



Department  
for Transport

# Triennial Review of the British Transport Police Authority

## Part 1 Report

July 2014

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# Executive Summary

The British Transport Police Authority (BTPA) oversees the British Transport Police (BTP), sets its targets and allocates funding for its budget.

The BTP provides a national police service for the railway in England Scotland and Wales. The Authority ensures, among other things, that the Police Force has clear plans and targets, and is adequately resourced to deliver on these. It is required to collect annually from the rail industry the level of funds necessary to meet its costs and those of the BTP.

**The conclusion of the Review is that the functions of the BTPA are still necessary, that it remains the right body for delivering them and that the BTPA should remain a non-departmental public body (NDPB).**

**The review further concludes that all the current functions of the BTPA are likely to be needed if the BTP continues as a national specialist Force for the railway, and most would continue to be needed even if BTP no longer existed.**

**The overall level of compliance with good practice on corporate governance is good, but there are a few omissions and weaknesses which should be capable of being quickly addressed.**

**The future of the BTP is not within the scope of the review, but responses from stakeholders nonetheless provide strong support for the view that it should continue in being, and reaffirmation of this would be helpful.**

Department for Transport (DfT) included in the terms of reference for the review a number of issues requiring a more detailed look at certain aspects of the Authority's work than would be required by the Triennial Review itself. Those additional terms of reference indicate some concern on the part of stakeholders, particularly those from the rail industry, about aspects of BTP budgeting and planning and the definition of police services. Some rail industry contributors to the review have offered opinion and evidence to support those concerns.

The Authority's role in setting the Force's budget and managing the process for calculating and collecting the charges from railway companies is a challenging one and it is unlikely that all the relevant parties will ever be satisfied. That is not to say that further action to meet the issues raised by stakeholders should not be taken. Their most pressing concerns relate to:

- whether the opportunities to hold down the cost of BTP have been fully exploited either through efficiency or limiting the range of policing functions it seeks to carry out;

- how BTPA thinking and decision-making can most effectively be influenced and the role of Authority members with particular knowledge and experience.
- what can be done to offer rail companies clearer commitments to the police services which will be provided for the charges they pay.

Consideration has been given, in consultation with the Challenge Group and the Department, to the case for publishing a single report incorporating conclusions on part 2 of the review thereby delaying publication of the main Triennial Review conclusions.

One of the main factors influencing the decision on that issue is that either the Authority or the Force, or both, have been reviewed with considerable frequency since the former was established in 2004. Many of those reviews have considered whether there is still a case for a national force for railway policing or whether these responsibilities should be assigned to local forces and BTP disbanded. Although each review has concluded that there should continue to be a national, specialist force, subsequent reviews have not been deterred from asking the same question.

In view of the conclusions of those previous reviews and the consistently strong evidence to this review about the importance for the railway and its passengers of a specialist force, value is seen in confirming the outcome of the Triennial Review with as little delay as possible. Moreover it would be helpful, and seen as such by many in the industry, if the continuing need for BTP – although not directly within the scope of this review - could also be confirmed. If that were done both the Force and the Authority would be enabled to spend less time and energy justifying their existence and instead intensify their focus on how they plan and deliver their functions. The review believes stakeholders would welcome this.

The review has, in its first phase concluded that the Authority is well-led and carries out its work with integrity and a good understanding of the interests of the stakeholders. There is scope for part 2 of the review to offer recommendations about how the Authority should manage and deliver against its varied and challenging functions. This part of the review is, however, confident in reaching the key conclusions summarised above and explained in more detail below prior to taking forward its examination of the additional terms of reference.

## **Introduction**

The programme of departmental Triennial Reviews is agreed on a rolling basis with the Cabinet Office. Announcing the intention to set the Triennial Review programme in train in October 2010, Francis Maude, Minister for the Cabinet Office, said “The landscape for public bodies needs radical reform to increase transparency and accountability, to cut out duplication of activity, and to discontinue activities which are simply no longer needed”. DfT having

agreed to carry out a Triennial Review of the BTPA, the review was announced by the then Minister of State for Transport, the Rt Hon Simon Burns, in a Written Ministerial Statement on 25 March 2013. The review was carried out by a senior civil servant, Peter Murphy, of Her Majesty's Passport Office with oversight by a Challenge Group.

The BTPA oversees the BTP, sets its targets and allocates funding for its budget. (A more detailed description of its functions is provided later in the report.) It is an independent NDPB comprised of up to 15 members who provide knowledge and experience of the railways industry, railway employees, the different countries making up Great Britain, and issues that concern passengers. The members are supported by a staff of 12.2 (full time equivalents), led by the Chief Executive, who implement the various functions of the Authority according to the directions it gives and the decisions it makes. The Authority meets six times a year to carry out its functions. The current membership and the types of relevant experience (as stipulated in legislation) which the members bring to their role are listed at Annex C.

The BTP is the national police force for the railways. As at January 2014 it was comprised of 2,906 police officers, 1,484 police staff, 369 PCSOs and 247 special constables. It has a statutory responsibility for policing the infrastructure maintained by Network Rail, and the trains and stations of 39 passenger and freight companies operating mainline rail services. In addition the following companies have voluntarily signed agreements with BTP for provision of policing services:

- Transport for London services: London Underground, Docklands Light Railway, Croydon Tramlink;
- High Speed 1;
- DB Regio Tyne and Wear Metro services in the northeast of England; and
- Midland Metro services in and around Birmingham.

BTP's vision is "to deliver a first class, specialist policing service for the railway and to be recognised by our customers as providing excellent value for money". Its mission is "to protect and serve the railway environment and its community, keeping levels of disruption, crime and the fear of crime as low as possible".

The establishment of a police authority for the BTP, and conferment on the Force of a statutory jurisdiction over the railways, are set out in Part 3 of the Railways and Transport Safety Act 2003. The relevant provisions of the Act, establishing the BTPA, came into force on 1 July 2004. BTP and BTPA are funded by the companies that provide passenger, freight and infrastructure services on railways across England, Scotland and Wales, i.e. the train operating companies (TOCs), freight companies and Network Rail.

The 2003 Act provides for the BTPA to enter into a Police Service Agreement (PSA) with each of the companies receiving services from the BTP, committing it to carry out the policing of the railway or railway property in connection with which the railways services are provided. BTPA also

maintains the accounts of the British Transport Police Fund and makes arrangements to have the accounts for each financial year audited.

The PSAs are the means by which operators are required to use and pay for the services of the BTP and the costs of BTPA. The Authority is required by Section 33 of the 2003 Act to balance costs with revenues through the use of PSAs, both in aggregate and in respect of individual users, with the amount of the contribution from each PSA holder approximately reflecting the nature and extent of the functions likely to be undertaken for that holder. Devising and maintaining a charging model which meets this statutory requirement is therefore a key responsibility of the Authority. Under the 2003 Act, the Authority is the legal employer of all BTP officers and staff, although the budget for staff costs is delegated to the Force and the Chief Constable is responsible for operational deployment.

The BTPA budget for 2013-14 is £1.87m. The approved net budget of BTP for “over ground” operations (broadly equating – along with BTPA costs – with the sums contributed by railway companies under the PSAs) is £204m. The totality of BTP’s budget includes an additional £51.9m funding negotiated with London Underground.

## **Context for this Review**

As already stated, the initial driver for the Review was to examine the BTPA as part of the Government’s programme of Triennial Reviews. Where departments have been planning for their own reasons to conduct a review of organisations due to have a Triennial review, they can combine the reviews into a single exercise and use evidence drawn from recent reviews, enabling resources devoted to the reviews to be used more efficiently and less disruptively for the body in question. In the case of BTPA, DfT elected to widen the Review to consider a range of questions about the effectiveness of the Authority in the discharge of its functions. A full set of the Terms of Reference (ToRs) is at Annex A.

The additional (“non-Triennial”) ToRs have taken the Review into areas of detail and assessments of effectiveness which would not have required such exhaustive consideration if this had been a Triennial pure and simple. Nonetheless, issues about how a body carries out its functions can throw light on the need for those functions and possible alternative means of delivering them, as well as helping to establish whether the corporate governance is working. Therefore, although this report is to be published in two parts, the conclusions of the Triennial Review section (part 1) have drawn where appropriate on evidence collected in respect of the non-Triennial ToRs and certain emerging conclusions. To avoid confusion, it may help if it is explained here, early in the report, the distinction between Parts 1 and 2 and Stages 1 and 2:

- Part 1 of the Review is reported on in this document which sets out conclusions about the continuing need for BTPA’s functions and the

case for it to remain an NDPB, while part 2 will address the range of issues in the “additional” ToRs.

- This Part 1 report is divided into two sections to distinguish between the first requirement of the Triennial Review (the case for the body’s functions and form to be retained) which is covered in Stage 1 from the subsequent requirement (if the body is to be retained) to examine the robustness of its corporate governance) which is covered in Stage 2.

This is a Review of the Authority, not of the BTP (which is not an NDPB and not subject to the same arrangements for review as the Authority). However, the function of the Authority is to influence the costs and operation of the Force so that it delivers on the basis envisaged by the 2003 Act, meaning that that the ultimate test of the Authority’s effectiveness is the performance of the BTP. The Review has necessarily therefore looked in some detail at the functions of BTP, how they are carried out, their cost, and the relationship between the Force and the various local (or “territorial”) forces falling under the jurisdiction of the Home Office (and the Scottish Government north of the border) alongside which the BTP operates and which not infrequently become involved in, or even sometimes take the lead on, incidents taking place on railway property.

The breadth of the review, the complex range of issues involved, not to mention the number of stakeholders volunteering to contribute their views, meant that a significant number of people and organisations were interviewed in the course of the review. That was in addition to the Authority members and staff, senior officers of the BTP and officials from DfT, Home Office and other government departments whose views would naturally and necessarily be sought and taken into account. A full list of those interviewed is at Annex D. Written evidence considered by the reviewer included past reports on BTP and BTPA, various correspondence with, or concerning, the Authority, and BTPA committee papers, plans, annual reports and other publications. The content of the Authority’s website was also fully reviewed.

In addition to conducting interviews, the reviewer attended as an observer two meetings of BTPA’s full Committee and its 2013 Stakeholder Workshop as well as a meeting of the Rail Delivery Group’s Police and Security Sub-Group. He also spent an afternoon with the BTP, observing their arrangements for managing and overseeing football policing on a day with a full League programme and talking to officers with responsibility for the Force’s counter-terrorism measures and response capability.

While the review was considered to be within the capacity of a single reviewer, it was recognised that there would be significant interest in the conclusions and that this justified using the approach under which the conduct of the review and its conclusions are overseen and moderated by a Challenge Group. Membership of the Group was determined by DfT and included both industry and passenger interests as well as a DfT Non-Executive Director and DfT senior civil servant drawn from outside the Rail Group. A full list of the Group’s membership is set out in Annex B.

