adam:** —and to keep BTP expertise.

**Nigel Goodband:** Within Scotland. Yes.

**Daniel Johnson (Edinburgh Southern) (Lab):** I will follow on from that line of questioning. I understand that, according to the BTPF and Police Scotland, the reason for the pause in the integration programme concerned public safety; there was a belief that integration could not be delivered safely by the set date. Can members of the panel bring to life what those safety concerns and risks are?

**Nigel Goodband:** I can comment only from the point of view of the staff association. We were concerned about the loss of specialist railway policing skills and expertise.

I have already told the committee that there was a fear that a number of officers would leave the BTP if they were forced to transfer to Police Scotland, because of concerns around financial detriment, particularly in relation to pensions. We are now seeing that officers are, indeed, leaving. About 51 officers have left in the past three years, and 20 officers and staff have left in the past eight months since royal assent was achieved. Some 70 per cent of those who have left have cited the merger as the reason for their leaving.

I am not decrying the services of Police Scotland, because it provides an excellent service in the jurisdiction that it currently polices, but it has no knowledge or experience of policing the dangerous environment that is the railways infrastructure. To suggest that it will come on to the railway infrastructure and provide an enhanced level of policing service is somewhat naive and misleading. I suggest that, without the expertise and experience of BTP staff, there could be problems for public safety. One misunderstanding or miscommunication could create a fatality, and one fatality is one too many. That is why we have concerns.

**Daniel Johnson:** Do the other members of the panel agree with that characterisation of the risk

that needs to be addressed before integration proceeds?

**Chief Constable Crowther:** Nigel Goodband has made good points about retention of staff, which is a significant issue. From my perspective, the primary issue around safety in relation to the decision to pause related to command and control systems and information technology.

In the latter half of last year, a proposal emerged that there would be a partial integration rather than a full integration. We had been working exclusively on a full integration model and nothing less. As we delved into the realities of command and control, and of managing incidents with disparate information technology systems within Police Scotland, we became very concerned—I think that Police Scotland shares our concern—that that poses a safety risk.

10:15

Railway policing is a national function. At the moment it is a Great Britain national function; under the proposals, it will be a Scotland national function. It has to be managed nationally, which means that the command and control structures need to have a national perspective. The way that crimes are recorded, including how incidents are considered in respect of repeat victims, for example, needs to be looked at at national level.

Currently, Police Scotland IT systems cannot do that, so it was suggested that BTP would provide IT systems that could. However, when we delved into the detail, it was found that the connection between Police Scotland's command and control system, which is called STORM, and our command and control system, which is called ControlWorks—ours is integrated with all the systems within BTP and STORM is not—presents significant risks that vulnerable and repeat victims would be missed. Indeed, the systems that are absolutely necessary to communicate with drivers of trains and with the important infrastructure within the railway cannot be guaranteed with the current Police Scotland information and communications technology systems. That led me and others to the view that it would be unsafe to proceed until such time as the IT systems in Police Scotland can deal with those things.

**Daniel Johnson:** That is useful. Mr McMahon, do you agree with that characterisation of the risk?

**Tom McMahon:** I emphasise that the conclusion that we reached in February—that integration in April 2019 is unachievable—is a shared view. Both Chief Constable Crowther and Mr Goodband have given some flavour of that. It is important to refer to my submission to the committee, which states that Police Scotland's "risk appetite" around this work "is low".

What we are discussing—what has been legislated for—is a stand-alone railway policing function. We are ready to set that up. When we stood up the MTT that I referred to in my submission, we looked in some detail across the workstreams and assessed how much further work was required. What became clear—it was a shared conclusion—was that in having to develop systems and integrate them properly, in partnership, insufficient progress had been made, and that, bearing in mind the low risk appetite, it would not be sensible to progress on the basis of integration happening in April 2019. That became an immediate issue because, as of April 2018, the BTPA was proposing to cease contracts and to progress its strategy to make it clear that it would have no further functions within Scotland.

In the light of that, our view was that more time and joint effort needed to be put into the work, and it had to be properly programme managed. We had brought in a strong element of that through the MTT, but it needed to be stepped up. We needed to dedicate enough extra resources to do the work.

I do not think that any of the issues that have been highlighted are insurmountable. They just require more time to get them right.

**Daniel Johnson:** I understand.

**The Convener:** There are a couple of supplementaries on the safety issue.

**John Finnie (Highlands and Islands) (Green):** My question is on staff numbers, which Mr Goodband mentioned.

**The Convener:** In case we do not cover that later, by all means ask your question now.

**John Finnie:** Mr Goodband, on the numbers that you quoted, what is the natural turnover of your staff? There will be an expected percentage. All the people who left in previous years will have been replaced by people who had to be trained up.

**Nigel Goodband:** The information that I have received is that, on average, turnover in BTP Scotland is 13 officers per year. Since the Railway Policing (Scotland) Act 2017 received royal assent, it has equated to, potentially, 21 officers per year, so there has been an increase.

**Liam Kerr (North East Scotland) (Con):** Sticking with that point, one would theorise that the longer the time that is taken to put this through, the more disruptive it might be and the more impact there might be on morale, and in turn the more likely it might be that people will leave and not transfer across. What does Police Scotland plan to do if, whenever the transfer date is, there simply are not enough people to transfer

over to resource the function? Where will the resource come from?

**Tom McMahon:** We are confident that we can dedicate the resources across more than 17,000 police officers. With a positive partnership in the replan period and a journey towards full integration, we are confident that we can upskill our people. The training-needs analysis that I know that the committee took an interest in previously has been undertaken.

Again, much will rely on partnership. We are moving towards a stand-alone model for Police Scotland, but we recognise that the journey towards that will have to be based on continued partnership. Our working relationship with our BTP and BTPA colleagues is very positive, which itself underpinned the commitment to a replan. There was a joint conclusion and an acknowledgment that better joint working had to be progressed.

**Liam Kerr:** Forgive me, Tom. I did not quite understand that. Just to be absolutely clear, are you saying that if not enough people have come across from the BTP at the date of transfer, Police Scotland will draw people in from other departments, badge them up, train them and assign them as BTP officers? Is that correct?

**Tom McMahon:** I would expect there to be a period of shadow running. As part of our strategic workforce plan, we would need to assess what the likely drop-off of legacy BTP officers in D division would be. This is day-to-day business for Police Scotland: we plan the workforce and look at where resources are currently allocated, what likely retirement dates are and so forth. I am confident that we will deliver a plan that would enable us to ensure that staffing levels are maintained, which is obviously what the rail industry would expect.

**Calum Steele:** The SPF's greatest interest in the issue is in the people element. Up till now, our involvement has been remarkably limited—for a whole variety of understandable reasons, not the least of which is that BTP officers are not our members. While the issues of the merger—or the takeover, depending on which side of the fence someone is sitting on—have been developed, so far they have tended to ignore the human part of it, which is the element that is of the greatest interest to me and particularly to Nigel Goodband,

To answer Mr Kerr's question, I do not see the number of officers as being a particularly difficult issue, not least because I do not think for a minute that Mr Crowther will allow the BTP in Scotland to have a diminished number of police officers up to the date on which they transfer to Police Scotland. There have already been assurances from the service that, at the appointed day that they transfer, they will come into an integrated transport division in Police Scotland. The number of police



officers on the appointed day will have been in BTP Scotland on the day before transfer and will be in the transport division of Police Scotland on the transfer day and on the day after. Unless Mr Crowther is about to disabuse me of my notion, I think that the element of how many will transfer will therefore be dealt with by the BTP service in its own right, in that it will not allow an unacceptably low level of police officers to be available to deliver a policing function in Scotland.

While I understand the concerns about the options, the simple fact is that the legislation makes it clear that, on one day, officers will be in the BTP and, on the next, they will be in Police Scotland. I do not think that it will be as much of an issue, and that the reality will bear that out.

**Chief Constable Crowther:** I do not disagree with the totality of what has been said, but there are some practical issues that we will have to work through. We will have a very close working relationship as we approach the date of integration. I will be responsible for policing the railways in Scotland until the day that the chief constable of Police Scotland takes over, and I will need to make sure that that policing is effective.

I have quite an interesting challenge ahead, because it is true to say that some people in D division BTP wish to transfer to England and Wales BTP. I will want to see how we could work with colleagues to make sure that we look after everybody's interests, while maintaining our service. There will come a time when it might be impractical—and probably improper—to recruit new BTP officers when we should second Police Scotland officers to the BTP to work in transition and start to build up. That would probably be the most sensible way of approaching things nearer the time.

I do not think that numbers are the issue: the right number will be there on the day on which they transfer. For me, it is more about skills, expertise and outlook. We will work on all of those things. I am not shrouding anything or anything like that—I am just talking through some of the practicalities.

Nigel Goodband talked about normal turnover and the slightly accelerated turnover that we have seen. We need to consider the reality of how many people will retire between now and whenever the date will be. In a two-year period, for example, approximately 54 people will reach the age of 50 and may retire. Across the spread of resources, around 30 per cent of constables, 25 per cent of sergeants, 50 per cent of inspectors and all the chief inspectors could retire in that period. Chief Superintendent McBride will retire later this year.

The challenge for me is to maintain the specialist focus that exists among BTP officers,

which—as we have been saying all along—is the most difficult thing to replicate. The numbers will transfer over, but the task for us all is to ensure that the people who end up policing the railway as we move forward have the skills, attributes and attitudes that are needed to carry out the specialist policing function.

**Daniel Johnson:** I want to look at how the programme is being managed. In one of the latest developments, EY has been brought in to head up the programme management office. Does the MTT board still exist or has it been disbanded and replaced by the PMO? How does the governance for the PMO function work?

Our briefing note describes EY as a member of the team, along with Police Scotland, the BTP, the BTPA and the Scottish Government. That sounds like a bit of a mix of function and governance. I would like some clarification around how it all fits together.

**Tom McMahon:** We have had a number of positive discussions with the Scottish Government, and we support the move for the overall programme within which we sit to effectively stand its height and to set up a fit-for-purpose PMO. The MTT project served a purpose: it brought both sides—Police Scotland and the BTP—together effectively, and we came to a solid conclusion based on April 2019.

With regard to the roles in the PMO as we move forward, I do not want to pre-empt the evidence that the committee will hear from the next panel. The Scottish Government has appointed a programme director who will lead the PMO—it is not an EY person. EY was already involved under a contract that we, along with the BTPA, had signed with the MTT's programme governance. We have suggested that the PMO, working underneath the Scottish Government's programme director, would benefit from EY's input, but I would defer to Donna Bell, as the senior responsible owner, who can explain to you in a bit more detail how that will work.

**Daniel Johnson:** What is the scope and remit of the PMO's work? Does it extend to formulating a business case, for example?

**Tom McMahon:** Not as far as I am aware. The PMO's purpose is to oversee the journey towards full integration, to lead the work on the replan and to address the weaknesses that were identified and called out in February, some of which related—as we have discussed—to staff engagement and so on. We look to support the work that the PMO will lead in that space.

**Daniel Johnson:** Does that reflect a lack of the required expertise in integration planning and engagement? Is that why EY was brought in?