## **Railway Policing – history and background**

Although the BTPA is a relatively recent creation, the history of police forces with a specific focus on combating crime on the railway goes back to the earliest days of the railway network. It was not, however, until the nationalisation of the railways that the British Transport Commission Act 1949 created a single national force by combining the existing forces inherited from the pre-nationalisation companies. The British Transport Commission Police Force thus established also had responsibility for various non-railway transport systems including canals, some docks and London buses. The non-railway aspects of its work have fallen away over time. For much of their history, railway police were reliant for their powers of arrest and other actions on common law. BTP did not have jurisdiction on a statutory basis until the enactment of the Transport Police (Jurisdiction) Act 1994 which was subsequently amended by the 2003 Act already referred to under which BTPA was created. In that period between 1994 and 2003, oversight of the BTP and arrangements for its funding were overseen first by the residual British Railways Board and briefly (from 2001-04) by a Police Committee located in the now-defunct Strategic Rail Authority.

Outside the railway, almost all policing in the UK is carried out by 43 local police forces each covering a "police area" and were overseen until 2012 by independent Police Authorities (England and Wales) or local authority or joint Police Board (Scotland). Following the introduction of Police and Crime Commissioners (PCCs) in November 2012 the police forces in England and Wales no longer have a Police Authority and this work is done by the PCCs, who are elected every four years. The exception is the Metropolitan Police which is overseen by the Mayor's Office for Policing and Crime.

Amongst interviewees with long experience of railway policing there is agreement that the Police Committee which managed the financing arrangements up to 2004 had kept a tight rein on BTP funding. Notwithstanding some lingering resentment at the scale of budget increases in the early years of BTPA, there is also general agreement among those who were around at the time that the Force was not in a good place in 2003-04. There is evidence that improvements were under way by then, for example a report of 2003 by Her Majesty's Inspectorate of Constabulary (HMIC) on an inspection of the Force which concluded that: "...the Force has moved forward on many fronts since last subject of inspection. Vivid leadership and tougher accountability for performance is evident. So too is the marked improvement in absence management, dialogue with the industry and recruitment, leading to higher levels of available policing." Elsewhere in the same Report a comment was made that "during four Inspections carried out over nine years, HM Inspector has seen a steady improvement in relationships between the Force and the Train Operating Companies and others within the industry that it serves." It did, however, balance that observation with a statement that "this sense of greater harmony is sadly not reflected in the levels of financial support train operators are inclined to



provide”, the closest it came to hinting that BTP had been kept short of the levels of funding necessary to enable it to become fully effective.

That commentary supports the view of a number of stakeholders that the Force which the BTPA took over in 2004 was underfunded, low on morale and struggling to deliver services in an effective manner. The series of significant funding increases which took place in the Authority’s early years (mainly between 2005 and 2008) are viewed as having been justified in helping the Force to attain higher standards and a greater ability to combat crime and deal with disruption. Any extant resentment relates less to the actual levels of costs and more to perceived inadequacy of consultation with the funding bodies and insufficient prior notice of changes to rail companies’ contributions. Certainly the BTP budget and the level of industry contributions rose substantially in the early years of BTPA’s existence. Table 1 sets out the costs of BTP’s statutory policing activity on a year-by-year basis from 2004-05 – 2013-14 (actual) and Table 2 covers the plans for 2014-15 – 2017-18; both tables include figures (on the same basis) for BTPA.

As already mentioned, the BTP has been extensively reviewed over time, not least in the past 10 years. One such review by DfT took place in 2004 and (despite the fact that the new arrangements for BTP to be overseen by BTPA had become enshrined in statute only the year before and were about to be implemented) looked again at the justification for a national force devoted to railway policing. It concluded that the case for retaining BTP was robust. It should be noted that the majority of countries with significant rail networks have specialist railway police forces, although a few do not.

**Table 1**

**BTP/BTPA Annual Costs (£m) from BTPA creation to current year**

	2004-05	05-06	06-07	07-08	08-09	09-10	10-11
<b>BTP</b>	£127.9	£141.6	£169.0	£187.7	£194.6	£201.4	£204.1
<b>BTPA</b>	N/A	£1.5	£1.7	£1.6	£1.8	£3.3*	£1.9

  

	11-12	12-13	13-14
	£202.2	£202.2	£204.0
	£1.7	£1.7	£1.9

\*One-off higher figure due to legal costs in respect of challenge to charging model.

**Table 2**

**BTP/BTPA budgets (£m) from the Medium Term Financial Plan (provisional)**

	14-15	15-16	16-17	17-18
<b>BTP</b>	£207.5	£212.2	£218.7	£223.0

<b>BTPA</b>	£1.9	£2.0	£2.0	£2.1
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## The railway context

The decision to confer statutory jurisdiction on the BTP in 1994 was triggered by the privatisation of GB's rail network which was also being implemented by statute at that time. Arrangements for oversight of the Force, including the creation of BTPA, were further-revised in 2003 based on the experience of the first 8 years of privatisation, including the creation of Network Rail in succession to Railtrack as the railway's infrastructure owner and manager. From the outset of privatisation the principle had been adopted of collecting the costs of railway policing from the various railway companies making use of the BTP's services.

Under the charging formula devised and applied by the Authority, the largest contribution to policing costs is made by Network Rail, as would be expected in view of its responsibilities stretching across the whole of the GB network. The remaining costs are shared by the various passenger and freight companies. The costs of policing are not large compared with other costs arising from the operation of railway services, but nonetheless have the potential to be contentious within the realm of railway finances, where TOCs are aiming to deliver profits under the system of franchising managed by DfT. While police costs are built into the franchising financial model at the point of bidding, wrong assumptions about their future movement and/or unexpected increases can impact significantly on TOC profitability.

Use of railway services has expanded substantially in the last 20 years, as have the costs of running the railway and maintaining its infrastructure. In a period of economic downturn the Government has restricted the share of railway costs falling to the taxpayer and has approved fare increases at above the rate of inflation, a strategy unpopular with passengers although passenger numbers have continued to rise. Concern about the rapid escalation in the cost of the railway led to a major review commissioned jointly by DfT and the Office of the Rail Regulator (ORR) which led to the report "Realising the Potential of GB Rail" (The McNulty Report). One of the conclusions of this report, published in 2011, was that a concerted effort was needed across the railway to halt and reverse the trend of costs escalation. A "Rail Value for Money Study" of BTP was undertaken as part of McNulty and is referred to again later in this report.

The funding arrangements for the railway are complex and this report will not seek to describe them in any detail. A key event in the railway's "financial calendar" is the quinquennial determination by ORR of Network Rail's outputs and funding for the next "Control Period". The determination does not assign a budget for the provision of railway services but sets out what outputs should be delivered in the light of what various funding bodies across England, Wales and Scotland have indicated are likely to be available.

The Final Determination for Control Period 5 (2014-2019) was published on 31 October 2013. It contains a myriad of assumptions about future trends in costs, railway usage etc, one among these being the year-on-year size of Network Rail's contribution to the costs of policing. The assumption is that these contributions will fall in cash terms over the 5-year period which carries the implication that the total costs of railway policing will also fall as there would be no reason to assume that the proportion of BTP's costs contributed by Network Rail would change significantly. This is obviously at variance with BTPA's assumption as set out in Table 2, which assume small year-on-year increases in the budget over much the same period. The costs of BTP to Network Rail are of course a relatively small proportion of the company's total expenditure and the ORR's assumptions do not override its obligation to meet the share of costs actually determined by the Authority.

## **The Review**

The Cabinet Office has identified two principal aims for Triennial Reviews:

- To provide robust challenge to the continuing need for individual NDPBs – both their functions and their form (stage one); and
- Where it is agreed that a particular body should remain as an NDPB, to review the control and governance arrangements in place to ensure that the public body is complying with recognised principles of good corporate governance (stage two).

DfT's decision that this review should go wider than the basic requirements of a Triennial Review led to some additional terms of reference and in turn to the separation of the review into two-parts. The first part of the review, reported on here, has looked at the two principal aims defined by the Cabinet Office. The second part is looking at how the Authority is carrying out its role and whether improvements are desirable. The acquisition of views and evidence for the review has been managed where practicable as a single exercise, allowing emerging conclusions on the part 2 issues to inform as necessary the conclusions in part 1.

## **Stage 1 – the continuing need for BTPA's functions**

The functions of BTPA were briefly summarised in the Introduction. In more detail the main functions are as follows:

- To appoint the most senior cadre of BTP officers, including the Chief Constable and Deputy Chief Constable;
- To act as the legal employer of all BTP staff;
- To enter into police services agreements (PSAs) with companies providing for the provision of policing by the BTP and for the companies to make payments for policing services;
- To establish a charging regime under which the sums recovered through PSAs equate as nearly as possible to the costs of the Force

- and the Authority and through which each company makes a contribution commensurate with the services supplied to it;
- To set objectives for the policing of the railway before the beginning of each financial year;
  - To publish a plan before the beginning of each financial year setting out the arrangements proposed for policing during the year;
  - To publish a plan every three years setting out medium-term and long-term strategies for railway policing;
  - To publish an annual report on policing of the railways.

It may seem superficially that the justification for retaining a body with these functions is wholly dependent on the continuing existence of a national force for railway policing. The review, however, does not conclude that to be the case for at least some of the functions listed; that issue is looked at further on in this section. However, the retention or not of the BTP is clearly a matter of some relevance to the future of the BTPA and the exact functions required of it. It is hardly a new issue. The case for retaining a national police force for the railway has been looked at in a succession of earlier reviews; during the course of this review the evidence considered has included reports on BTP following reviews carried out in 2002, 2004 and 2006, every one of which considered the case for abolishing the Force and assigning its duties across local forces, and all of which found that there was not a case for doing so. The disbanding of the Force was also included as one of the options for further consideration in the Value for Money study carried out in 2011 as part of the McNulty Review mentioned above.

The future of BTP was therefore something on which most of those interviewed in the course of this review were asked to comment. Despite reservations expressed by some interviewees about such matters as the budget for, planning of and scope of BTP's activity, not one of them suggested that breaking up BTP and assigning its main functions to Home Office Forces would be an improvement on the current arrangement. Indeed they were almost unanimous in saying the outcome of such a decision would be that disruptions (eg incidents adversely affecting the operation of trains) requiring police attendance would take significantly longer on average to deal with and inflict additional economic penalties on the industry.

What BTP offers, and is in practical terms their unique selling point, is an understanding of the railway, railway operations and the type of incidents they most regularly attend which enables them to work with train operators to minimise closures of lines and/or facilities, while not compromising their ability to make a proper assessment of the incident itself and any possible suspicious circumstances. Local forces can be expected to take longer to take stock of the situation, eliminate the presence of criminality and facilitate the resumption of services. They have irregular need to attend incidents on the railway and far less contact with railway staff, and although this would obviously change if the BTP did not exist, most of them would still not have to attend incidents often enough to stand much chance of matching BTP's techniques and expertise.

According to BTP, statistics for delays attributable to incidents on the railway attended by the Police indicate that, on average, Home Office forces take 50% longer to hand the railway back after a fatality or attempted suicide. This assessment was made for incidents in 2011-12 and based on figures maintained by Network Rail for all reported incidents of disruption.

Although BTP's ability to deal with disruptive incidents more quickly than local forces is widely acknowledged, some commentators have not been convinced that this justifies retaining a force with a full range of policing functions; thus for example it is argued that BTP could continue to be the preferred responder to fatalities on the line, cable theft etc but such functions as the investigation of serious crimes could be left to local forces. The Value for Money Study (the AECOM report) previously referred to suggested this (amongst other ways) of reducing BTP costs. In practice BTP already hands over to local forces some serious crimes committed on railway property. One of the objections to taking specific functions out of BTP is that if it had a much more limited scope than at present, it would offer a more limited – and thus less attractive – career proposition to prospective recruits. This might put into reverse its ability in recent years to use recruitment as one means of improving its performance and credibility.

Another issue which might call into question the case for a national force is that most of the companies which fund their work and receive their services operate in a limited geographical area. There is no question that the BTP faces a major challenge as a national force in establishing effective ways of communicating and collaborating with railway companies at local level given the complex geography of railway franchises. However, it is difficult to have confidence that such problems would be reduced if (in the event BTP no longer existed) TOCs were instead seeking to develop operational liaisons with local Forces. The geographical areas of local forces would still frequently fail to coincide with those of the railway, particularly in the case of franchises operating over long-distance routes. It is difficult to see how the national plans and strategies which are essential for the delivery of effective policing across a national network could be readily developed where 43 different forces were involved in delivering the service. The review therefore has not found any reason to dissent from the conclusion of previous reviews that a national police force for the railway should be retained.

Neither, however, does the review conclude that the need for BTP's functions would only continue to exist if BTP itself remained as a national force for the railway. Admittedly, were there to be no BTP, some of the Authority's functions would not be needed, for example the appointment of BTP senior officers and the wider employer responsibilities. However, the arrangement under which the railway industry meets the costs of BTP reflects the principle of "the user pays" under which the cost of policing of the railway would be met by the industry regardless of whether or not delivered by a single force. It is reasonable therefore to assume that a process for allocating the costs of such policing, and collecting contributions, would continue to be required in the absence of a national force, and would probably become substantially more complex.

Nor does it appear feasible that the requirement for railway policing services and industry expectations of police performance could simply be left to a myriad of different relationships between railway companies and local forces, implying that a body would still be needed to provide overarching planning and co-ordination even if a national force no longer existed. Of the BTPA functions listed above, the first two would clearly disappear in the absence of the BTP. Of the remaining functions relating to setting charges, setting objectives, planning and reporting it seems reasonable to conclude that, either in whole, or with appropriate modifications, they would survive and an organisation would need to be appointed to take ownership, either BTPA or something very similar.

It is a firm conclusion of the review that the functions currently carried out by the Authority will continue to have to be discharged for the foreseeable future by it or by a body with a similar remit. This will be more clearly the case for as long as there is a national police force for the railway, but some of the existing functions will be needed even in the absence of a national force.

## **Could the Functions be delivered by a Body other than an NDPB?**

Before looking at specific options for alternative forms of delivery, it is helpful to assess which issues are relevant in determining how the functions assigned to BTPA should be carried out. Some of these issues are examined in more detail in Stage 2 of this Review, which examines the adequacy of BTPA's corporate governance; this section of the report looks at why particular elements of that governance are necessary to enable BTPA to deliver what it was put in place to achieve.

Like most NDPBs, BTPA exists because the actions, advice or decisions required of it need to be taken or provided in the public interest. The decision in 2003 of the then government to devolve the relevant functions to an NDPB appear to have been taken so that BTPA could be seen to be acting with the required degree of independence, albeit in accordance with the limits set out in the legislation. The members of the Committee or Board of an NDPB will usually be expected to have knowledge, experience or expertise relevant to its work and the decisions it needs to take. Appointments to the body need to ensure that experience and expertise will be available, but those appointments, and the way in which the body conducts itself, must also demonstrate recognition of the accountability which exists towards those affected by its decisions.

Defining what "accountability" is and how it can be achieved for a body such as BTPA is not straightforward. Ultimately it is the rail passenger who looks to the BTP to ensure a secure and crime-free environment for his or her travel, and pays a fare which, notionally at least, goes in part towards paying for the Force. Financial contributions towards BTP costs, however, are collected from rail companies and directly impact their profit margins, meaning that the

companies tend to see themselves as the main “customer” for railway policing. Passenger TOCs also take the view that the need (for commercial reasons) for passengers to feel persuaded that rail travel is safe, and that disruptions requiring a police presence will be minimised, leads to their own interests and those of fare-paying customers substantially overlapping.

There is, too, a wider public interest in railway policing. The large amounts of subsidy which flow into the railway by one route or another give taxpayers and council tax payers, as well as central and local government, a legitimate interest in the efficiency and effectiveness of railway policing. Moreover the ability of the railway to operate safely and reliably, and the contribution this makes to the economy and to public confidence in a key service, represent a benefit for society as a whole not just that section of it which travels by train.

These considerations can be assumed to have influenced the provisions in the Act which define (in some detail) the balance of experience and knowledge which should be present on the BTPA Board. Annex C sets out the current composition of the Full BTPA Committee. The largest share of the appointments, but short of a majority share, is reserved for people who have experience of providing railway services. Views were expressed by various interviewees both about the balance of representation provided for in the Act and about the exact type of experience which appointees would need to offer in order to perform fully effectively as Authority members.

## **The Three Tests**

Moving on from the analysis in the preceding section to the tests to which Triennial Review guidance requires all NDPBs to be subjected, the position for BTPA is summarised in the table below.

<b><u>Test</u></b>	<b><u>Remarks</u></b>
<b>Technical function needing external expertise</b>	The Act establishing the Authority defines a number of areas of knowledge and expertise that members should offer in order to justify appointment. These are not strictly “technical” but reflect the need for members collectively to offer various types of expertise if the range of functions assigned to the Authority is to be adequately carried out. The decisions which the Authority is called upon to make would lack credibility if its membership did not possess expertise in policing, railway service delivery and the needs and concerns of passengers. The review concludes that this test is met.
<b>Political impartiality</b>	The ownership of the railway and whether it should be in private hands remains at least potentially a political issue even though it has not recently been in the mainstream of political

debate. The review did not identify any significant political differences over either the existence of a specialist police force for the railway or the principle of the “user pays” for police services for as long as the railway is in private sector ownership. The review concludes that political impartiality is not the primary reason for placing BTPA’s functions in an NDPB, but that certain other options for delivery, such as bringing the functions into central government, could lead to this test assuming greater significance.

**Establishment of facts and figures with integrity**

It is an important function of the Authority to determine a budget for railway policing which reflects the reasonable cost of providing a service which meets rail companies’ and public expectations. It has an equally important responsibility for establishing a charging mechanism by which the contributions which railway companies make to the cost of BTP are calculated fairly and transparently. A large amount of data is collected and used in the calculation of charges. Similar data collection and interpretation requirements arise in respect of the Authority’s responsibility for the pay and pension arrangements of the BTP. The review concludes that this test is clearly met.

## **Options for the form of the BTPA**

In looking at delivery options for the Authority’s functions it is necessary to consider, by reference to the three tests where relevant, whether the effectiveness of the BTPA in carrying out its role currently indicates that outcomes could be improved if the functions were performed by a different type of body.

### **Move the functions to the Department**

The comprehensive review of the railway described in the McNulty Report (“Realising the Potential of GB Rail”) has already been referred to. Among its recommendations was that a clearer definition should be agreed for the respective roles of Government and industry. It proposed the principle that: “the Government should determine **what** the rail industry should deliver and the industry should determine **how** this is to be achieved. Accordingly the Government should decide the overall policy objective, the amount of funding available, and the outcomes and objectives it is seeking. It is for the industry (and the regulator) to deliver within those parameters.” There seems to be general acceptance of this division of roles, so there is nothing in what



McNulty said which supports taking back into the Department the relatively detailed functions currently carried out by the BTPA.

BTPA satisfies the tests both of the requirement for expertise and the need to establish facts and figures with integrity. Bringing the functions within government might risk a loss of confidence in the integrity and impartiality with which decisions were being taken. The perception of those qualities might be preserved if a group of appointees similar to those who constitute the Authority at present were to be established as a departmental committee operating with similar arrangements for ensuring that their work was carried out with the transparency displayed by BTPA. The main difference would be servicing of the Committee by departmental civil servants rather than the Board's own staff as at present. The Committee would be responsible, as now, for ensuring that it was applying the required specialized knowledge and that the officials supporting it were carrying out their work, including establishing facts and figures, with the necessary rigour.

It is not readily apparent what would be gained by this approach other than a few, probably minor, cost-savings liable to be more than offset by the costs of closing down the Authority and carrying through the legislation necessary to terminating its role. Moreover practical difficulties could be created by this option, particularly as the department would have to take over the function of being the employer of BTP staff, which would seem likely to pose a number of legal and practical challenges.

Those stakeholders who had views on this option tended to be influenced mainly by their recollections of the Police Committee, mentioned above, which existed within the Strategic Rail Authority and is not regarded as a happy precedent.

This option is not recommended.

### **Delivery by new executive agency**

The effect of taking the Authority's functions into an executive agency is similar to taking them into the Department in that an agency does not have the same independence from Ministerial oversight as an NDPB does. If there was a case for taking the functions back into Government, then assigning them to an executive agency might need to be considered as an alternative approach with a somewhat similar outcome.

Stakeholders, did not have strong views on this option. The problems attendant on taking over BTPA's employer functions mentioned in the review of the previous option also seem likely to arise with an Executive Agency. There would be costs in terminating the existence of one body and creating a new one to do essentially the same things, and it is not clear what benefits would justify incurring those costs. The option is not recommended.

## **Move to Voluntary Sector**

This sector takes many forms, including the charitable sector, non-charitable, not-for-profit organizations and community businesses. No evidence was presented to the review which would suggest that, within the wide range of organizations that populate the sector, is one which could sensibly incorporate the objectives of BTPA within its scope or purpose. Similarly it is not clear how the need for relevant expertise as demanded by one of the three tests would be delivered in this option, which seems not to be feasible and is not recommended.

## **Delivery by Local Authorities**

Given the recommendation already made that the BTP should be retained as a national force, there need no case to be made for the option of handing oversight of the Force to local authorities.