**Tom McMahon:** Our view relates to the point at which the MTT was stood up. As you will recall, it was based on advice—as I say in my written submission—from Her Majesty’s Inspectorate of Constabulary in Scotland. Late last summer, we were given notice that HMICS felt that, with regard to internal governance in Police Scotland, the gold group that Assistant Chief Constable Higgins had convened should move across and become a more formalised, programmatic structure, and we took that on board. HMICS also advised us that we should work more closely with our BTP counterparts. I was brought into my current role in August last year, and my first task was to take that advice, stand up the MTT programme and take a realistic, clear-eyed view as to the deliverability of the April 2019 date. As well as that, there was a need to reorganise workstreams and put sufficient resources behind them. What we acknowledged in February was that that needed more time, as I said.

10:30

**Daniel Johnson:** If EY is being brought in because there were not sufficient skills and expertise to deliver the transformation and integration programme such as it was, how confident are you that you will be able to continue the integration programme beyond the point of transfer?

**Tom McMahon:** I am confident that with continued specialist help—and again, I look to the PMO to brief you on its views about that—the work can be taken forward. I refer again to the evidence that was provided to the committee on the creation of Police Scotland. I absolutely recognise that what we are talking about is more specialist and involves a different skill set. We know that there are different processes that we will have to go through to ensure that Police Scotland has the capability. However, I am confident that we have the ability to integrate what is currently D division and create the railway policing division in Police Scotland.

**Daniel Johnson:** Has the integration of all the legacy ICT systems concluded in Police Scotland?

**Tom McMahon:** No. That work is still going on.

**Daniel Johnson:** It is still under way. Five years on from the creation of Police Scotland, the legacy ICT systems are still not integrated, but you are confident that you can integrate yet another system and a very different form of policing. Why does your experience of integration in Police Scotland lead you to that conclusion?

**The Convener:** Another member will ask about that, Daniel; you have had a fair shot. I ask Mr McMahon to give a very brief answer.

**Tom McMahon:** Police Scotland polices Scotland and keeps people safe 24/7, 365 days a year—

**Daniel Johnson:** I am not questioning that.

**Tom McMahon:** Yes, there are legacy systems, and the i6 failure and so on have been played out in the Parliament. That is being addressed and we are developing our ICT strategy, with work on core systems and so on. I can come on to speak about that.

**The Convener:** Police Scotland and the British Transport Police Authority shared the MTT board. Who is the accountable officer for the work of the programme management office?

**Tom McMahon:** The work of the programme management office reports to the SRO, which is a shared role between Dan Moore and Donna Bell.

**The Convener:** They are the accountable officers.

**Tom McMahon:** They will be accountable, yes.

**The Convener:** Does the new arrangement provide for sufficient independent governance and financial oversight, in your view?

**Tom McMahon:** As part of the replan, we will consider options about the assurance that we seek about the policing model that we seek to stand up.

**Maurice Corry (West Scotland) (Con):** Have any of the lead organisations for the joint programme board projects changed?

**Tom McMahon:** Not to my knowledge. As I said, the replan gives us the opportunity to review that.

**Maurice Corry:** As director, are you looking to make changes?

**Tom McMahon:** No. We want to work within the framework on top of which the PMO will sit.

**Maurice Corry:** In its submission, Police Scotland said that there is an accountable officer with

“delegated lead strategic responsibility for all aspects of railways policing integration”.

Can the panel tell me who that is?

**Tom McMahon:** Let me clarify. In my submission to the Parliament I said that last summer the Scottish Police Authority asked Police Scotland to oversee all aspects of railways policing integration, in effect delegating that responsibility to David Page, the deputy chief officer, who is my boss. That, along with HMI recommendations, is what prompted the establishment of the MTT.

There will of course be operational accountability, which will sit with ACC Mark Williams on the Police Scotland side. Our engagement at the joint programme board gives us, in effect, a level of shared accountability.

**Maurice Corry:** Does anyone else want to comment? If not, thank you.

**Ben Macpherson (Edinburgh Northern and Leith) (SNP):** The impact of integration on pensions has been mentioned. Mr McMahon, can you give us an update on progress regarding the Scottish Government's proposal to put relevant scheme members into a separate pot of the BTP force superannuation fund?

**Tom McMahon:** Yes. The proposal that a segregated fund be established has progressed to the point where the SPA, through its accountable officer, Kenneth Hogg, has written to the Scottish Government looking for what is technically badged as the employer covenant, which is about seeking indemnification for any future liabilities that might arise around the fund.

**Ben Macpherson:** Progress is being made on setting up the new defined benefit scheme for the relevant scheme members.

**Tom McMahon:** We are certainly in regular contact with the trustees. At the moment, we await the response from the Scottish Government around indemnification.

**Ben Macpherson:** Thank you. Mr Goodband, you raised a number of points about pensions in your written submission and highlighted your concerns around the pension fund regarding a financial impact on officers serving in the BTP in Scotland and BTP officers serving elsewhere in the UK. You referred to anxiety and emotional impact, which are obviously quite nebulous, but what I am interested in is the evidence. We know from actuarial advice in 2017 that the pension scheme is fully funded, which is a healthy and positive scenario, and that the pension liabilities of £97 million are balanced by about £99 million of pension fund assets. I know that you are on the management committee for the scheme, so perhaps you can talk about the health of the scheme. There seems to be a disconnect between the health of the scheme and the concerns that you have raised.

**Nigel Goodband:** If I can, I will clarify the position. The scheme is, indeed, healthy. It sits at 102 per cent, in that if everything went wrong, every member could be paid. What is being proposed refers to some of those assets. I do not know where the figure of £99 million that you quoted has come from. We have not seen any advice from the actuaries, but we have been in contact with the trustees of our pension scheme and they do not recognise that £99 million figure. I

am sure that Tom McMahon could update you regarding what advice Police Scotland and the Scottish Police Authority have had on that. However, from our perspective, we are not sure what the proposal is suggesting. There are currently serving officers who will become members of what is a closed scheme and, as they retire, the scheme membership will reduce. There is an acknowledgement in the proposal that members' contributions could increase because of the age of the membership.

**Ben Macpherson:** Is not that the case with every pension scheme, though?

**Nigel Goodband:** No. Ours is not a closed scheme but an open one, and it will continue to be open while officers join the British Transport Police. The scheme in the Scottish Government's proposal is a closed scheme and, with regard to the Police Scotland railway division, no new members can join the scheme. The membership will therefore fade away and the contributions will undoubtedly increase, but there is no suggestion in the proposal about who will cover the liabilities. The suggestion is that the Scottish Government can come along and take £99 million from a current pension scheme that—to be frank—it has not paid one penny into and put it into a segregated scheme. That is something that neither I nor my members fully understand.

**Ben Macpherson:** But are not those the liabilities for active BTP officers based in Scotland? If a separate, defined benefit scheme was created for active BTP officers based in Scotland, surely it would be right and proper for those assets to pass into such a new scheme.

**Nigel Goodband:** We would have to seek legal advice on that. In a way, the scheme is being forced on members who do not want it. Members do not want to transfer into a closed, segregated scheme because the pot will be weakened in comparison with the main pot.

Along with the assets, the transfer will have to include the retired officers who have already paid into the scheme. Who will identify those officers? There are officers from Scotland—proud Scots—who served in England but have now retired and reside in Scotland. Will they become part of the assets in the segregated pot? There are also officers who served in Scotland and have now retired and are living in England. There is confusion around how those assets can simply be picked out of our main scheme and transferred into a segregated scheme. First, can that be done legally? Is it lawful to make that transfer?

Secondly, who has actually agreed on a value of £99 million for the assets? We have not seen that advice, and neither have the trustees, as was confirmed to me only this week. I can assure

Michael Matheson that, when he mentioned the £99 million, members of the British Transport Police Federation were on the phone to me to say, "Are they suggesting that they're going to take some assets out of our main pot? Will that have an impact on officers in England and Wales?" I had to say, "Well, I don't know", because I have not seen that advice, nor—unfortunately—am I a lawyer.

**Ben Macpherson:** The scheme is fully funded—I think that you mentioned the figure of 102 per cent.

**Nigel Goodband:** Yes.

**Ben Macpherson:** It would, therefore, surely be in the interests of both parties if, under the agreement that was based on the democratic decision of this Parliament, there were constructive negotiations on taking the scheme forward to make sure that, when the transition takes place, employees who are members of the scheme will still benefit. Surely, it is to everyone's benefit to ensure that the assets that are relevant to Scottish scheme members are passed on in order that the scheme is healthy—

**The Convener:** I ask members to keep their questions a little more succinct.

**Ben Macpherson:** It is a complicated matter, convener, and I am trying to get to the point. As things move forward, it is extremely important, in order that members who are transferring will continue to benefit from the pensions that they deserve under the agreement that has been reached, that everyone approaches the matter constructively. The assets that apply to Scotland should surely be passed on to Scotland.

**Nigel Goodband:** I do not disagree. You hit the nail on the head in saying that it is about negotiation, but that negotiation has not taken place. There has been no negotiation with the scheme's members to discuss where the assets will come from. Who makes those decisions? Ultimately, it is the trustees, but it is a membership scheme into which members pay—it is not a Government-run scheme.

Those officers have not been consulted, and there has been no engagement on pensions or even on terms and conditions. Those officers are sitting in the shadows, waiting for the decision to be written down on paper so that they can make a decision on whether they should retire, which is another issue relating to the segregated pot. We heard from the chief constable that, within two years, 54 officers will be able to retire. If 230 British Transport Police officers are transferred to the segregated pot, 54 of them will, potentially, immediately take their lump sum from the pot, which will have a massive impact. There will be £99 million in assets on day 1, but there could subsequently be a massive impact. We not only

have to think about day 1; we have to consider those officers who are young, who have 30 or 35 years of service remaining, and the liabilities that are needed to cover their fund. According to the information that we currently possess, that aspect has simply not been considered.

**Calum Steele:** One of the biggest frailties in what has been undertaken so far is that some of the human elements are being dealt with last. Most of the legislative stuff has been dealt with and the technical stuff has been thrashed out, but some of that will have an impact on the human side. I think everyone would agree that, if we were to turn that around and make sure that the human side was taken care of first, the technical stuff would work around it.

10:45

I have nothing but the highest degree of sympathy for the position that the British Transport Police officers find themselves in. At the moment, they just do not know what their situation is, which is a failure on the part of all the parties that have been involved in the process. If the SPF had been involved at an earlier stage—we have had a good series of bilateral discussions with the British Transport Police Federation—we would have made sure that those officers were front and centre in the process.

The fact that there are doubts about the pensions position of British Transport Police officers is understandable, because no one has done a like-for-like comparison, but I cannot believe that that was not high on the list of things to be considered. It is assumed—and it might well be the case—that the pension arrangements for BTP officers are superior to those of, for want of a better term, Home Office police forces, but only an actuarial comparison would provide a definitive answer.

The issue of pensions is absolutely germane to the other issues that are associated with the status of the BTP officers when they transfer over to the Police Service of Scotland. Because of the position that police officers hold as office-holders, the occupational pension scheme is the only scheme that is available to police officers in Scotland. I should probably have refreshed my memory on the provisions, but I know that there are provisions that allow for the transfer of cash-equivalent values between the respective pension schemes of the Home Office forces and the British Transport Police service. I would need to remind myself of exactly what limitations apply to that, but it is certainly not unknown for officers to have transferred between schemes in the past.