## **An approach modeled on Police and Crime Commissioners**

While a localised approach to governance cannot be applied to a national service, the arrangements for providing oversight through an appointed body such as BTPA has been contrasted by some of those consulted in the review with the arrangements introduced in 2012 for local police forces in England and Wales. The review has therefore considered the implications for railway policing of the arrangements for local police oversight and accountability introduced in England and Wales in 2012. Police and Crime Commissioners are elected representatives charged with securing efficient and effective policing of each police area. Those core functions, together with that of holding the Chief Constable to account for the delivery of the police and crime plan, are similar to those of BTPA for the BTP. Commissioners are also charged with holding the police fund (from which all policing of the area is financed) and for the appointment, suspension and dismissal of the Chief Constable. They reflect the view of the Coalition Government that the police should be made more accountable through oversight by a directly elected individual subject to strict checks and balances by locally elected representatives. In principle it could be argued that the accountability of BTP should be no different from that of local forces, which themselves quite often attend incidents on the railway.

Were the BTP to be disbanded and its responsibilities assigned to local forces one of the consequences would be to bring railway policing within the democratic arrangements for local policing embodied by the PCCs. This could be seen as an argument for going down the path of abolition of the national force. However, the case for retaining BTP has already been set out in this report, and the review does not conclude that the merits of elected Commissioners are sufficient, in the particular context of railway policing, to sway the arguments on retention of BTP and BTPA.

Assuming then that the BTP is retained, democratic accountability could only be applied by instituting an election for a Commissioner who would operate on a national basis for railway policing. However, establishing a constituency of people who would be entitled to vote in any such election would appear, if not impossible, certainly extremely challenging. One approach would be to determine that those entitled to vote need not be restricted to regular railway travellers since there is a wide public interest in effective railway policing, and part of the funding which supports its delivery is contributed by taxpayers rather than fare-payers. However, it seems very unlikely that the cost of a national election for a Railway Police Commissioner would be viewed as good value for money. Nor is BTP unique as a national, specialist force; the Ministry of Defence Police Force operates on a similar basis, albeit with rather different functions and priorities.

This option is not seen as desirable or practicable for railway policing.

### **Private sector delivery**

Consideration was given by the review to a number of ways in which the private sector could be either centrally-involved in the delivery of the Authority's role, or at least given influence over-and-above what is currently available to it through the way in which places on the Authority are reserved for people with rail industry experience.

There are precedents for what are seen as public interest outcomes being placed in the hands of private sector bodies, but this is normally where some sort of market exists for the activity involved (eg the Royal Mail) or where the body will be able to deliver services more efficiently and effectively than a public sector counterpart. The statutory duty of a financial nature placed on the BTPA is to establish a costed plan for the statutory services of the BTP and collect from the rail companies receiving those services sums which aggregate as closely as possible to the costs actually incurred by the Force and the Authority. The Act could be amended, to allow a private sector BTPA to collect sums from the rail industry incorporating a "premium" over the amounts required to fund the policing plan and which it could retain as a reward for its efforts. However, unless such a body could very clearly demonstrate that (compared with the current arrangement) its stewardship was bringing about a reduction in BTP's and its own costs equal to or greater than the sum it was retaining it would appear to the industry that it was simply being asked to pay more than it had been before for the same service.

An alternative approach of a less radical nature could involve an increase in the influence of the private sector over the conduct of BTPA's role and the decisions it makes, for example by rebalancing the composition of the membership while otherwise leaving the statutory arrangements broadly as they are. It has been agreed that Part 2 of the review should take a closer look at how (and how effectively) the rail industry members of the Authority influence the way in which it operates. This will include an assessment of the case for "rebalancing".

It must, however, be said that any option for increasing the influence of the private sector over the conduct of the BTPA's business would have to take account of major sensitivities surrounding the way in which the role and funding of a large police force are overseen. It is clearly right that a number of members of the oversight body should at any time be drawn from the rail industry (and hence the private sector). However, the review has confirmed a wide expectation (and an acceptance within the industry) that the way in which policing of the railway is overseen should ensure that it is always delivered in the public interest. It is obvious that the statutory arrangements for BTP and BTPA set up by the 2003 Act were designed to deliver on such expectations, leading to provisions in the Act which carefully apportion membership of the Authority so that the interests of passengers would be strongly represented, as well as those of employees and of Scotland and Wales. The Act also gives the Secretary of State powers to give directions on a range of issues which, although not used to date, are a reflection of the view of Parliament at the time that where policing is concerned, the possibility of Ministerial intervention should remain in play.

Although the majority of interviewees during the review were from private sector organizations, no support emerged for placing responsibility for the Authority's functions into the hands of a private sector organisation. Moving to a private sector delivery model would require significant changes in the controlling statute since the private sector would be unlikely to have any interest in involvement with an organization subject to prescriptive measures such as those governing the composition of the membership and the possibility of Secretary of State intervention. It seems highly probable that removing those safeguards would be controversial and that the cost and effort of making the necessary legislative changes would not be justified. The option is not recommended.

### **Merge with another body**

As currently constituted, the Authority has a clear and specific focus on policing of the railway and of the Force which carries out those duties. Its key, defining component is the group of non-Executives which form its Committee, who are appointed on the basis of the knowledge and expertise they bring to the functions it performs. For as long as the BTP exists in its current form it will be difficult to see how the Authority could be suitable for a merger with another public body since no such body has the same requirements for experience and expertise. Even if such a merger was to be with a public body which also has oversight of a police force, a possibility considered by the review, it would remain the case that wide differences in the roles of other forces, and hence the experience and knowledge required of members, would make such a proposal impracticable.

However, because of the nature of its role and its responsibility for a specific organisation (BTP), changes in the nature and responsibilities of BTP would necessarily give rise to changes, possibly of a radical nature, to the Authority itself. The weakness perceived by the review of the case for disbanding the BTP has already been set out, but there is nothing new in the idea that its role

could be expanded to take on policing roles in the transport sphere currently carried out by other forces. Options of that kind were looked at in 2010, and not pursued at the time, but it became clear in the course of this review that they could be revived.

Restructuring of that kind raises significant issues which go well beyond the scope of this review. In the event of any restructuring of police services, the implications for bodies providing oversight and accountability for affected services would need to be addressed. At this stage, however, there is no clear opportunity for merger with another body and no current case for pursuing this option.

## **Maintain the status quo**

### **Effectiveness of function delivery**

There is evidence from a range of stakeholders that some concerns exist about the way in which BTPA has discharged its functions. As set out in the earlier “History and Background” section of this report, and illustrated by the figures in Table 1, the early years of the Authority were marked by sharp year-on-year increases in BTP’s budget, a period of history which has not been forgotten by those who were footing the bill for the increases. The trend of significant annual increases had come to an end by 2008, but this did not prevent one industry insider commenting that the BTP (and by implication the Authority) “did not react to the recession when everyone else was under huge pressure”.

There seems little doubt that the Authority was acting in its early existence on a clear perception that BTP would require substantially more funding if it was going to raise its performance to the levels that rail companies and passengers could reasonably expect. Looking back, not many industry stakeholders disagree with that in principle, but there remains a feeling that the increases in that period were too steep and that levels of communication and consultation by the Authority on budgetary matters left a lot to be desired. Even though the era of sharp annual increases is several years in the past, companies feel concern about the lack of a guarantee that the recent period of moderate (or no) year-on-year increases will be sustained.

These concerns have been exacerbated by the way in which the industry consider that Police Service Agreements (PSAs) have been imposed. PSAs constitute a form of contract between rail companies and BTPA but are perceived by the companies to be largely one-sided in that they are obliged to make financial contributions to the BTP but are offered in return very little that is specific regarding the resources that will be available to police “their” areas of the network.

DfT’s awareness of the issues described above led them to include within the Triennial Review terms of reference an additional set of terms seeking a considered view about the rail industry’s concerns and how they might be more effectively addressed. Stakeholder interviews and other evidence

collection have given significant attention to those wider terms of reference, and it is intended that the second part of the report on the review will set out conclusions in some detail. It will give attention to each of the issues raised by the ToRs, but the evidence so far considered suggests that the really key issues can be defined as follows:

**How can the planning and budgeting activities of BTPA be appropriately influenced by an understanding of the impact of BTP costs on the rail industry?**

The second part of the review will look at how far the BTPA members with knowledge and experience of operating rail services bear the main responsibility for this, how effectively they have been able to deliver on industry expectations, and whether there is a need for any change to the balance of the Authority and arrangements for appointing members to it. Consideration of those issues brings with it a need to look at whether views of the rail industry about the role of “their” members are wholly realistic and whether there should be more focus on alternative ways of influencing BTPA’s approach. That in turn will necessitate an assessment of the effectiveness of BTPA consultation arrangements, options for change, and improving the ability of the industry to respond to consultation opportunities.

**Are the costs of BTP/BTPA reasonable in relation to their functions? Are all functions necessary, and have efficiency opportunities been adequately exploited?**

The charging mechanism applied by BTPA determines the share of costs paid by each rail company and was extensively reviewed, including undergoing judicial review, before being adopted in its current form. There is no obvious enthusiasm for taking the charging arrangements back to the drawing board. However, individual contributions obviously depend also on the totality of cost to be recovered, which is now much larger than when BTPA was created some 10 years ago. There is a need to consider how confident companies can be about the future trend in costs which may turn out to vary from (for example) assumptions built into franchise bids. The review has seen evidence to suggest that the Authority and the Force have been active in pursuing efficiency savings and that there is a clear commitment to continuation of the drive to hold down costs. Part 2 of the review will examine that commitment in more detail and will also consider how the industry’s concern about excessive cost can be balanced with the expectations of passengers and the public about the capacity of the BTP to deliver a safe and secure traveling environment.

**Is the scope of BTP too widely drawn leading to the railway paying for more than it should?**

Some stakeholders think that the BTP has taken on functions which are not “core” to the policing of the railway and which it could cease to

deliver without causing BTP to fail to meet its statutory obligations. The AECOM report previously referred to has put forward options for reducing functions and devolving more to local forces. Part 2 of the report will comment the case for following up those options, and whether the case for claiming that the sums to be recovered from the rail industry would thereby be reduced is robust.

**What more can or should be done to show how the police services delivered to train operators by BTP (outputs) relate to the contributions they have made (inputs)?**

Part 2 will review of the validity of arguments that senior BTP officers must reserve the right to deploy resources according to their judgment of operational needs which vary from day to day, and that this precludes them from defining at a significant level of detail the service levels that individual companies can expect to receive. This debate between the industry and the Authority has crystalised recently around the form and content of police service agreements and has provided a very clear focus for rail industry dissatisfaction; the review will offer comment on that debate.