With the pause in the process, my biggest plea is that we look at the human side to see what can

be done to address many of the concerns. We need to look at what is known in the police service as the 1987 police pension scheme, which I understand is the most comparable scheme, in broad, headline terms, to the British Transport Police pension scheme, and to have engagement with officials—Whitehall officials rather than officials on the Scottish side—to find out whether there would be a willingness to open the 1987 pension scheme to allow transfer, were that to be deemed desirable by the officers who will be affected. If such proper options can be presented to officers so that they know what they are looking at instead of facing uncertainty, we will be in a much better position to deal with some of the technical issues afterwards. At the moment, an effort is being made to solve technical issues without understanding whether that will be best for the officers concerned.

If I was a British Transport Police officer, I would be thinking, “I know what I have just now, but I don’t know what I’ll have in the future.” I understand the importance of a triple-lock guarantee to many in the BTP service, but “no detriment” does not mean “no betterment”; nor does it mean that, if individual officers volunteer to seek betterment of some conditions, that betterment should come as a consequence of a willingness to accept perceived detriment to others.

In my view, the logical thing to do is to get the staff associations involved. I am optimistic that my colleagues from the British Transport Police Federation would agree that allowing officers to do a compare-and-contrast exercise so that they know exactly what they could be looking at would help to resolve a huge number of the human issues that have been raised by those who have concerns.

The legislative stuff will take care of itself, and the technical stuff will follow on from the agreements that can be reached between the parties.

**The Convener:** Mr McMahon, you were nodding. Do you concur?

**Tom McMahon:** I agree absolutely with the view that the human element of the process has been neglected. That is part of the rationale for a replan. The issue of pensions is difficult to understand and engage with, but it has a bottom-line impact on people that needs to be taken seriously. That work has been done as part of the workforce workstream under the joint programme board. Decisions were taken on segregated schemes and so on, and Police Scotland’s role in that has been to seek a view on future liabilities and so on.

However, going back to Mr Macpherson’s point, we would work on the basis of there being a fair and equitable split of assets and liabilities, because that is the approach that we want to take to full integration.

**The Convener:** Tavish Scott has a supplementary question on integration costs. As this is your first appearance at the committee, do you have any relevant interests to declare?

**Tavish Scott (Shetland Islands) (LD):** No, I do not.

I have a few very brief questions on costs. What is the cost so far of the integration of Police Scotland and the British Transport Police?

**Tom McMahon:** I am happy to answer that question. We have discussed the £400,000 cost of EY’s programme management support, which is shared between ourselves and the BTPA. We have also engaged EY to undertake due diligence around the finance assets and liabilities of the BTPA, which is costing approximately £300,000. Police Scotland’s dedicated resources and any recruitment that we need to undertake will be subject to the replan, so I cannot put a figure on those at the moment. The costs associated with the setting up of the segregated pension scheme are in the region of £400,000. The replan will bring more clarity around costs, among other things, and we have paid EY £117,000 to take us through phase 1, which is effectively a review of workstreams and a refocus of activity, in order to give the replan the best possible foundation.

**Tavish Scott:** That is £1.2 million so far. What is the budget for the period between now and April 2019, if that is the date that is now being worked towards?

**Tom McMahon:** We are not working towards April 2019 any more.

**Tavish Scott:** You do not know what the date is.

**Tom McMahon:** The replan will give us a new target, but we have not established a date yet.

**Tavish Scott:** Is there a budget for the future period?

**Tom McMahon:** We will establish what that is. We have the police reform budget, of course, which—

**Tavish Scott:** How much is the police reform budget?

**Tom McMahon:** You will have to forgive me, but that is the one note that I meant to bring with me and did not. I have not got the number in front of me, and I do not want to make something up. That budget gives us flexibility and, in effect, we

are in agreement with the Scottish Government on access to that budget going forward.

**Tavish Scott:** You said that you have, so far, spent £300,000 with Ernst & Young. Will that firm continue in the future?

**Tom McMahon:** We have engaged EY in its programme management role until April 2019, which was the original integration date. EY's role in relation to the replan is a decision for the SROs, who must decide whether they want to continue to engage EY. An additional cost would be associated with that.

**Tavish Scott:** Do we know what that cost would be?

**Tom McMahon:** It would be in the region of £600,000 to £700,000.

**Tavish Scott:** That is more than the £300,000 that has already been spent on EY.

**Tom McMahon:** Yes. If EY was to stay with us on a replan, that would effectively run until the autumn.

**Tavish Scott:** So, £1 million has been spent on Ernst & Young.

**Tom McMahon:** No decision has been taken on whether that role will continue.

**Tavish Scott:** Mr McMahon, in your earlier answer to one of my colleagues—I forget which one—you said that, as far as you know, there are no plans for a business case. Correct me if I am wrong, because I might have misinterpreted you. Is that correct?

**Tom McMahon:** There are no plans for a business case as part of the replan exercise. We are working towards the stated will of Parliament in terms of full integration.

**Tavish Scott:** This might not be a fair question for you, because it predates you. Why was a business case not produced, especially given Audit Scotland's and the Government's policy on business cases?

**Tom McMahon:** I am not the person to answer that question.

**Tavish Scott:** Who would be?

**Tom McMahon:** Those on your next panel.

**Tavish Scott:** Can I keep that question for them, convener?

**The Convener:** Yes.

**Liam Kerr:** I have a couple of points for clarification, Mr McMahon. The first is on one of the points that Mr Scott has just put to you. Who ultimately meets the transition costs and all the

other costs that are being incurred? Where does the money come from to pay all those invoices?

**Tom McMahon:** The amounts that I have given you details of are being paid by Police Scotland at the moment, although, as I have said, the EY programme management support is shared with BTPA.

**Liam Kerr:** You were asked about the pension scheme. What will the set-up costs of any new scheme be, and what will the costs of that scheme be going forward? Who will meet those costs?

**Tom McMahon:** We believe that it will cost in the region of £400,000 to establish the segregated scheme. I do not have a figure for on-going administration, but I can certainly look for it and write to the committee if that would be helpful.

**Liam Kerr:** That would be helpful. Going back to some of the points that were made earlier, one would have thought that that would have been established up front. If you are going to set up a new pension scheme, one would have thought that you would have established who is going to meet its on-going costs.

You mentioned—perhaps in that regard—that the SPA asked for an indemnification for future liabilities from the Scottish Government. Do you have any oversight of whether the Scottish Government will give that indemnification? In any event, how much is it likely to be worth?

**Tom McMahon:** Again, the next panel could give members some insight into whether the Government is likely to offer the SPA the indemnification that its accountable officer has sought.

On the quantum, there is a spectrum of costs. We have heard discussion about there being a surplus based on the most recent valuation. There is the possibility of future deficits, but that is associated with any pension scheme. Ultimately, the SPA is seeking Scottish Government cover for whatever the liabilities might be in the future.

**Liam Kerr:** You say that there is “a spectrum” of costs. Out of interest, can you give its approximate range?

**Tom McMahon:** Based on Government Actuary's Department advice that has been shared, the most dramatic numbers that have come into the public domain in the past few weeks are in the region of £100 million. They are based on the absolute worst-case scenario—on a cessation event. The scheme's investment strategy is being moved immediately on to a more risk-averse approach in investment in gilts.

I am not an actuary, but I will do my best to describe the position. I emphasise that the numbers that have been in the public domain are

based on an absolute worst-case scenario, which we would expect actuaries to provide. Given that we do not know the amount because the scheme has not been valued since 2015—I understand that it is due for evaluation this year—the SPA has sought that cover for whatever the liabilities might be.

**Liam Kerr:** To be absolutely clear, the SPA could be seeking an indemnification of around £100 million from the Scottish Government.

**Tom McMahon:** Yes, in an absolute worst-case scenario that is based on actuarial advice that has been provided. However, I emphasise that that figure is estimated and is ultimately highly dependent on market circumstances.

**Liam Kerr:** Who was that figure estimated by?

**Tom McMahon:** I think that it was estimated by the Government Actuary's Department.

**The Convener:** Calum Steele indicated that he has to leave at 11 o'clock. Before he does, I want to ask him about the proposal that the additional integration costs should come from the reform budget. I presume that that budget was put in place to enable the smooth transition to the single police force. Do you have any concerns about that? Would anything be affected by that decision?

**Calum Steele:** The amount of funding that comes to the police service is my favourite subject. In general, the Parliament has not provided enough. In relation to the creation of the Police Service of Scotland, much of the reform funding that was identified was lost in the paying of VAT for a number of years. That was particularly unfortunate.

The reality is that, as with anything that happens in Scottish public life, the taxpayer ends up footing the bill somewhere. Decisions that are taken in Parliament have to be matched by parliamentary decisions on funding to ensure that the will of Parliament can be discharged by those who are asked to discharge the functions. Given that, at this point, the police service has needs of its own that are not helped by a lack of funding—I make no apologies for making that point—I hope that you, as parliamentarians, will press the Government on the removal of the additional burden of funding to ensure that that is addressed.

**The Convener:** The last supplementary question may or may not involve Mr Steele. Before he leaves, he may want to add something after Daniel Johnson has asked his question.

**Daniel Johnson:** My question is not addressed to Mr Steele; rather, I have a point for clarification following Tavish Scott's line of questioning. If I heard correctly, the figures that were given were all attributable to Ernst & Young, which is an external provider. What are the internal costs of

the integration programme? They would be additional to those costs for Police Scotland—for staff time, for example.

**Tom McMahon:** We are reassessing those costs as part of the replan exercise. There was a formal bid for resources, which I reported to the SPA in December. The opportunity cost of existing staff working on the programme was in the region of £1 million, but that figure is being revisited. A resourcing plan will be part of a new approach to the planning towards full integration.

**Daniel Johnson:** Will that figure be revisited upwards or downwards?

**Tom McMahon:** I have absolutely no idea at the moment, but I expect us to dedicate people to the programme in order to achieve the will of Parliament.

**The Convener:** Do you want to add anything before you depart, Mr Steele?

11:00

**Calum Steele:** I do, convener. To some extent, I will reiterate—or slightly expand on—my earlier point. To my mind, people must be put at the heart of this exercise. We have to look at the impact on officers and staff and properly understand it. It is incumbent on all those who are involved in the programme to ensure that officers and staff are aware of exactly what the alternatives might be rather than leave them to assume that things are going to be worse, which is a natural position for them to take if they do not know what the alternative is.

My colleagues and friends in the British Transport Police Federation and I have had some discussions regarding the potential alternatives that could be put before them. However, I know instinctively, because of my particular interest in policing terms and conditions across the UK, that Police Scotland's terms and conditions are almost unrivalled. I suspect that, if we were presented with a sensible options exercise, we could address many of the existing concerns of British Transport Police officers. However, that can be done only by ensuring that people are at the heart of the process. The technical stuff will follow and, as I said, the legislative stuff has taken care of itself. I believe that many of the officers in the BTP would welcome such an approach, as it would provide a degree of certainty around what the future might hold.

**The Convener:** Mr Goodband, do you have anything to say before Mr Steele leaves?

**Nigel Goodband:** I will give Mr Steele the opportunity to respond before he leaves. The British Transport Police pension scheme is slightly different in that, when officers who are on a 30-

year scheme reach 50 years of age with 30 years' service, they can continue their policing service and continue to invest in their pension. That does not devalue their pension—if anything, it provides a guaranteed increase. In the Home Office police forces, officers have to retire at the 30-year mark, or at 35 as it is now, because there is a devaluation—well, it is not so much a devaluation, but their take-home pay differs if they continue to work. British Transport Police officers do not have to do that—they can extend their employment up to the age of 60 and, on application for an extension, beyond that. From my understanding, that differs from the situation for the Home Office forces.