Two points are worth making here if they have not become clear already:

- i) The very nature of the Authority's role, which contains a significant element of "holding the ring" where different stakeholders have different views about what the outcomes of its work should be, makes it unlikely that the Authority would ever secure high satisfaction ratings across-the-board.
- ii) Few, if any, of the critics have suggested that outcomes would be improved from their point of view by creating a different vehicle for delivery.

Any organisation which has to implement the statutory requirement for companies to contribute towards BTP's costs will find the role a challenging one. However justified is the case for the rail industry to pay for railway policing, rail companies cannot be expected to accede enthusiastically to the consequent financial demands. In talking to their representatives, it was possible to identify some ambivalence in their approach, with on the one hand a strong wish to retain the BTP with its ability to confront threats to efficient running of trains caused by (eg) suicides and metal theft and on the other hand some resentment at the costs they incur and the way in which the payments are taken from them.

Although the total cost recovered from companies by BTPA is an important issue for some, there is also a significant number of industry stakeholders who do not think that the current and future budgeted costs of the Force are particularly unreasonable. This stems partly from the recognition that the Force has a key role in dealing effectively with disruption to train services that can lead directly to loss of revenue. That view generally comes, however, with the key proviso that the costs in the Medium Term Financial Plan must be

adhered to since unheralded increases in cost are particularly unwelcome in the context of the franchising arrangements for TOCs and the damaging impact on profit of unexpected financial demands.

It should be noted that the Force and the Authority – one or other and sometimes both – have been reviewed in the past 12 years or so with remarkable frequency. Some of these reviews have taken the form of inspections carried out by HMIC as part of its regular programme, but others have been of an ad hoc nature, normally including an assessment of the continuing need for BTP, and invariably concluding that there is justification for the continued existence of a specialist police force for the railway.

This review concludes that here is a real risk that the impact on BTP and BTPA of the relentless focus on them and on the case for a specialist railway police force is a sapping of their confidence about their continuing existence and leads to an over-emphasis on work focused on proving their value and justifying that existence. In general, their stakeholders do not question the need for a specialist force and would probably rather see a shift in focus to work which would enable an improved quality of debate about costs and service levels. There is a recognition that the Authority has improved its performance in recent years and that under its stewardship the BTP, too, has become a higher-performing Force.

Where improvements are still seen to be required, there appears to be a consensus that these should be looked for through further improvements to the performance of BTPA in its existing form. Leadership, particularly by the Chair, and also to some extent by the Chief Executive, is seen as a critically important factor, and there have been many favourable comments about the performance of the present incumbents.

Stakeholders will await the conclusions of Part 2 of the review with interest since it will address their key concerns about the operation of the Authority. The debate about cost is a lively one with a range of differing views, and Part 2 will seek to provide some additional clarity. However, in looking at the key “Triennial” questions, the review does not conclude that in delivering its financial functions the Authority has got anything so obviously wrong as to cast doubt on its fitness for purpose. Moreover, there is likely to be widespread support for conclusions supporting the retention of BTPA in broadly its current form, offering some confidence that those conclusions will be seen as remaining valid even if Part 2 suggests specific improvements to the way that the Authority operates.

Part 2 of the report, addressing the additional terms of reference, is therefore to be delivered separately, when further work, involving a limited amount of additional evidence, has been carried out. The Triennial Review reported on here does not consider that there is any case for suggesting that BTPA’s functions should be carried out by a different type of body. It considers that the BTP and BTPA will benefit from an early confirmation of that view and therefore recommends that the Authority should continue to exist as a non-departmental public body.



Accordingly, there is a need for a Stage 2 of this report, which follows, containing a comprehensive assessment of the Authority's corporate governance.

## Stage 2: Introduction

This section sets out the findings of Stage 2 of the review. This Stage of a Triennial Review examines compliance with established principles of good corporate governance, and include scrutiny of requirements on openness, transparency and accountability. The relationship between the NDPB and the parent Department is also examined. The assessment of BTPA is summarised below, and set out in detail in Annex D. It covers the following areas:

- statutory accountability, such as compliance with relevant legal requirements and best practice;
- accountability for public money, including appropriate arrangements to ensure that public funds are properly safeguarded and deliver value for money; public money is used economically, efficiently and effectively and for the purposes expected;
- Ministerial accountability, including, amongst other things, ensuring that Ministers and the department exercise appropriate scrutiny;
- establishing clear roles for the Sponsoring Department, the NDPB Board and its members that ensure robust governance arrangements and high performance including arrangements for making decisions on capacity and capability;
- ensuring that effective systems of financial management and internal control are in place;
- ensuring that the public body is open, transparent, accountable and responsive, e.g. clear and effective channels of communication with stakeholders; and
- ensuring that the board and staff work to the highest personal and professional standards.

These are considered in turn below.

## Stage 2: Assessment

The evidence offered to the review and the tests of compliance carried out by it broadly confirm that the Authority addresses governance issues with due rigour, based on a comprehensive Code of Governance, the latest version of which was put in place in March 2013. Some improvements are required, and instances were found where practical arrangements were not in place to enable the requirements of the Code to be properly implemented. The detailed assessment against individual requirements is recorded in Annex E, and the findings are summarised below under the main headings.

## **Statutory Accountability, Accountability for Public Money and Ministerial Accountability**

### **Broadly satisfactory – some improvements needed**

Looking first at the accountability for public money, while the Authority's income derives from private sector companies, it is utilized by public bodies (the Police Force and the Authority itself) and is public money for purposes of accountability. Stage 1 of this report has referred to the concerns of some stakeholders about the size of the BTP budget and efficiency of the Force, and the further (Part 2) report on the issues raised by the additional terms of reference for the review will look further at those. Budget-setting brings into play matters of judgment on which there are bound to be (and will no doubt continue to be) legitimate differences of view. This report has examined the way in which the Authority meets its duty of ensuring public funds are managed with propriety and regularity. It concludes that the primary requirements of good governance - that the structures and processes are suitably comprehensive and that those people appointed to take leading roles in the process understand the demands of those roles and are competent to carry them out - are met.

This report has certain recommendations for improvement in non-financial areas of accountability. These are set out in the detailed assessment in Annex E and more briefly summarised below:.

- Clarity should be established about the application to BTPA of the Public Records Acts.
- The Authority's Framework Document should clearly state the basis on which regular meetings between the Chair and Ministers are expected to take place and work with the sponsorship unit to ensure these happen.

## **Role of the Sponsoring Department**

### **Broadly compliant with some areas where change is recommended**

The review had extensive contact with the departmental sponsorship team and there was plentiful evidence that they had regular contact with the Authority and were well-informed on Authority issues; the Framework Document carries a definition of the respective roles and relationships. However, more could be done to embed the appropriate culture and ensure its adoption by those taking on the role in future. In summary, the review's recommendations are:

- A clear, written definition of the sponsorship role should be agreed and put in place.
- The sponsorship unit should liaise with the department's Management Board secretariat to ensure that the Board reviews the Authority's performance at least annually.

## **Role of the BTPA Chair, Governing Board and Chief Executive Officer**

### **Largely compliant**

There is only one recommendation for improvement in this area:

- The requirement for appraising the performance of the Chair should be met by the department and not by the vice-Chair as at present. This could be carried out by either the Minister or a senior official.

## **Effective Financial Management**

### **Largely compliant**

The review has very few reservations about the basic financial management ability of the Authority in which its Audit and Risk Committee plays a key role. There is one recommendation:

- The format of the delegation letter issued to the Authority Chief Executive by the Department needs revision to reflect the status of the organisation, the way it raises and utilises funding and the fact that the Chief Executive has Accounting Officer status.

## **Communications and Engagement**

### **Largely compliant but one significant weakness**

The Code of Governance and other Authority documentation have provided the review with confidence about its commitment to stakeholder engagement, and the review has been offered extensive evidence of a steadily increasing willingness to listen and consult in recent times. The Authority's improving reputation for openness would be enhanced if it could act much more rapidly to place documentation on the website. Few if any meeting papers for the calendar year 2013 had reached the website when the review was in its early stages, although the position was improving by the time it concluded. The two recommendations in this area are:

- The Authority should seek to ensure that a resource is consistently available to enable the website to be regularly updated.
- The Authority and the department should reach agreement on which of them should be releasing details of the former's expenditure.

## **Conduct and Propriety**

### **Largely compliant with one significant weakness**

Most of the requirements are satisfactorily observed but there appears to be some confusion over how to fulfill what is said in the Code of Conduct about the registering of members' interests. The information available when accessing the link on the website to "Register of Members' Interests" does not meet the Code's requirements and relevant information cannot readily be found on the website.

- The Authority should publish rules for managing conflicts of interest.
- All relevant interests of members should be registered, and made easily accessible on the website.
- The guidance on political activity which is to be followed by members should be incorporated in the Code of Practice.
- Members' terms of appointment should be strengthened to ensure conflicts of interest do not arise from appointments or employment offered during membership of the Authority or within two years of leaving.

### **Cost of the Review**

This Review was carried out by a Civil Servant from within the Home Office at no cost to the DfT apart from travel and subsistence costs totaling less than £350.

## **ANNEX A**

### **TERMS OF REFERENCE**

All public bodies are required to be reviewed on a periodic basis, currently a three yearly cycle. The review will be carried out using the principles and processes detailed in the Cabinet Office guidance on reviews of non-departmental public bodies (June 2011).

The Review has two principal aims:

- To provide a robust challenge of the continuing need for the BTPA – examining both its key functions and the form in which those functions are delivered, to include examination of a range of delivery options.
- If it is agreed that the BTPA should remain as an NDPB, to review the control and governance arrangements in place to ensure that the public body is complying with recognised principles of good corporate governance.

The Authority will be consulted on and have the opportunity to input to the Review. Views will be sought from key stakeholders, including rail operators who have entered into Police Service Agreements with the BTPA.

The Review is to examine:

- The ability of funders to influence the focus and costs of policing, including the composition of the Authority, and specifically the effectiveness of those with knowledge and experience in relation to the interests of persons providing railway services, working with the other members with knowledge and experience of other interests, in discharging their responsibilities as defined in the Act.
- The degree to which clear links are demonstrated between financial inputs and operational outcomes, and how customers' service priorities are built into BTPA's strategic planning processes.
- Incentives for controlling costs and driving efficiencies – are they sufficient? Is there further scope within the Act to achieve these?
- The nature and costs of the policing service, and the scope for integrating the policing planning process with that of individual railway service providers, so their priorities are built into policing plans and where appropriate enhanced police service agreements.
- The scope for optimising the balance of resource between policing and security functions, and where those services may be sourced, including the use of private security, to maximise the effective tasking and use of all resources that contribute to railway safety and security.

- BTP's performance and measures to secure cost efficiencies compared with those of territorial police forces, the benchmarking of BTP's support functions and supervisory ratios, and the further contribution BTP can make to delivering savings and value for money in the rail sector, identified in the Command Paper.
- The powers of the BTP, in particular any areas of difference with the territorial police forces which restrict the BTP's operational effectiveness and efficiency.

The Review will take account of the evolving policing landscape, and the impacts of possible future constitutional reform.

## **ANNEX B**

### **Membership of the BTPA Triennial Review Challenge Group**

Charles Horton	Managing Director, Southeastern
John Kirkland	Non-Executive Director, Department for Transport
Paul Plummer	Group Strategy Director, Network Rail
Anthony Smith	Chief Executive, Passenger Focus
Ian Woodman (Chair)	Director, Maritime, Department for Transport
A representative of the Cabinet Office	

Secretariat provided by DfT (Rail Sponsorship and Stakeholders) Team

## **ANNEX C**

### **Current Membership of BTPA**

The members of the Authority at the time of the review, and the knowledge and expertise for which they have been appointed, are:

Millie Banerjee	Chair
Brian Phillpott	Deputy Chair and Policing
Lew Adams	Rail staff
Dominic Booth	Industry
Patrick Butcher	Industry
Catherine Crawford	Passenger and England
Elizabeth France	Passenger
Len Jackson	Passenger
Bill Matthews,	Passenger and Scotland
Mark Phillips	Industry
Andrew Pollins	Industry
Stella Thomas	Passenger and Wales
Anton Valk,	Industry
Jeroen Weimar	Industry



## ANNEX D

### People interviewed in the course of the Review

Lew Adams	BTPA Member
Millie Bannerjee	BTPA Chair
Tracy Beswick	Home Office Crime and Policing Group
Nick Bisson	Director, Rail Policy, Department for Transport
Dominic Booth	Managing Director, UK, Abellio Group, & BTPA Member
Mike Brown	Managing Director, London Underground
Ian Bullock	Managing Director, Arriva Trains Wales
Patrick Butcher	Finance Director, Network Rail, & BTPA Member
Andrew Chivers	Managing Director, National Express Rail
Gary Cooper	Director, Operations and Engineering, Association of Train Operating Companies
Paul Crowther	Deputy Chief Constable, BTP
Andrew Davies	Cabinet Office
Bayo Dosunmu	Welsh Assembly Government
Sam Elvy	Strategy and Performance Manager, BTPA
Andrew Figgures	Chief Executive, BTPA
Colin Foxall	Former BTPA Member and Chair of Passenger Focus
Carolyn Griffiths	Chief Inspector, Rail Accident Investigation Unit
Aidan Grisewood	Transport Scotland
Martyn Guiver	Head of Crime Management, Northern Rail
Carl Hetherington	Office of Rail Regulation
Christine Knights	Former BTPA Member
Steve Marshall-Camm	Head of Rail Liaison, Department for Transport
Roy Mitchell	South Yorkshire Passenger Transport Executive
Steve Montgomery	Managing Director, Scotrail
Mark Newton	Interim Director of Corporate Resources, BTP
Paul Nicholas	Head of Crime and Security, Southeastern
Gary Nicholson	Business Change Manager, Network Rail
Andy Odell	Association of Train Operating Companies
Gordon Paterson	Scottish Government
Mark Phillips	National Express Group and BTPA Member
Liz Pike	Finance Director, BTPA
Oscar Ramudo	Home Office Crime and Policing Group
Liz Sadler	Scottish Government
Maggie Simpson	Chief Executive, Rail Freight Group
Anthony Smith	Chief Executive, Passenger Focus
Graham Smith	Former Chief Executive, Rail Delivery Group
Andrew Trotter	Chief Constable, BTP
Bernadette Verrier	Her Majesty's Inspectorate of Constabulary
Jeroen Weimar	Chief Operating Officer, UK Bus, First Group and BTPA Member

Dave Wildbore  
Matt Winnie  
Lucy Yasin

Chief Superintendent, BTP HQ  
Head of Stations and Security, South West Trains  
Business Manager, BTPA

## ANNEX E

### Assessment of Corporate Governance against specific requirements

Governance requirement	Compliant or not
<p><b>Statutory Accountability</b></p> <p><b>Principle: The public body complies with all applicable statutes and regulations, and other relevant statements of best practice.</b></p>	
<p><b>The Authority must comply with all statutory and administrative requirements on the use of public funds, including the principles and policies set out in the HMT publication “Managing Public Money” and Cabinet Office/HM Treasury spending controls.</b></p>	<p><b>Compliant.</b> The Authority works to a Code of Governance which was drafted in accordance with Cabinet Office and HM Treasury requirements.</p>
<p><b>The Authority must operate within the limits of its statutory authority and in accordance with any delegated authorities agreed with the sponsoring department.</b></p>	<p><b>Compliant.</b> The Authority uses DfT lawyers, where necessary, to provide advice on its statutory authority under the 2003 Act. This demonstrates its commitment to acting within the limits imposed by the Act, particularly since it was found at judicial review not to have done so when introducing a new charging mechanism in 2007. In addition, DfT, the Authority and the BTP operate a system of formal written delegations which conveys spending authority to the Chief Constable subject to appropriate conditions. Compliance with the DEL is tested by the external auditors each year and has also formed part of the internal audit programme.</p>
<p><b>The Authority must operate in line with the statutory requirements and spirit of the Freedom of Information Act 2000. Does it have a comprehensive Publication Scheme and proactively release information that is of legitimate public interest where this is consistent with the provisions of the Act.</b></p>	<p><b>Partly compliant.</b> The FOI policy and Publication Scheme were provided to the Review. They are comprehensive and provide assurance that the Authority is fully aware of its FOI obligations and seeks to deliver on them. However the Publication scheme is partly reliant on its policy of publishing all non-protectively-marked meeting papers. Many documents are not in practice available in this way due to delays in placing them on the website. <b>It is recommended that the Authority acts as rapidly as possible to improve its ability to place documents on the website in a timely fashion.</b></p>

<p><b>The public body should be compliant with Data Protection legislation.</b></p>	<p><b>Compliant.</b> The Authority has a Data Protection Policy and the data protection arrangements were recently the subject of a satisfactory audit.</p>
<p><b>The Authority should be subject to the Public Records Acts 1958 and 1967.</b></p>	<p><b>Needs clarification.</b> The process for determining this can be complex and involve consultation with The National Archives. However, the Authority states that it is preserving records. <b>It is recommended that BTPA seeks to establish the position vis-à-vis the Acts and ensure that its practices are compliant.</b></p>
<p><b>Accountability for Public Money</b></p> <p><b>Principle: The Accounting Officer of the public body is personally responsible and accountable to Parliament for the use of public money by the body and for the stewardship of assets.</b></p>	
<p><b>There should be a formally designated Accounting Officer (usually the most senior official and normally the Chief Executive).</b></p>	<p><b>Compliant.</b> The Chief Executive is the designated AO and the Chief Constable is an Additional AO. The Additional AO is responsible for matters more appropriate to someone holding his role such as management of and expenditure on the Force, and operational policing decisions.</p>
<p><b>The role, responsibilities and accountability of the Accounting Officer should be clearly defined and understood.</b></p> <p><b>The Accounting Officer should have received appropriate training and induction.</b></p> <p><b>The Authority should be compliant with the requirements set out in “Managing Public Money”, relevant Dear Accounting Officer letters and</b></p>	<p><b>Compliant.</b> The roles and responsibilities are clearly defined in Code of Governance. Appropriate letters setting out the respective duties of each have been issued, by the Chief Executive in the case of the Chief Constable and by DfT’s Principal Accounting Officer in the case of the Chief Executive.</p> <p><b>Compliant.</b> The AO attended an ‘introduction to public accountability course at the National School of Government in 2010 and has a finance licence from his time in the MOD where he was responsible for delegated budgets. He attends the NAO annual performance conferences, and is a member of Association of Chief Executives.</p> <p><b>Compliant.</b> The Governance Statement and the Statement of Accounting</p>

<p><b>other directions? (The Accounting Officer has a responsibility to provide evidence-based assurances required by the Principal Accounting Officer (PAO). The PAO requires these to satisfy him or herself that the Accounting Office responsibilities are being appropriately discharged. This includes, without reservation, appropriate access of the PAO's internal audit service into the NDPB.)</b></p>	<p>Officer's responsibilities in the 2012-13 Annual Accounts sets out the Authority's arrangements for ensuring robust financial controls are maintained, including compliance with "Managing Public Money". The Accounts were signed off by NAO without qualification. The Governance Statement makes reference to the requirement for the Authority to make a Management Assurance Return on a half-yearly basis to DfT and to use this as a basis for identifying areas of potential weakness which inform the creation of the annual internal audit plan. The PAO's internal auditors have access to BTPA and have indeed been appointed as the Authority's Internal Auditors.</p>
<p><b>The public body should establish appropriate arrangements to ensure that public funds:</b></p> <ul style="list-style-type: none"> <li>- are properly safeguarded.</li> <li>- used economically, efficiently and effectively.</li> <li>- used in accordance with the statutory or other authorities that govern their use? and</li> <li>- deliver value for money for the Exchequer as a whole.</li> </ul>	<p><b>Compliant.</b> The Authority's Sub-Committee structure is designed to ensure that the use of public funds is overseen properly and with due attention to value-for-money. The Full Authority has fixed agenda items at three of its six meetings a year where it approves a medium-term financial plan (December), a policing plan (March) and the accounts for publication (June). As set out in the body of the report, some stakeholders believe that the Authority's financial oversight does not bear down sufficiently on the cost of BTP but there is no evidence that the governance arrangements are inadequate.</p>
<p><b>The Authority's annual accounts should be laid before Parliament with the Comptroller and Auditor General as the external auditor.</b></p>	<p><b>Compliant</b></p>
<p><b>Ministerial Accountability</b></p> <p><b>Principle: The Minister is ultimately accountable to Parliament and the public for the overall performance of the public body.</b></p>	
<p><b>Do the Minister and sponsoring department exercise appropriate scrutiny and oversight of the public body?</b></p>	<p><b>Partly compliant.</b> Much of the oversight provided is adequate but the comments on individual aspects set out below show that full assurance cannot be given</p>
<p><b>Are appointments to the board made in line with any statutory requirements and, where appropriate, with the Code of Practice issued by the Commissioner for Public Appointments.</b></p>	<p><b>Compliant.</b> In order to reach this conclusion, documentation covering a sample of recent appointments was looked at in some detail and met the requirements of the Code.</p>