Another issue is that British Transport Police officers are employees. We have not yet resolved the issue of who will represent the officers, because they are not Crown officers or office holders in the way that Police Scotland officers are. They have a contract of employment and a redundancy and resettlement agreement, and some have compulsory redundancy agreements. Those issues have not been resolved, and British Transport Police officers will not surrender that protection to transfer over as Crown officers until they know that there will be no detriment to them.

Calum Steele is right—this is about the people, and we need to engage with them and get their views. We have done so on many occasions, and there has been no suggestion from anyone in the British Transport Police D division that they wish to transfer as Crown officers and adopt the terms and conditions that apply to officers in Police Scotland. There are little bits in our own terms and conditions that could potentially create detriment in that regard.

**The Convener:** Thank you. Does Mr Steele have anything further to add?

**Calum Steele:** No.

**The Convener:** In that case, we move to questions from Maurice Corry.

**Maurice Corry:** First, I want to come back to one point this is really bugging me—it is not the question that I was going to ask. To follow on from Calum Steele's comments, I feel strongly that, in all this, the BTP people seem to have been ignored. Is it not a gross error that the people, as assets, seem to have been totally ignored throughout the whole process so far? I ask the chief constable to comment first.

**Chief Constable Crowther:** Calum Steele, Nigel Goodband, Tom McMahon and I have all been very clear that the people are the most important thing in the whole process. It is the people who will make the process work, as they are the ones who have the skills. I have been immensely proud of my officers and staff, who

have, during a number of years of uncertainty, shown their resilience and commitment to delivering a great service to the public. We should all acknowledge how fantastic they have been.

It is a matter of great regret that they have not been engaged to the level that they should have been. I made that point at a joint programme board meeting, and I think that everybody accepts that. There is a commitment that there will be far more engagement with individuals in the replanning. I am keen to see that turn into action. They will have listened to all the questions.

On Mr Macpherson's question about pensions, we are all at one in wanting to be sure that the people who transfer are treated fairly and have a proper pension when they transfer, so we are committed to a proper discussion about pensions. However, as we have heard, the issue is incredibly complex. It is not as simple as anybody thought when they first embarked on the process.

My plea is that an appropriate amount of time is given to replanning and to implementation so that all those things can be worked through and people who transfer are treated fairly and end up wanting to be committed railway police officers and staff in the new structures. However, Maurice Corry is absolutely right: the engagement has not been strong enough so far.

I often find myself at a disadvantage because people look to me for the answers, and I do not have them; they rest with other people. I am keen that we start to sort out the details of all these complex issues and involve our staff in discussions about them.

**Maurice Corry:** That was not the question that I originally wanted to ask, but it was a burning issue that I had to get off my chest. I am very grateful for what was said. Would Nigel Goodband like to answer my first question?

**Nigel Goodband:** I totally echo what the chief constable has said. We all have to take responsibility for engagement. I feel as much pressure as the chief constable does. People look to the staff association to provide them with the answers.

The BTPF welcomed the pause and the acknowledgement that engagement had been poor. Unfortunately, however, we have been told since 20 February that engagement would improve and that the first step would be to have a day of engagement, but we are still waiting for a date for that. It was going to be in March this year. I have written to the Minister for Transport and the Islands to seek clarity. It was suggested that the last letter had gone off to the various departments to obtain answers to my questions.



I attended the Scottish Police Authority's meeting only a couple of weeks ago, and we posed a number of questions, which were declined; we were given no answers to them.

On the evidence that we have seen so far, there has been acknowledgement that the engagement has been poor, but there has been no action to address that. At the moment, there are simply words, and our officers still suffer a level of uncertainty. It is appalling that the Scottish Government constantly reminds us that one of its three aims in full integration is accountability to the people of Scotland. British Transport Police officers and staff in D division are people of Scotland. They are proud Scots; they are proud to be in the British Transport Police and proud of living in Scotland. However, they have lived two years of uncertainty. They have said to me that they feel abandoned not only by their force but by their Government. That is pretty disgusting. It is alarming that they feel that way.

**The Convener:** Who is leading on the engagement?

**Nigel Goodband:** The joint programme board should be leading on it. We are still waiting for dates. One day event will not resolve the current level of distrust among officers. Much more than that is needed. I hope that the British Transport Police Authority and the Scottish Police Authority with the joint chairs of the joint programme board are some way towards mapping out at least six months of engagement with officers to identify and answer some of their concerns.

There is talk about as-is transfer, for example. However, if people want to progress in their careers in Police Scotland and seek promotion, they will lose the as-is status. They will then transfer to Police Scotland as office-holders, so they will lose their terms and conditions. That is handcuffing officers, to their detriment. None of them will seek career progression or promotion outside of the railway division if they are threatened with losing their terms and conditions and suffering detriment to their pensions.

**Maurice Corry:** Mr McMahon, what is your response to what these gentlemen have said? How will you deliver a positive message to encourage them? You say that you are a sales manager and you are out flogging your products—how will you sell them? You can hear what the market is saying.

**Tom McMahon:** I might not have put it in the same terms as Mr Goodband has, but as members of the joint programme board, we acknowledge that engagement has been very poor. That is absolutely accepted. Part of the rationale for the replan is that we get engagement right, but we work through the joint programme

board; the committee is about to speak to the SROs of the joint programme board. Ultimately, Police Scotland went out and engaged with D division staff. I know that ACC Higgins took part in a number of events before Christmas to try to provide some level of reassurance but, again, part of the problem was the absence of detail.

The new SRO in the Scottish Government, Donna Bell, has made it very clear that she will invest in comms and engagement capability to supplement what is already there. That is a really positive step, but I recognise the points that Nigel Goodband has made.

**Daniel Johnson:** I am slightly concerned by the implication that, in order to engage with the SPA, you felt that you had to submit public questions to the SPA board. Can you clarify that? What engagement have you had with the SPA board and Susan Deacon? How would you characterise that engagement?

**Nigel Goodband:** I have had no engagement whatsoever, although I have personally been to SPA open meetings. At the last meeting, we welcomed the pause in integration and we were informed that the 104 and 90 orders were in draft form, but they have not been shared with us. It is very similar to what happened with the pensions proposal. When that was initially given to the trustees, it took 50 days of me knocking on the door of the Department for Transport, which kindly shared the proposal because it was alarmed that it had not been shared with us right from the outset.

We have four particular questions that we would like the SPA to answer on the pensions liabilities proposal. The decision that was made 24 hours prior to that meeting was that those questions will not be answered. That was not a demonstration of trying to improve engagement with our members. It was very disappointing.

**Daniel Johnson:** To be fair to the SPA, had you formally asked for meetings or put your questions in formal correspondence prior to tabling public questions? Was that the first time that you had asked those questions or had you asked them before?

**Nigel Goodband:** It was the first time we had posed those questions.

**Rona Mackay:** I am not going to comment on the level of engagement that you have had, but my understanding is that the transport minister informed the federation several times, almost right from the start of the process, that there would be no detriment to your members' pay and that pay and pensions were triple locked and guaranteed. Is that not the case?

**Nigel Goodband:** That is the case. We had the triple-lock guarantee in written form, but that is

simply a statement without substance. There is no detail in that letter to show exactly what the guarantee is. The language in the letter talked about the Scottish Government's "intentions", "aims" or "views", but that is not a guarantee in writing. Ultimately, that is what our officers want to see. They want that reassurance. There is actually a triple-lock guarantee, but as I said to Mr Macpherson, in the language that it uses, which is that the intention is that members should not suffer by having to make higher contributions to their pensions, the pension proposal is no guarantee; it is simply an intention. That is not the language that our officers are seeking. It does not reassure them that they will get the triple-lock guarantee that is being proposed.

**George Adam:** Mr Goodband, I want to go over the same point that my colleague Daniel Johnson covered with regard to asking the SPA for information. Was your first communication made straight to the board in the way that you described?

11:15

**Nigel Goodband:** Yes. It was the first time that we did that through the process of the SPA's open public meetings—

**George Adam:** Would there not have been a better way to go about that? We keep saying that everybody needs to talk to one another in order to move things forward. Would it not have been better for you to communicate directly, rather than—with the greatest respect—showboating at a meeting?

**Nigel Goodband:** Personally, I did not see it as showboating at a meeting. The point is that, from day 1, we have been sitting with a level of uncertainty. As Tom McMahon confirmed, there has, from the outset, been a struggle with engagement on the detail. Everybody knows that there has never been a business case or a written-down plan—

**George Adam:** I get that, but would it not have been better to pursue other lines of communication rather than communicating in the way that you did?

**Nigel Goodband:** Potentially, yes. However, prior to that date, I did not believe that the SPA could answer the questions, because it would not have had the detail itself. It was only at the point at which we welcomed the pause, when we believed that the joint programme board accepted that there were risks and concerns around engagement, that we considered that there was an opportunity for the SPA to answer some of those questions.

**George Adam:** I would like you to clarify one point for my own understanding—please stop me if I am being slow. You asked the SPA a question for which you did not think that it had an answer.

**Nigel Goodband:** No. Previously, I thought that it did not have an answer.

**George Adam:** Previously. Right—okay.

**John Finnie:** I understand Nigel Goodman's position in trying—entirely reasonably—to get answers for his members. He will be aware that even supporters of integration like me have repeatedly asked questions and sought assurances in this very room, and I am disappointed that we are no further on in that respect.

There has been a lot of discussion about costs, and I want to raise two specific issues. The first concerns the role of the railway operating companies. Have there been discussions with those companies about the allocation of costs for training in particular?

**Tom McMahon:** I am happy to answer that, Mr Finnie. I have convened a number of meetings with the rail delivery group—we have had three engagements, and I have a fortnightly call with Mark Newton, who is convener of the group. The purpose of the updates, which started in October or November, was to give the group an idea of progress and move discussions on with regard to overall funding. We are working on the basis of a transfer of assets and so forth to the value of £21 million, which has been identified as the current cost of D division. We are not working on the basis that the train operating companies will have new costs to meet in that respect, and I have sought to reassure them about the process.

In fact, that was overtaken by the decision that we should delay and move towards a replan. A significant part of the replan activity will involve the development of railway policing agreements as set out in the Railway Policing (Scotland) Act 2017, and we are determined to address that. However, it was clear to me, having come to the landscape around August last year, that the due diligence work that would enable us to have a clear split of assets and to understand fully the BTP's current cost model in order to replicate or develop our own cost model and engage with the train operating companies had not started quickly enough. In effect, we did not have time to undertake sufficiently strong engagement with the rail operating companies. We are covering the background, and the due diligence work is progressing and will report in the next few months. That will give us a stronger foundation on which to engage with the train operating companies.

**John Finnie:** Mr Crowther do you have any points to make?

**Chief Constable Crowther:** Yes. I do not seek to speak on behalf of the rail industry, but it seems from my conversations with the companies that their concerns lie in two key areas. One is the cost of integration. I think that the companies would, if they were here today, question the proposed cost. As you will know, the funding model means that our funds are raised from the train operators. I think that they would say that they are not sure why they are paying the cost of integration as a result of the costs on the BTP.

The second point—

**John Finnie:** I am sorry to interrupt, Mr Crowther, but has it been confirmed to them that they will be expected to meet those costs?

**Chief Constable Crowther:** Yes. The funding model is that the user pays. The Department for Transport has assessed that that is a cost of policing, so it is passed on within our core budget. We often have a debate about that with them.