<p><b>Does the Minister appoint the Chair and all non-executive board members of the Authority and is he/she able to remove individuals whose performance or conduct is unsatisfactory?</b></p>	<p><b>Compliant.</b> Appointment letters make clear the Secretary of State's right to terminate appointments.</p>
<p><b>Is the Minister consulted on the appointment of the Chief Executive and asked to approve the terms and conditions of employment?</b></p>	<p><b>Compliant.</b> There is evidence that this is the case.</p>
<p><b>The Minister should meet the Chair and/or Chief Executive on a regular basis.</b></p>	<p><b>Partly compliant.</b> There is evidence of meetings between Ministers and BTPA taking place but on an ad hoc basis, usually when responsible Ministers first take up positions. The list of meetings expands significantly if meetings with the BTP are included, and the Permanent Secretary also meets both the Authority and the Force from time to time. Regarding Ministerial meetings, there is a lack of clarity about the expectations. The Framework Document indicates in one place that the Chair should meet the "Secretary of State at least annually" and in another that "the responsible minister will meet the Chair and Chief Executive at least once a year". <b>It is recommended that the Framework Document should clearly specify the meeting requirements in one place, and that the sponsorship team should ensure the meetings thus specified are planned and organised.</b></p>
<p><b>The Minister should have a range of appropriate controls and safeguards to ensure that he or she is consulted on key issues and can be properly held to account. These will normally include:</b></p> <ul style="list-style-type: none"> <li>- a requirement for the Authority to consult the Minister on the corporate and/or operational business plan;</li> <li>- a requirement for the exercise of particular functions to be subject to guidance or approval from the Minister;</li> <li>- a general or specific power of Ministerial direction;</li> <li>- a requirement for the Minister to be consulted on key financial decisions. This should include proposals to: (i) acquire or dispose of land, property or other assets; (ii) form subsidiary companies or bodies corporate; and</li> </ul>	<p><b>Compliant.</b> This assessment reflects the existence of a range of provisions in the 2003 Act which give the Secretary of State discretionary powers of direction. It does not appear that use has so far been made of these powers and the departmental sponsorship team is responsible for ensuring that the Authority is functioning in a way which does not give rise to a need for formal direction, with the relevant powers in reserve if needed.</p>

<p>(iii) borrow money; and - a power to require the production of information which is needed to answer satisfactorily for the body's affairs.</p>	
<p>Parliament should be informed of the activities of the public body through publication of an annual report.</p>	<p><b>Partly compliant.</b> An annual report is produced by the Authority and laid before Parliament with the annual statement of accounts. Section 57 of the 2003 Act specifies matters to be covered in the annual report such as achievements against plans, objectives and strategies; the Authority recognises a need for future reports to give more attention to those issues rather than being mainly finance-focused, and <b>it is recommended that coverage in the 2013-14 report is expanded accordingly.</b></p>

## Role of the Sponsoring Department

### Principles:

The departmental board ensures that there are robust governance arrangements with the board of each arm's length body. These arrangements set out the terms of their relationship and explain how they will be put in place to promote high performance and safeguard propriety and regularity.

There is a sponsor team within the department that provides appropriate oversight and scrutiny of, and support and assistance to, the public body.

The departmental board's regular agenda should include scrutiny of the Authority's performance. The board should establish appropriate systems and processes to ensure that there are effective arrangements in place for governance, risk management and internal control in the public body.

**Not compliant.** The DfT board can gain a partial view of BTPA's performance through its cross-departmental oversight of assurance statements and Internal Audit reporting. However, it has no regular or pre-planned opportunities to consider the Authority's performance. **It is recommended that the DfT Board should consider the Authority's performance annually.**

A Framework Document should be in place which sets out clearly the aims, objectives and functions of the public body and the respective roles and responsibilities of the Minister, the sponsoring department and the Authority. This should follow relevant Cabinet Office and HM Treasury guidance. The Framework Document should be published. It should be accessible and understood by the

**Compliant.** The framework document was agreed in 2011 and is attached to the Authority's Code of Governance as an annex. It is regularly reviewed.

<p>sponsoring department, all board members and by the senior management team in the public body. It should be regularly reviewed and updated.</p>	
<p>Is there a dedicated sponsor team within the parent department and is the role of that team clearly defined?</p>	<p><b>Partly compliant.</b> A dedicated sponsorship team is in place, but there is no formal definition of the team's role. <b>It is recommended that, in consultation with the Authority, the sponsorship's team role is set out in a document which it is suggested could be annexed to the Framework Document.</b></p>
<p>There should be regular and ongoing dialogue between the sponsoring department and the public body. Senior officials from the sponsoring department may as appropriate attend board and/or committee meetings. There might also be regular meetings between relevant professionals in the sponsoring department and the public body.</p>	<p><b>Compliant.</b> There are bi-monthly meetings between the sponsorship team and Authority and Force colleagues. Copies of the Authority's Board papers are sent to the sponsorship team but they do not normally attend meetings.</p>

<p><b>Role of the Board</b></p> <p><b>Principles:</b></p> <p>The public body is led by an effective board which has collective responsibility for the overall performance and success of the body. The board provides strategic leadership, direction, support and guidance.</p> <p>The board – and its committees – have an appropriate balance of skills, experience, independence and knowledge.</p> <p>There is a clear division of roles and responsibilities between non-executive and executives. No one individual has unchallenged decision-making powers.</p>	
<p>The board should:</p> <ul style="list-style-type: none"> <li>- meet regularly;</li> <li>- retain effective control over the body; and</li> <li>- effectively monitor the senior management team.</li> </ul>	<p><b>Compliant.</b> The full Authority meets six times a year. There are also fortnightly meetings between the Chair, Deputy Chair and Chief Executive.</p>
<p>The size of the board should be appropriate.</p>	<p><b>Compliant.</b> The Act defines upper and lower limits (17 and 11) for the number of members and further requires there to be an odd number. In practice the aim has been to maintain numbers at 15, sufficient to ensure the necessary range of background and experience as well as the ability to populate the various supporting committees. As the Review</p>



	<p>was completed resignations had brought the actual number down to 13. This will not seriously prejudice the Authority's effectiveness in the short term. It is reasonable for the Department not to immediately mount a recruitment exercise whenever there is a resignation as these are time-consuming exercises and there is merit in using them to find more than one candidate. However, <b>it is recommended that recruitment for new members is put in place soon to avoid the risk of numbers getting down to the lower limit.</b></p> <p><b>Consideration should be given to placing one or more candidates in reserve if more are found satisfactory than immediately required so further vacancies occurring soon after the recruitment takes place can be filled without having to re-advertise.</b></p>
<p><b>Board members should be drawn from a wide range of diverse backgrounds.</b></p>	<p><b>Compliant.</b> The Act sets out the need for each member to have knowledge and experience of at least one defined area, and this is the overriding criterion for appointment. The current composition is 4 women and 10 men, with one member being from a BME background. Although it might be possible for a better balance to be achieved without detriment to the statutory requirements, it is necessary for those to take priority.</p>
<p><b>The board should establish a framework of strategic control (or scheme of delegated or reserved powers). Such a scheme should specify which matters are specifically reserved for the collective decision of the board, and must be understood by all board members and by the senior management team. It should be regularly reviewed and refreshed.</b></p>	<p><b>Compliant.</b> Schemes of both managerial and financial delegation are in the Code of Governance. Delegations to committees are kept to a minimum and where they exist are clearly stated in the terms of reference</p>
<p><b>The Board should establish formal procedural and financial regulations to govern the conduct of its business.</b></p>	<p><b>Compliant.</b> The Code of Governance has both procedural and financial regulations attached as annexes.</p>
<p><b>The Board should establish appropriate arrangements to ensure that it has access to all such relevant information, advice and resources as is necessary to enable it to carry out its role effectively.</b></p>	<p><b>Compliant.</b> The recruitment of Authority members, as well as meeting statutory requirements regarding their experience, is designed to ensure that there is wider expertise (eg financial) enabling the board and its committees to operate effectively. The Authority's officers, in conjunction with the Police Force, appear fully competent to provide the Board with</p>

	the information and advice necessary to carry out its duties and take decisions
<b>The Board should make a senior executive responsible for ensuring that appropriate advice is given to it on all financial matters.</b>	<b>Compliant.</b> The Authority Finance Director fills the statutory role of Treasurer and is the main source of appropriate advice. A lead Finance officer has also been appointed at BTP.
<b>The Board should make a senior executive responsible for ensuring that Board procedures are followed and that all applicable statutes and regulations and other relevant statements of best practice are complied with?</b>	<b>Compliant.</b> The Authority appoints a Business Manager to fulfil this role, reporting to the Chief Executive.
<b>The Board should establish a remuneration committee to make recommendations on the remuneration of top executives.</b>  <b>Information on senior salaries should be published.</b>  <b>Rules for recruitment and management of staff should provide for appointment and advancement on merit.</b>	<b>Compliant.</b> The Authority has a remuneration committee which is responsible for those at an ACPO or staff equivalent grade, constituting the top 8 individuals in the Force. <b>Compliant.</b> The senior salaries return to DfT is completed annually and salaries are also published within the accounts. <b>Compliant.</b> The rules for the recruitment and promotion of staff are in accordance with College of Policing and government guidance to ensure appointment and advancement on merit. The Authority's recruitment procedure was reviewed by government and approved so as to enable Authority posts to be advertised on the civil service jobs site.
<b>The Chief Executive should be accountable to the Board for the ultimate performance of the public body and for the implementation of the Board's policies. He or she should be responsible for the day-to-day management of the public body and should have line responsibility for all aspects of executive management.</b>	<b>Compliant.</b> The Chief Executive is the line manager for the three senior managers in the Authority and ultimately responsible for all the Authority's staff and the functions they discharge. He provides a report for each of the Authority's meetings to update on activities and decisions taken under his delegation.
<b>There should be an annual evaluation of the performance of the board and its committees – and of the Chair and individual board members. The sponsoring department is responsible for assessing the performance of the Chair. The Chair is responsible for assessing the performance of non-executive board members.</b>	<b>Partly compliant.</b> The Chair completes annual appraisals of all members but is appraised herself by the deputy chair. This is not in accordance with best practice. <b>It is recommended that appraisal of the Chair should be carried out by the Department.</b>
<b>Role of the Chair</b>  <b>Principle: The Chair is responsible for leadership of the board and for ensuring its overall effectiveness.</b>	