The second issue is how charges will be allocated in the future. Tom McMahon has touched on that. We have a very complex charging model with lots of proxies that feed into it. It would probably be an understatement to say that it causes some anxiety every year when the charges are allocated to different people and they look at why their charges have changed. That is a bone of contention even with us.

People are very concerned to see how the charges will be allocated in the new policing model. That is relatively straightforward for ScotRail, which operates exclusively within Scotland, but it is much more complicated for companies with cross-border services such as Virgin East Coast, Virgin West Coast and CrossCountry. They are keen to understand how the charges for the railway division in Police Scotland will be allocated and how that fits with our already very complex charging model.

As Tom McMahon said, either Police Scotland needs to adopt a model that is similar to ours, or a completely separate model will need to be sorted through. That takes a lot of negotiation. If it affects our charging model, we are contractually obliged to give certain periods of notice. If it changes the charging model, we have to give three years' notice around those issues.

That plays back into day-to-day things such as ICT systems. Our charging is derived from activities. Our command and control system pinpoints to a particular operator where a crime has happened at a particular station, and policing activity is attributed to a particular operator. Members can see that the model is quite complex. Police Scotland needs a command and control system that can work that all out for it, so members can see why the issue is pretty complex.

**John Finnie:** Are the durations of existing contracts likely to influence an integration date? Are they uniform, or are they different across the train operating companies?

**Chief Constable Crowther:** The police service agreements are on-going contracts. They are a condition of franchises. Someone who holds a franchise agreement must have a police service agreement, and they roll on.

There is a time factor in our day-to-day contracts. For estates, facilities management and ICT contracts, for example, we need to give 12 months' notice to our providers. That is why Tom McMahon mentioned that we were at a critical time just before the pause. By now, we would need to have given notice of those contracts ceasing and novating over to Police Scotland if the April 2019 date were to have been met. There is a time criticality around the sequencing of when notice must be given.

**John Finnie:** Has Police Scotland undertaken a cost benefit analysis of integration?

**Tom McMahon:** No, we have not. We are monitoring costs. I have given members some sense of them. I know that the joint programme board has said that there is work to be done on benefits analysis and a description of that. I expect that, as we start to work in the more formalised and multi-agency PMO, there will be a continued focus on emerging costs. However, we have not undertaken a cost benefit analysis to inform an options appraisal, as would normally happen.

**John Finnie:** Who would do that? Would it be the PMO or Police Scotland? Would there be a global analysis, informed by various component parts?

**Tom McMahon:** The committee's next witnesses could probably speak to that task and how they might pursue it.

**Liam Kerr:** Prior to the MTT being stood down, Police Scotland undertook—on 29 March, I think—to conduct a cost benefit analysis at the request of the SPA. Will that still go ahead? If so, when will there be a report?

**Tom McMahon:** As I understand it, we are now working through the PMO. The committee can discuss the matter with Donna Bell, who is the SRO. We can and should capture costs, and work should be done to assess benefits, but the direction of travel is towards full integration. A cost benefit analysis would normally inform an options appraisal, but—as per the decision of the joint programme board—we are not undertaking an options appraisal or looking at other options.

**Liam Kerr:** I understand that, but I think that I am correct in saying that Police Scotland

undertook to conduct a cost benefit analysis. Will that happen, as far as you are aware?

**Tom McMahon:** It is important to clarify for the committee's benefit what we have committed to do, which is to capture costs as they relate to full integration and contribute to the articulation of benefits.

**Jenny Gilruth (Mid Fife and Glenrothes) (SNP):** I want to go back to some of the ICT issues that have been highlighted in today's session. Dr Kath Murray's submission highlights the problematic "Police Scotland ICT architecture", and the BTP's submission refers to

"The risk around ICT systems".

Nigel Goodband, in his submission, states:

"Railway partners assist BTP with ... tasks"

—stopping trains, for example—

"via a seamless GB-wide command and control system that operates throughout the railway infrastructure."

Research that was published today shows that 35 per cent of ICT service outages across 312 critical infrastructure organisations in the UK, including police forces, were caused by cyberattacks. Surely, Mr Crowther, you accept that the current ICT set-up is not faultless. Conversely, does integration offer an opportunity to iron out some of the existing ICT problems?

**Chief Constable Crowther:** I can answer that briefly: no. With regard to protection against cyberattacks, we have, as you would imagine, the same sort of measures in place that any police force has. The railway infrastructure is part of the critical national infrastructure, and issues that relate to vulnerability to cyberattack are dealt with by the Centre for the Protection of National Infrastructure, which is very active in working with Government and others to ensure that systems are secure. I am certainly not aware of any risks that may be mitigated by integration with Police Scotland; I am not sure whether I have misread your question—

**Jenny Gilruth:** I suppose the question is simply this. As far as you are aware, do you accept that there are ICT problems in the current set-up?

**Chief Constable Crowther:** No, not really.

**Jenny Gilruth:** So the system is perfect.

**Chief Constable Crowther:** From an operational perspective, we have control rooms that are linked to all the railway operating control rooms across the country. If we need to communicate with the industry—we do that hundreds of times a day—about specific incidents, there are seamless arrangements in place to enable us to do that the length and breadth of the country.

Police Scotland does not have any such arrangements in place. It would need to create a system, which would need to operate from a single control room. As I said earlier, railway policing is a national function and needs to be commanded as such. My understanding is that Police Scotland currently has a number of control rooms. It would have to designate one of those rooms as a lead control room for railway policing, and it would need to operate on a pan-Police Scotland basis, rather than on a geographical basis as I understand is currently the case.

I think that our system is pretty good—it works, and it is tested every day. We are trying to replicate a system in the Police Scotland environment that would work as effectively in safety-critical decisions. I will give you an example. If there is a fatality, one of the first things that my control room does is engage and make sure that we are patched through on the radio to the driver of the train, who can give an account of what has happened. That enables us to make an immediate risk assessment based on whether the act is suspicious or non-suspicious. We can then decide how we react, which will determine whether there are any impacts, such as blockages, down the line. Blockages can lead to safety issues, given that people who are stuck on trains have a tendency to open the door and get out on to the track. We have in place a system that allows us to do all that.

We must ensure that, when we integrate, Police Scotland has a similar system in place. It therefore needs an integrated IT system that will enable it to do that. Those are the risks, but if we take the time and make sure that all the integration is in place, they can be overcome. However, in my view, it cannot be rushed.

11:30

**Nigel Goodband:** Our view of the full integration proposal is that Police Scotland wants one seamless command and control. On the railway infrastructure, that will create a dual command and control because there will be command and control from British Transport Police in England and Wales, and there will be separate command and control in Scotland. In essence, Police Scotland will not achieve seamless command and control throughout the country. It will only be in Scotland. That is the view of the federation.

**Mairi Gougeon:** I have a quick question that probably harks back to the point that George Adam raised and also touches on something that Rona Mackay mentioned. George Adam talked about contact with the SPA and whether the concerns had been raised directly with the Government. I am interested to know what the

relationship and engagement with the Scottish Government have been like on some of the issues that have been identified.

**Nigel Goodband:** Engagement started off pretty well, if I am honest, with the Cabinet Secretary for Justice meeting me and members of the Transport Salaried Staffs Association. Unfortunately, once the Railway Policing (Scotland) Bill had passed through Parliament, that engagement came to a halt. Every time that we asked any questions, we got back the three statements of the Scottish Government's aims—seamless command and control, accountability to the people of Scotland, and wider access to specialism within Police Scotland.

We have posed questions about that specialism. What is Police Scotland's specialism that will be offered to the railway division that BTP does not have? We do not have air support, but other than that the BTP has been functioning on the railways for more than 100 years and we have specialism within the force. When we asked about the enhancement or access to specialism that is being talked about, we did not seem to get a response. Since the bill was passed, engagement with the Scottish Government has lapsed.

Mr Adam made a point about how I posed those questions to the SPA and that might be a correct interpretation. Perhaps we should have considered engaging with the SPA in another way. I take on board that criticism, but at that time and in the absence of anyone else giving us any answers to our questions, we thought that it was an ideal opportunity to pose questions to the SPA. However, I take on board the view that it could have been done in an alternative way.

**Mairi Gougeon:** You tried to engage with the Government but you did not get the responses.

**Nigel Goodband:** Yes. I have shared with the convener the correspondence that we had with the Minister for Transport and the Islands, in which we posed various questions. We do not feel that those questions have been answered.

For example, Mr Yousaf suggested that he has received a response from the trustees for the pensions stating that the pensions proposal is a viable option. The trustees have not said that. We are not aware that the proposal is a viable option. We have concerns about the language that is used within it. There is no covenant within the proposal. The trustees have simply sent back the proposal saying that it needs to be developed further before there is any consideration or acceptance of it.

When we ask where that information comes from, that question does not seem to be answered. We put 73 questions that we had collated from officers of the British Transport

Police to the joint programme board through the civil servants. The questions extended beyond the proposal, but we focused on the main problems and concerns. We have been told that the questions have been sent to the various departments to seek the answers, but we have been given no timeframe and nothing to suggest when those answers will come back. We have now been waiting for three months. It is astonishing that there are not at least some answers to some of those 73 questions, but it seems that there are no answers. That is alarming at this stage, particularly when we raised concerns about the timeframe two years ago and Police Scotland suggested that two years was a luxury. Here we are, two years on, and we still do not have answers to our questions.

**Tom McMahon:** I think that when that comment was made—about two years being a luxury—the complexity was probably underestimated. The HMI report helped to expose that.

To answer the point about Scottish Government engagement, Police Scotland has regular and positive engagement with the Scottish Government, as you would expect. Our commitment to the replan is clear, and we hear the concerns that Nigel Goodband and others have raised. We want to work within that framework, to be led by the PMO and to deliver the answers quickly.

**The Convener:** If you have good co-operation with the Scottish Government, it would concern you to hear from Mr Goodband and Mr Crowther that it does not exist.

**Tom McMahon:** Absolutely. As partners at the joint programme board, we would absolutely reflect that position.

**The Convener:** That concludes our questioning. It has been a long but worthwhile session. I thank all the witnesses for attending.

11:36

*Meeting suspended.*

11:43

*On resuming—*

**The Convener:** I welcome our second panel on integration of the British Transport Police into Police Scotland. Dan Moore is deputy director, rail markets strategy, at the Department for Transport, and Donna Bell is deputy director, police division, at the Scottish Government. Thank you for your written submissions, which are very helpful.

Before we move to questions from members, I will pose to the witnesses the question that I

posed to the previous panel. Given that full integration has not yet started—in fact, it has been suspended—that the costs have risen considerably and are still unquantified, and that the risks are developing in what is turning out to be quite a complex process, do you think that there is an opportunity to look at other options for the delivery of railway policing in Scotland, including the commissioned service model?

11:45

**Dan Moore (Department for Transport):** I thank the committee for inviting us. Given that, as the convener said, the project is at a significant stage, we have a good opportunity to talk through where we think things are.

To address the convener's question, I see the question of options as being not so much one for the joint programme board. As the Prime Minister made clear a few weeks ago, fundamentally, the responsibility has been devolved. Consideration of the options has also been devolved, so the issue has become one for the Scottish Government and the Scottish Parliament to consider. My understanding from the most recent meeting of the joint programme board is that the Scottish Government—to an extent, I am speaking for Donna Bell here—had considered the matter and that the view was taken that full integration remained the right way to go. The question was how we would make that work.

**Donna Bell (Scottish Government):** All that I would add to that is that Mr Matheson has appeared before the committee and there has been a range of debate in the Parliament. His clear view is that integration is the best way forward. That is not a decision for us as the SROs of the JPB.

**The Convener:** I get that, but it was worth posing the question.

**Dan Moore:** Absolutely.

**Rona Mackay:** Good morning. I have a wee follow-up remark to make. I flag up the fact that the Railway Policing (Scotland) Bill was passed by the Scottish Parliament, which speaks for itself.

I invite you to expand on the previous panel's view that a number of significant operational matters are yet to be resolved. Can you confirm the organisational need for operational integration?

**Donna Bell:** Yes. I think that the evidence that Police Scotland and the BTP presented to the joint programme board on 20 February highlighted that a range of operational issues still required to be resolved. We took that on board and, on that basis, were happy to consider a pause. I make it clear that work on integration has not stopped. We

have not suspended or paused the process. We continue to move forward as part of the replanning process. As part of that, the workstreams are being reviewed, but we expect that they will remain very similar to those that were in place before. On that basis, we would not expect the workstream leads to change in any great order, and I think that that reflects the evidence that Tom McMahon gave.

**Dan Moore:** I agree. The issue for us is that we want to use the replanning exercise in the right way. Although we think that the basic structure of the programme looks right, Donna Bell and I have made it really clear that our commitment here is to whatever works. We want an arrangement that builds the maximum degree of commitment and the maximum degree of practicality. If a particular change that makes sense is advocated in the conversations that we have over the course of the next few weeks, as a joint programme board, we will consider that.

The leads were decided in an attempt to align leadership with the organisation that was best placed to deliver the task in hand, and I do not think that the tasks have changed sufficiently such that the leadership is likely to change.

**Rona Mackay:** At this stage, can you say when and how the rephased planning proposal will be agreed? Will it include an integration date?

**Donna Bell:** The replanning/rephasing exercise is under way at the moment, and we expect that to come to some conclusions by the end of August this year. At that point, we will put forward views to ministers on a proposed integration date.

**Rona Mackay:** Are you prepared to speculate on whether it might be next year—sorry; might it be the year after, 2020?

**Donna Bell:** I cannot speculate at this point.

**Rona Mackay:** I understand. That is fine. Thank you.

**Dan Moore:** Again, it is a case of what works. I make the point that the integration date must align with financial years, because of the way in which the industry operates. Therefore, it is unlikely to be 15 October. It would be 1 April at some point.

**Daniel Johnson:** I would like to look at the role of the programme management office and the MTT board. I understand that the MTT board was instituted in the autumn of last year as a direct result of questions about governance from HMICS. Given that the programme management office has been described as having a functional programme management role, how will those governance issues be addressed? How will the PMO operate from those two distinct perspectives?

**Donna Bell:** The programme management office is an administrative function that will provide advice and support to the joint programme board. The JPB will take responsibility for all the decisions that are made and will have a role in the accountability functions.

The PMO, as Tom McMahon has already described, will include members from each of the agencies involved, which will help us to provide greater coherence to the work that we are doing. The PMO will provide information to the JPB to enable it to make decisions and provide better advice to ministers. It will cover next steps, it will assess risk and it will consider issues, so that we are—as the JPB SROs—better informed going forward.

That reflects the HMICS report that was published last year and refers directly to Audit Scotland's work on the merging and joining of public bodies, which highlighted the need for clear leadership, clear objectives and a longer-term approach to planning. It will enable us to work together collectively to pull everything together. As Dan Moore says, what we are most interested in is getting to a point where we understand clearly what is going to work.

**Daniel Johnson:** To paraphrase, the PMO has a functional role so that the JPB can provide the accountability and governance—is that correct?

**Donna Bell:** Yes—there is no accountability or decision-making function within the PMO.

**Daniel Johnson:** I understand—that is helpful.

You mentioned risk. Can I infer from that answer that the PMO will own the risk register?

**Donna Bell:** The JPB will own the risk register.

**Daniel Johnson:** But the PMO will be responsible for maintaining it.

**Donna Bell:** Yes.

**Daniel Johnson:** To return to the issue of costs and benefits, EY will be substantially responsible for resourcing the PMO, as I understand it.

**Donna Bell:** Yes.

**Daniel Johnson:** It strikes me that EY is made up of accountants. Is it not therefore well placed to provide an accurate cost benefit analysis, business case or whatever you want to call it?

**Donna Bell:** The PMO will be led by a member of staff from the Scottish Government. EY will continue to provide advice as and when. As SROs, we were keen to make sure that the agencies responsible for the implementation of integration were very much involved and had a leadership role in taking forward the programme,

so we made a change to how the PMO will work. It will not be led by EY.

As Tom McMahon said, we have not reached a conclusion about the role of EY going forward. We are conscious that it is an expensive resource. It has a great skill set that it can offer us but, as civil servants and public servants, we also have a great deal of skill to offer the integration process.

**Daniel Johnson:** Based on that answer, was Mr McMahon's answer correct that nobody has done or is going to conclude a cost benefit analysis or business case? Is that a bit of work that is just not going to take place?

**Donna Bell:** The work that was done as part of the passage of the 2017 act made the case for the integration of the BTP. A range of debates took place at that time and we are charged with taking forward the implementation of integration.

As we go along, we expect any options that are introduced as part of the workstreams to be subject to cost benefit analysis. For example, if there are options around ICT or workforce planning, we would expect them to be subject to cost benefit analysis.

Do you want to add anything, Dan?

**Dan Moore:** I think that that is entirely correct. I am conscious that a number of decisions were made in 2014, 2015 and 2016 that were about the principle of devolution; those arguments were set out at that time. We want to make sure that we have properly reflected on the individual implementation cost benefit issues. We also need to more accurately capture the benefits through a better benefits realisation process. There is work to do in that area but we have not revisited the fundamental question with a cost benefit analysis because we see that, fundamentally, as a political decision that was made some time ago.

**Daniel Johnson:** A business case does not necessarily need to be about options; it can simply be about projecting costs against the baseline and ensuring that, as plans are implemented, the costs are in line with the projections. The understanding of projected costs and baseline costs compared to the as-is scenario with the BTP is important. I want to establish whether that work will be undertaken. If it will not be, I suggest that not having a clear view of what you expect the costs to be would be concerning.

**Donna Bell:** Sorry, perhaps I misunderstood you. I think that Tom McMahon referred to the point that you make about having a clear understanding of current costs and costs going forward. Along with Police Scotland, we have committed to ensuring that we are aware of the costs going forward.

**Daniel Johnson:** When will that work be concluded? Will it be concluded before the integration programme is reinitiated from its current paused status?

**Donna Bell:** As I have said, the work on integration continues. A lot of the activity that requires to be done concerns workforce mapping and consideration of terms and conditions. That work continues and, as we go through the replanning, we will have a sound understanding of the costs. We expect to have a stronger sense of the continuing costs. They may be subject to change depending on a range of factors, so we will continue to make a dynamic assessment.

**Daniel Johnson:** Sorry, what does “a dynamic assessment” mean?

**Donna Bell:** Costs might change. For example, we might have a different pay policy in future or there may be different terms and conditions. We need to think carefully about those unknowns.

**Daniel Johnson:** Those variables are within your control. Surely they are exactly the sorts of things that you need to lock down before you proceed. Therefore, once they are locked down, the business case should not alter—certainly not from the examples that you gave.

**Donna Bell:** There will be unknown factors that we will have to manage as we go along. However, we expect that, by the end of the replanning, we will have a sound understanding of costs.

**Daniel Johnson:** Do you not expect a range in relation to those unknown factors, so that you would at least have a best-case scenario?

**Donna Bell:** Yes, of course we would.

**Daniel Johnson:** I suggest that you would want those projections and costs in place before the integration green button is pressed. Is that not the case?

**Donna Bell:** The integration decision has already been made.

**Daniel Johnson:** So are you saying that you will carry on regardless of the costs?

**Donna Bell:** We are charged with ensuring that integration happens in the best way possible so that the safety of the travelling public is assured and we have a service that is effective and meets the needs of all the people who are involved. Costs will be a clear issue for us and for ministers. We will want to minimise them and we will work hard to do that.

**The Convener:** It is probably kind to say that the governance model is complex. So far, it seems as clear as mud. I ask you to explain exactly how it works. We have the joint programme board, the mobilisation, transition and transformation project

and the programme management office. Who are the accountable officers at each stage?

**Dan Moore:** It does sound complex. We have tried to evolve the model over the past year or so to reduce some of the complexity.

The MTT was a really important initiative. It was helpful for getting into some of the operational detail, but we now need a different model. That is why we brought together the programme management office, which will involve all parties. That will stand down the MTT, so there will be a clear implementation body and the joint programme board will sit above that as the decision-making body with clear accountability to ministers.

Let me be absolutely clear about accountability. The buck stops with me and Donna Bell throughout the entirety of the programme. We will have to ensure that our ministers are clear about where things are and will have to advise them appropriately, but in the programme the buck stops with us. Individual workstream leads will be responsible for individual items, but they will be accountable to the joint programme board and, therefore, accountable to us for effective delivery.

**The Convener:** So where does the Scottish Government fit in?

12:00

**Donna Bell:** Scottish ministers are ultimately responsible for the integration and the enactment of the legislation. This is a joint programme, so we are jointly responsible for its delivery.

**The Convener:** The delegated lead strategic responsibility for all aspects of railway policing integration with Police Scotland lies with both of you.

**Dan Moore:** Yes. Fundamentally the joint programme board is the decision-making body; the decisions are taken at the board. By the same degree, we are both civil servants, so ultimately we advise our ministers on the issues that are coming to the board and they have to take a view on them. As the committee has heard this morning, there are financial issues, operational issues and parliamentary and legislative issues, all of which have a cost. Essentially, the joint programme board takes the decisions but in doing so we consult ministers. We go to the joint programme board with our ministers' decisions.

There is a distinction. Essentially, we are responsible for the implementation. We ensure that ministerial decisions are implemented throughout the programme, but those decisions involve political, strategic choices, for which ministers are fundamentally responsible.



**The Convener:** That is helpful.

**Liam Kerr:** I return to Daniel Johnson's question about the cost benefit analysis. You heard me ask Police Scotland whether it would do the cost benefit analysis that it had undertaken to do at a previous meeting. I got two answers: they were rather long, but I think that both can be distilled down to "no". What is your understanding of that? Do you expect Police Scotland to do the cost benefit analysis that it undertook to do?

**Donna Bell:** I have already made some comment on that. As the programme goes forward, I will expect cost benefit analyses of each of the options to be undertaken as they emerge. As I clarified to Mr Johnson, I expect that we will have a sound understanding of the costs that will emerge as part of the programme so that we can compare them with any baseline costs that we might be able to discern.

**Liam Kerr:** If, in any of those bite-size pieces, the costs outweigh the benefits, will anything change? Who will make that decision?

**Donna Bell:** The case that was made during the passage of the Railway Policing (Scotland) Bill suggested that the benefits would be substantial. I suppose that we will need to consider that going forward. We are doing a huge amount of work on benefits at the moment. We will consider that as we go along.

**Liam Kerr:** If, in one or more of those assessments, the costs outweigh the benefits, is it possible to change the end game of the overall programme and, if so, who would make that decision?

**Donna Bell:** As I have explained, we are implementing Government policy, which is the full integration of the BTP with Police Scotland.

**Liam Kerr:** So Mr Johnson's point was correct: even if the costs outweigh the benefits, the end game will nevertheless remain the same.

**Donna Bell:** The discussion that we are having at the moment is about the options within the programme.

**Liam Kerr:** What independent assurance about the overall project will you get, outwith the joint programme board?

**Donna Bell:** We have planned for a gateway review later in the year, just after the replanning exercise has been completed, to ensure that the programme is in good shape.

**Liam Kerr:** Who will undertake that?

**Donna Bell:** Within the Scottish Government we have a centre of expertise that runs gateway review programmes. It will engage with external

independent assessors, who will come in and do a gateway review of our programme.

**Liam Kerr:** I will switch the focus for a moment. On 20 February this year, there was a special joint programme board meeting at which the commissioned service model was discussed and, I understand, rejected. Given the costs and risks that have been identified today, can you explain why it was rejected outright, rather than being explored further? Why would it not be explored as a transition model? Might it be better to think about how we could get there using a more innovative model rather than focusing on only one endgame?

**Dan Moore:** I attended that meeting of the joint programme board. It is important to emphasise that the board as a whole did not say no to the commissioned service model because that was not within its gift. That brings us back to the point that integration remains a political choice for Scottish ministers. The programme board raised the question of whether there might be a change in direction, and it was made very clear that there would be no such change. I know that Michael Matheson has subsequently made that clear. It is important to emphasise that the joint programme board did not rule out the model. Fundamentally, the question remains one for the Scottish Government.

**Liam Kerr:** So, the joint programme board will have to deliver the solution, but it has no locus to say that what is happening does not appear to be the ideal solution or to ask whether there is another way to skin the cat.

**Donna Bell:** The JPB provides advice to ministers. If we thought that any of the issues were unsolvable or we were unable to work through them, we would advise ministers of that, but we are not in that position.

**Liam Kerr:** I have one final question. The committee has received submissions on various aspects of the process. Dr Kath Murray has stated:

"analysis suggests that the current policy direction does not reflect Best Value",

according to Audit Scotland's definition of the term. Does the JPB have a view on whether full integration provides best value, as defined by Audit Scotland?

**Donna Bell:** The points that Kath Murray makes do not reflect the fact that we have a settled Government policy position, which is full integration. They seek to reopen consideration of other options.

The approach that the joint programme board has taken to best value has been to consider Audit Scotland's work on best value in relation to partnerships in particular. We have sought to put

in place clear leadership as a result of the governance changes that we have made, with clear lines of accountability.

We have also sought to put in place arrangements around joint planning, which are incredibly important in a programme of this nature, complexity and size. Effective use of joint resources is another area in which we have much work to do; the evidence that the committee received in today's previous evidence session was a great illustration of that. We also need sound processes to monitor and report on achievement of outcomes. The MTT board, as part of its work, is beginning to think about the transformation work that will be needed, as we move forward. That is the activity that we have put in place to ensure that we will take a best-value approach to programme delivery.

**The Convener:** I will press you a little further on the case for detailed evidence and analysis. A full business case was ruled out; instead, there was a business and regulatory impact assessment, which—I think it is fair to say—was wildly optimistic in terms of how things would play out. We are now looking at increased costs, uncertainty about final costs, value-for-money concerns and risks in many different aspects of the programme.

Would it therefore be reasonable for you to suggest to ministers that a full business-case exercise be carried out in order to provide evidence-based analysis, as opposed to assertion, which is largely what we have had so far in the full integration programme?

**Dan Moore:** In respect of the political decision on full integration, the joint programme board's role is properly to raise issues with ministers, as we did in February, when there was a material issue that we thought would impact on passenger safety.

As Donna Bell said, we expect that if issues come out of the process, such as cost escalations, we will raise them with ministers. Through the improved joint programme arrangements, we are trying to ensure that we have a tighter grip across the entire programme. Our approach is to manage implementation as effectively as possible and to raise broader issues with ministers. We do not see that approach as going as far as a full business-case scenario, because fundamentally the decision remains one for ministers.

**The Convener:** You talk about having a "tighter grip". Let me press you on that. Is that the same as having detailed evidence, which can then be analysed? That is really what we need.

**Dan Moore:** Let me give the committee absolutely clear reassurance on where we are at the moment on the project. Although I would not

say that there is absolutely detailed evidence on every individual aspect, extensive work has been done on aspects of detail. We have heard a bit about pensions, and we have heard about information on terms and conditions and cross-border policing issues.

I do not want the committee to take from the pause process the impression that we are progressing the project in any way other than one that is based on the evidence and analysis that comes to us. The convener put a specific question about evidence to us, which in essence is about managing cost implications. I really do not want the committee to think that the JPB, in its monthly or six-weekly meetings, is not seeing detailed accounts and papers on financial costs, operational impacts and material issues. We are, so that we can take informed decisions. However, the particular evidential question that you raised is not something that we propose to look at, as a JPB.

**The Convener:** That causes me some difficulty. The Scottish Government led the engagement prior to the bill being passed, but in the evidence from the previous panel we heard that engagement has been practically non-existent. If you are looking for detail and analysis, and one side is not fully engaged, there is a problem, is there not?

**Dan Moore:** I will be happy to talk about engagement. I absolutely agree with you that the basic model was that the people with the greatest levels of specialism—those who have the information to hand—should be leading the process. If we consider, for example, assets and liabilities, there is no lack of detail; a considerable amount of detailed information is coming through extensive engagement on that.

There is a particular question with respect to engagement with officers and staff. As we said quite squarely in our letter to the committee, we think that there is further work to do in that regard, although I think that there has been slightly more engagement than you have heard about. We could talk about quite a number of workshops, discussions and meetings that were attempts to engage, as well as the question-and-answer document that we published last year, which went through a number of issues. However, I absolutely accept that there is more to do on staff and officer engagement.

The engagement in the joint programme arrangements to date—access to information and involvement of the various parties—has been good, but we need to make it even better. Again, I do not want the committee to be left with the impression that no vigorous and robust evidence-based discussion has happened to date. There

has been detailed and extensive engagement, but we recognise that we need to do even more.

12:15

**The Convener:** The BTPF told us that it has submitted to the Scottish Government more than 70 questions that remain unanswered, with the Scottish Government simply repeating three main principles. Can you comment on that?

**Donna Bell:** I am happy to pick up on that. I was surprised to hear Mr Goodband say that there had been no engagement for quite some time. Officials met the BTPF on 13, 14 and 15 December, on 9 January and on 20, 21 and 22 February for full-day workshops to consider terms and conditions and other on-going matters.

A number of questions remain unanswered, and we are working to find the answers to them and to find solutions. Dan Moore is absolutely right to say that we need to improve our engagement with staff, officers and stakeholders more broadly. I have put in place a communications and engagement lead within the programme team to take that work forward, and I expect that we will have a programme of work on communications and engagement that will be presented to the JPB on 8 May. I expect that we will have a full schedule for the rest of the year by that point.

**Dan Moore:** We expect the 73 questions to be answered as part of that process. To be absolutely clear, I point out that one of the reasons why the questions have not been answered is that they came to us before the replanning exercise, which has a particular impact on those issues. We felt that the most effective way to engage would be to roll the questions into the replanning exercise. Nigel Goodband made a particularly strong point that I agree with, that we need to be more visible with regard to the replanning exercise than we are at the moment. As Donna Bell said, how we make replanning the project as inclusive as possible is one of the issues that will be dealt with at the 8 May meeting of the JPB.

**Donna Bell:** We absolutely take on board Calum Steele's point about getting the human factors of the programme right. We have focused quite a lot on the technical and legislative matters, but having a communications and engagement strategy that will put people at the heart of that process will make a big difference to how people feel about it and to how it is taken forward.

**The Convener:** It is absolutely the case that for a process to be successful, people in the organisation must come first and must be consulted. It has been alarming to hear this morning how the human aspect has been left very much to the end of the process. That is not a

criticism of you, because that is obviously how the process was set out in the legislation.

**Daniel Johnson:** I will ask a brief question about the gateway assessment that you mentioned. When is it likely to take place? Will it serve as the conclusion of the replanning process? What documentation will be submitted as part of that? I assume that the documentation will go before the JPB. Will it include cost analyses, cost projections or business-case elements?

**Donna Bell:** The gateway process is a fairly standard one within government and the public sector. We expect that we will, once we have completed the replanning phase, undertake a gateway review to ensure that the programme is fit for purpose. At that stage, we expect to have the full suite of documents that would go along with the programme, which would include the programme plan document and associated documents including the blueprint and the target operating model for the work.

**Daniel Johnson:** When will the gateway process take place?

**Donna Bell:** It will take place at the end of the replanning exercise, which we expect to be around the end of August.

**Ben Macpherson:** I will address the pensions issue that I raised with the previous panel. As far as I can recall, at stage 1 of the Railway Policing (Scotland) Bill, the SPA stated that there were two possible options: existing BTP officers from Scotland would stay in the British Transport Police force superannuation fund or—which is the option that seems to have been chosen—their membership of that fund would be maintained by transferring the BTP officers and staff in Scotland out of the main pot into a segregated pot for a closed scheme. I want clarity on when and why the decisions were made.

**Dan Moore:** To rewind, Ben Macpherson is entirely right that there was a range of options earlier in the process. This goes back to the human point about which we have rightly heard a considerable amount. Last year, the joint programme board thought about a number of areas in which it wanted to preserve continuity in order to provide to officers and staff reassurances that we thought were really important. There is a tendency to categorise the joint programme board's work as being all legislative and technical, but fundamentally it is also about trying to give assurance to officers and staff on some of those questions.

In summer last year, we made a really important decision, which was, in essence, the as-is transfer decision. There had been a range of options to transfer in various ways, but over the summer last

year, we tried to clarify that a number of aspects of terms and conditions would be transferred across. They include pay, allowances and the dual status that British Transport Police officers currently enjoy.

One of the aspects was pensions. Over the past several months, we have engaged with the trustees of the pension arrangements to work out the most effective means of as-is transfer—that is, how it would work for officers and staff to remain members of the railway pension scheme. Following actuarial advice, it was decided that the segregated scheme was the most appropriate way to execute that effectively.

One term that we keep on using in the process is “as-is”: we are ensuring that pensioners and prospective pensioners have the same terms and conditions. That is why Tom McMahon talked about the discussion about indemnity. We thought that, as an actuarial and practical matter, the segregated scheme would be the most appropriate—from a legal perspective, there are challenges with anything else—but in choosing it, we were also trying to ensure continuity of terms and conditions.

**Ben Macpherson:** Have your discussions with the trustees of the scheme been constructive?

**Dan Moore:** The discussions have been highly constructive. Nigel Goodband is right to say that, in effect, we have not decided on some points, but the level of engagement from the trustees and the discussions’ constructive and collaborative nature have been most helpful.

**The Convener:** The previous panel of witnesses brought up the point that, although the intention is to provide continuity of terms and conditions, there is nothing in writing to give a cast-iron guarantee that continuity will be delivered. Will that guarantee be forthcoming?

**Dan Moore:** Absolutely, convener. We tried to provide some clarity on 8 December, when we issued the Q and A document to officers and staff. I accept that there is an element of conditionality, but we hope that it was sufficiently clear that we were looking at continuity of terms and conditions.

The real mechanism for that clarity is the legislation, which transfers officers and staff as they are. That is the mechanism that we are working through. To be absolutely clear with the committee, in that legislation it is as plain as day that we are talking about an as-is transfer. I hope that it provides some assurance to Nigel Goodband and others that the legislation is being advanced entirely on that basis. It is not the case that there are lots of square brackets where something has to be added in. That is the basis on which it works.

The legislation is the critical tool. We considered that we were in a position to complete it in the early part of this year, so that it could be introduced when the 1 April 2019 timescale was in operation. We engaged in a short pause to make sure that the legislation fitted with the replanning exercise, but we would still like to complete it, as far as we can, by the summer. Then I could give an absolute assurance to Nigel Goodband, to TSSA and to the other organisations that we will show them that legislation as soon as we can, to provide them with some of the reassurance that they want.

**The Convener:** Would you be prepared to put it in writing that those terms and conditions will be guaranteed?

**Dan Moore:** I have no reservation about doing so on an as-is basis, so my answer is yes.

**The Convener:** That would certainly supply some assurance to Liam Kerr.

**Dan Moore:** Convener, I apologise but I want to make one point on that. It will be a transfer but, inevitably, as with any arrangement, it will be possible for terms and conditions to be negotiated and changed over a period of time. Nevertheless, at the point of transfer, those terms and conditions will be maintained.

**The Convener:** That commitment to putting exactly what is on offer in writing will be very helpful and will move us on.

**Liam Kerr:** I want to develop that point. Earlier, Mr Goodband said that BTP officers currently have employee status whereas Police Scotland officers are Crown officers and do not have employee status, as such, in law. I think that I am right in saying that there will not be a transfer under the Transfer of Undertakings (Protection of Employment) Regulations—TUPE—because BTP officers will become not employees but Crown officers. If people stop being employees and become Crown officers, will they not lose employment rights?

**Dan Moore:** They will not cease to be employees. Liam Kerr is right in saying that there will not be a TUPE transfer, but there will be one under the Cabinet Office statement of practice—COSOP. Such officers will enjoy dual status as constables and employees when they enter the service.

**Liam Kerr:** They will become part of Police Scotland but will not be part of it in that they will retain—

**Dan Moore:** There are specific—

**Liam Kerr:** There will be a lot of new transferees-in because, as we heard earlier—I appreciate that I am paraphrasing now—in order

to cover any gaps, Police Scotland will have to transfer in people who have officer status and who are joining a unit in which people have employment status.

**Dan Moore:** You are entirely right. There will be issues to work out there, although not in relation to the transfer. To be absolutely clear, the question of dual status has been determined. Nevertheless, you are absolutely right that there will be quite a number of operational implications from that. That is why one of the most important strands of the work that we want to do as part of the planning exercise is the operational aspect. Quite simply, there are 10 complex operational questions that we will need to resolve in the course of the next two years.

**Liam Kerr:** Yes, but it makes it rather difficult for you, Mr Moore, to guarantee that you will preserve terms and conditions when, under employment law, there is a question whether you can give such a commitment.

**Dan Moore:** No, no. I am saying—I hope as plainly as I can—that the United Kingdom Government, whose position has been agreed with the Scottish Government, in the legislation and in the section 90 order that will be the relevant legal instrument, will execute an as-is transfer in relation to terms and conditions. Mr Kerr, quite reasonably, raises the fact that there will be a number of operational implications. Mr Goodband could reasonably raise those as well, and they are absolutely the issues that we will work through. However, I have no reservation in making the commitment that I have just made.

**John Finnie:** I want to clarify a point that Mr Kerr raised and that Mr Goodband repeated in error. Serving officers in Police Scotland are not Crown servants but public servants, which is a different status again.

I want to make another couple of points if I may, convener. As things stand in Police Scotland—I presume that this will be mirrored in other forces—a range of terms and conditions apply, not least in relation to pensions. I am a former police officer and have served with people who have transferred from the BTP. There must be individual experiences of what has happened in relation to pensions, in particular, and there will have been transfers in both directions. Can anything be learned from those experiences? Can they be scaled up? I appreciate that it is a very difficult thing to do. People used to take their pensions with them, but sometimes they did not.

12:30

**Dan Moore:** We have a reasonable degree of experience in these questions. A number of individuals in the Department for Transport have

been transferred from other organisations such as the Strategic Rail Authority. The lawyers who are involved in those questions are taking advantage of that previous experience and the broader Government experience of transfers. As you are aware, Mr Finnie, such transfers are not unusual. They are not quite the bread and butter of Government, but there are considerable numbers of them each year.

You also raise a reasonable point, if I may say so, in relation to the fact that there is a range of existing terms and conditions across Police Scotland and the British Transport Police. We are on day 9 of a series of workshops that are intended to get to the bottom of those terms and conditions issues so that we can absolutely execute the as-is transfer when we need to do so.

Again, that points to the complexity of the process. There is a lot of detail and a lot more is going on than was perhaps anticipated at the start of the process.

**The Convener:** Who has responsibility for the risk register now that the MTT board has disbanded?

**Donna Bell:** It is the JPB.

**The Convener:** As you said, Donna, the involvement of EY is expensive. Can you give us an indication of the costs that have accrued so far as result of its involvement and the projected costs of that?

**Donna Bell:** Tom McMahon gave you a rundown of the costs that have already been agreed, and we are yet to come to a conclusion on EY's on-going role in the programme.

**The Convener:** For the record, can you state what those costs are?

**Donna Bell:** Do you mean the costs that have been incurred already?

**The Convener:** Yes.

**Donna Bell:** The cost associated with programme change management is £400,000. I recall that Tom McMahon also mentioned another cost, but I do not have that in front of me. He gave Tavish Scott a full rundown of the costs. We can respond in writing if that is helpful.

**The Convener:** Is it the case that it is not really possible to predict the future costs, given that there is not an end date for full integration?

**Donna Bell:** For EY or for the programme as a whole?

**The Convener:** For EY.

**Donna Bell:** We will reach some conclusions about EY's involvement in the programme by the end of the replanning process.

**The Convener:** To be clear, £400,000 has been paid to date.

**Donna Bell:** I believe that that £400,000 covers the cost of the engagement of EY up to April 2019, but I would need to check that. That cost has been incurred to Police Scotland.

**The Convener:** Will there be additional costs over and above the engagement cost?

**Donna Bell:** We have not decided that yet.

**Dan Moore:** We are focused very much on getting this right. As Mr Matheson said a couple of months ago, when it was decided to pause the process, nobody wanted to be in a position to have to do so. We have now said that we will ensure that the replanning exercise works in the right way so that we can get the level of commitment that is necessary to set a particular date. That involves two levels of resource: the project support resource that EY has helpfully provided to date and a considerable amount of civil service and broader organisational support.

One of the lessons that we have learned—we hold our hands up in this regard—is that a greater amount of dedicated resources needs to be devoted to the project than was the case in the early stage. Unfortunately, that imposes a cost, but it is a cost that will be monitored by the joint programme board as we progress.

**The Convener:** I understand fully why EY has been brought in. However, given that a lot of the costs will come out of the reform budget, which exists to ensure that Police Scotland operates effectively, which is a huge challenge in itself, the question is an important one.

**Daniel Johnson:** I would like to clarify some of those points. There is a £400,000 engagement cost for EY and a £300,000 cost in relation to financial due diligence. Further, we heard from Tom McMahon that the initial assessment was that there was a £1 million opportunity cost for Police Scotland. First, do you recognise the figures that I have just listed? Secondly, what were the Scottish and UK Governments' initial assessments of the opportunity costs and the cost of allocating people to the programme? Thirdly, what is your current assessment of what the cost will be?

**Donna Bell:** Those costs have been made available to the JPB in the past, so—yes—they are recognisable. The Scottish Government has established a team to take forward the integration programme, which includes the membership of the programme management office and the people who are needed to work on the legislative aspects. I will not have a figure for the full on-going cost until the replanning process has taken place, but we can record that as part of the documentation

that will be made available at the point of the gateway review.

**Dan Moore:** From a United Kingdom perspective, we specifically allocated a small amount of associated staff costs to the project. The number is relatively small: two staff members will be responsible. In addition, the British Transport Police included in its medium-term financial plan specific costs that are associated with planning the process.

Forgive me, as I will have to review the medium-term financial plan again, but I recall that the cost was £500,000 for 2017-18 and 2018-19. I will be happy to confirm that directly with the committee later. Those costs were included, but we do not shrink away from the fact that there is an additional cost. As a joint programme board, we are not only very concerned about the public money aspect but conscious that the programme impacts on the railway operators. That is one of the reasons that the UK Government has made it clear to the British Transport Police Authority, through the imposition of specific grant conditions, that we expect the cost to be minimised to the greatest extent possible.

I do not think that we can shrink away from the issue of cost—the process is going to cost more. The replanning exercise is the means by which we will effectively establish what the cost looks like. The improved programme and project management arrangements that we have talked the committee through today are the means by which we will monitor that cost and ensure that it remains reasonable.

**Daniel Johnson:** On the basis of all that, we are looking at something in the region of £1 million of additional costs from the engagement of EY alone. In the scheme of things, it sounds like there is approximately £1 million allocated from Police Scotland and a similar amount allocated from combined civil service resources. In rough terms, therefore, we are looking at a 20 per cent cost increase at the very least—it could be as much as 50 per cent—before we even look at increasing allocated resources for additional civil service costs. Is that a fair summary?

**Dan Moore:** I am reluctant to be unduly precise, but I do not think that that is an unfair summary of the implications of the additional work that we feel we need to do to get this right. It is really important to set those costs against the costs of getting it wrong in terms of both the staff and the financial aspects. We think that it is a reasonable investment but, in order to be absolutely sure, we are seeking to minimise the additional cost to the greatest extent possible.

**Daniel Johnson:** However, neither of you is able to say how much more the programme is going to cost.

**Dan Moore:** That is not because we are not willing to be frank with the committee but because we want to make sure that the replanning exercise works. In the next couple of months, Donna Bell and I will be very open to hearing from the British Transport Police and others if they say, "Actually, in order to make this work and to hit the date that we are committed to, this is what we feel we need." We will interrogate and scrutinise such requests, but that will be the process. We do not want to prejudge the process, not for technical reasons but because we want it to be effective. We also want the process to be quick—if we complete it by the end of August, we will have clarity and we can then monitor on that basis. At that stage, we will be in a position to be clearer with the committee about what we think the additional costs are.

**Daniel Johnson:** We do not know what implementation is going to cost, and we do not even know what the programme to carry out the implementation is going to cost. That is the current situation, is it not?

**Donna Bell:** The replanning exercise will help us to better understand the cost. You heard evidence from Tom McMahon this morning that set out the costs thus far. I can respond in writing to the committee, if that would be helpful, on the costs that the Government has incurred thus far.

**The Convener:** That concludes our questions. We look forward to receiving the additional information that you have undertaken to provide. Given that the governance arrangement has been reviewed, perhaps you could also submit the details of the new arrangement, including the new accountable officers, as that would be helpful to the committee.

**Donna Bell:** Yes.

**The Convener:** It remains only for me to thank you very much for your attendance.

That concludes the public part of today's meeting. Our next meeting will be on 8 May, when the committee will commence its stage 1 scrutiny of the Management of Offenders (Scotland) Bill.

12:40

*Meeting continued in private until 12:53.*





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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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