<p><b>The board should be led by a non-executive Chair</b></p>	<p><b>Compliant</b></p>
<p><b>There should be a formal, rigorous and transparent process for the appointment of the Chair. This should be compliant with the Code of Practice issued by the Commissioner for Public Appointments. The Chair should have a clearly defined role in the appointment of non-executive board members.</b></p>	<p><b>Compliant.</b> As with appointments of members generally, there is clear evidence that the process for appointing the Chair is rigorous and meets the OCPA guidelines. The Chair is fully involved in the appointment of other members.</p>
<p><b>The duties, role and responsibilities, terms of office and remuneration of the Chair should be set out clearly and formally defined in writing. Terms and conditions must be in line with Cabinet Office guidance and with any statutory requirements. The responsibilities of the Chair will normally include:</b></p> <ul style="list-style-type: none"> <li>- representing the public body in discussions with Ministers;</li> <li>- advising the sponsoring Department and Ministers about board appointments and the performance of individual non-executive board members;</li> <li>- ensuring that non-executive board members have a proper knowledge and understanding of their corporate role and responsibilities. The Chair should ensure that new members undergo a proper induction process and is normally responsible for undertaking an annual assessment of non-executive board members' performance;</li> <li>- ensuring that the board, in reaching decisions, takes proper account of guidance provided by the sponsoring department or Ministers;</li> <li>- ensuring that the board carries out its business efficiently and effectively;</li> <li>- representing the views of the board to the general public; and</li> <li>- developing an effective working relationship with the Chief Executive and other senior staff.</li> </ul>	<p><b>Compliant.</b> The Chair's letter of appointment from the Department sets out terms of office and remuneration in full. Responsibilities are set out in the Code of Governance, either in the main body of the Code or in the Framework Document, and cover the areas required by the guidance. Evidence provided to the review helps to confirm that these requirements are met in practice: these include details of an induction day for new members and annual Authority-sponsored workshops for rail industry representatives, led by the Chair.</p>
<p><b>The roles of Chair and Chief Executive should be held by different individuals.</b></p>	<p><b>Compliant</b></p>
<p><b>Role of Non-Executive Board Members</b></p> <p><b>Principle: As part of their role, non-executive board members provide</b></p>	

<b>independent and constructive challenge.</b>	
<b>There should be a majority of non-executive members on the board.</b>	<b>Compliant.</b> All Authority members are non-executives.
<b>There should be a formal, rigorous and transparent process for the appointment of non-executive members of the board. This should be compliant with the Code of Practice issued by the Commissioner for Public Appointments.</b>	<b>Compliant.</b> Appointments are made by the Secretary of State. The Authority has taken over the administration of recruitment processes from the DfT sponsorship team to speed these up. Scrutiny of recruitment and appointment documentation for a recent round of appointments indicates that guidance is satisfactorily complied with.
<b>The duties, role and responsibilities, terms of office and remuneration of non-executive board members should be set out clearly and formally defined in writing. Terms and conditions must be in line with Cabinet Office guidance and with any statutory requirements. The corporate responsibilities of non-executive board members (including the Chair) will normally include:</b> - establishing the strategic direction of the public body (within a policy and resources framework agreed with Ministers); - overseeing the development and implementation of strategies, plans and priorities; - overseeing the development and review of key performance targets, including financial targets; - ensuring that the public body complies with all statutory and administrative requirements on the use of public funds; - ensuring that the board operates within the limits of its statutory authority and any delegated authority agreed with the sponsoring department; - ensuring that high standard of corporate governance are observed at all times. This should include ensuring that the public body operates in an open, accountable and responsive way; and - representing the board at meetings and events as required.	<b>Compliant.</b> The terms of office and remuneration are set out in appointment letters. Duties are not set out in that letter but are included in a Members Handbook presented to all Members on appointment. The duties described there are broadly aligned with the guidance, and the Handbook also sets out personal competencies expected of a member and provides a "Standard Job Profile".
<b>All non-executive Board members must be properly independent of management.</b>	<b>Compliant.</b> Members are clearly independent of the management team.
<b>All non-executive board members must allocate sufficient time to the</b>	<b>Compliant.</b> Members are appointed for 30 days a year, the deputy chair for 50

<p><b>board to discharge their responsibilities effectively. Details of board attendance should be published (with an accompanying narrative as appropriate).</b></p>	<p>and the chair for 60. All attendance is published on the Authority's website and the chairman receives a report of this when conducting annual member appraisals.</p>
<p><b>There should be a proper induction process for new board members. This should be led by the Chair. There should be regular reviews by the Chair of individual members' training and development needs.</b></p>	<p><b>Compliant.</b> The Chair holds an introductory meeting with all new members. An induction session was held collectively for the five members joining in 2013 to help members engage with each other and bind them together with a common purpose. Potential Committee appointments are discussed then and any training needs identified.</p>
<p><b>Effective Financial Management</b></p>	
<p><b>Principle: The public body has taken appropriate steps to ensure that effective systems of financial management and internal control are in place.</b></p>	
<p><b>The body must publish on a timely basis an objective, balanced and understandable annual report. The report must comply with HM Treasury guidance.</b></p>	<p><b>Compliant.</b> The annual report is laid before Parliament with the annual statement of accounts. As stated above, the Authority recognises a need for coverage to range wider in future but its current finance focus ensures it meets this aspect of the guidance.</p>
<p><b>The public body must have taken steps to ensure that effective systems of risk management are established as part of the systems of internal control.</b></p>	<p><b>Compliant.</b> The Audit &amp; Risk Committee reviews strategic risk registers from both the force and Authority on a quarterly basis and reports to the full Authority. New risk software has recently been procured to better integrate risk management across the organisation.</p>
<p><b>The public body must have taken steps to ensure that an effective internal audit function is established as part of the systems of internal control. This should operate to Government Internal Audit Standards and in accordance with Cabinet Office guidance</b></p>	<p><b>Compliant.</b> The Authority has appointed the DfT internal auditors for this function.</p>
<p><b>There must be appropriate financial delegations in place. These should be understood by the sponsoring department, by board members, by the senior management team and by relevant staff across the public body. Effective systems should be in place to ensure compliance with these delegations. These should be regularly reviewed.</b></p>	<p><b>Partly Compliant.</b> The Authority has an agreed scheme of financial delegation which forms part of the code of governance and is in accordance with the DEL and cabinet office spending controls. The Chief Executive receives a delegation letter from DfT but this appears to be in a standard format as issued to Directors-General within the department. Given the particular nature of the Authority's financial responsibilities and the fact that the Chief Executive is a full-fledged Accounting Officer, various aspects of the delegation letter appear</p>

	inappropriate. <b>It is recommended that the form of the letter is reviewed before it is issued for 2014-15.</b>
<b>There must be effective anti-fraud and anti-corruption measures in place.</b>	<b>Compliant.</b> The Authority's Anti-Fraud and –Corruption Policy and Response Plan is published on the website.
<b>There must be clear rules in place governing the claiming of expenses. These should be published. Effective systems should be in place to ensure compliance with these rules. The public body should proactively publish information on expenses claimed by board members and senior staff.</b>	<b>Compliant.</b> The rules are clear and the scheme is published on the website, as are details of payments made to members.
<b>The annual report should include a statement on the effectiveness of the body's systems of internal control.</b>	<b>Compliant.</b> The annual Report includes a governance statement which meets this requirement.
<b>The board should establish an audit (or audit and risk) committee with responsibility for the independent review of the systems of internal control and of the external audit process.</b>	<b>Compliant.</b> The Audit and Risk Committee is chaired by the Deputy Chair of the Authority.
<b>The body should have taken steps to ensure that an objective and professional relationship is maintained with the external auditors.</b>	<b>Compliant.</b> The External Auditors are NAO and have a standing invitation to the Audit and Risk Committee, and regular meetings with senior BTPA officers.
<b>Communications</b>	
<b>Principle: The Public Body is open, transparent, accountable and responsive.</b>	
<b>The public body should have identified its key stakeholders. It should establish clear and effective channels of communication with these stakeholders.</b>	<b>Compliant.</b> The authority has put in place a 16 page stakeholder engagement strategy plan.
<b>The public body should make an explicit commitment to openness in all its activities. It should engage and consult with the public on issues of real public interest or concern. This might be via new media. It should publish details of senior staff and board members together with appropriate contact details.</b>	<b>Partly compliant.</b> A commitment to openness is made in the corporate governance statement, and the website contains a range of information although it is not fully up-to-date.
<b>The public body should consider holding open board meetings or an annual open meeting.</b>	<b>Compliant.</b> All Full Authority meetings are open to the public and advertised on the website.
<b>The public body should proactively publish agendas and minutes of board meetings.</b>	<b>Partly compliant.</b> As previously stated the Authority publishes agendas and minutes and most committee papers. At

	the beginning of the review many documents were not available due to delays in placing them on the website, but the situation improved during the course of the Review with many more agendas and minutes having become available.
<b>The public body should proactively publish performance data.</b>	<b>Partly Compliant.</b> Relevant data is published in the Performance Review Committee papers, but there long delays in getting the papers on to the website and the recommendation elsewhere to move to prompt publication applies here also.
<b>In accordance with transparency best practice, public bodies should consider publishing their spend data over £500. By regularly publishing such data and by opening their books for public scrutiny, public bodies can demonstrate their commitment to openness and transparency and to making themselves more accountable to the public.</b>	<b>Not compliant.</b> The Authority provides data for items over £500 to the DfT, but the spending information published by the Department seems to cover only itself and its Agencies and not NDPBs. <b>It is recommended that either the Department publishes the data for BTPA or asks it to publish its own data.</b>
<b>The public body should establish effective correspondence handling and complaint procedures. These should make it simple for members of the public to contact the public body and to make complaints. Complaints should be taken seriously. Where appropriate, complaints should be subject to investigation by the Parliamentary Ombudsman. The public body should monitor and report on its performance in handling correspondence.</b>	<b>Compliant.</b> The Authority has a policy for complaints against its own staff and members, and comes within the remit of the Parliamentary Ombudsman. BTPA is also responsible for complaints against the most senior officers of the BTP. This may involve referral of the complaint to either the Independent Police Complaints Commission (if the matter relates to England or Wales) or the Procurator Fiscal (Scotland).
<b>The public body must comply with the Government's conventions on publicity and advertising. These conventions must be understood by board members, senior managers and all staff in press, communication and marketing teams.</b>	<b>Compliant.</b> Although not explicitly covered in its Code of Governance, the Authority does not in practice have need to use PR agencies, lobby or pay for advertising.
<b>Appropriate rules and restrictions must be in place limiting the use of marketing and PR consultants.</b>	<b>Compliant.</b> This is covered in the scheme of delegation.
<b>The public body should put robust and effective systems in place to ensure that the public body is not, and is not perceived to be, engaging in political lobbying. This includes restrictions on board members and staff attending Party Conferences in a</b>	<b>Partly compliant.</b> Guidance on conduct at election and party conference time is circulated to members and BTP, but the Authority has stated its intention strengthening the standing governance is to be in this area.

professional capacity.	
<b>Conduct and Behaviour</b>	
<b>Principle: The board and staff of the public body work to the highest personal and professional standards. They promote the values of the public body and of good governance through their conduct and behaviour.</b>	
<b>A Code of Conduct must be in place setting out the standards of personal and professional behaviour expected of all board members. This should follow the Cabinet Office Code. All members should be aware of the Code. The Code should form part of the terms and conditions of appointment.</b>	<b>Compliant.</b> The code of conduct is an annex to the Corporate Governance.
<b>The public body should adopt a Code of Conduct for staff which is based on the Cabinet Office model Code. All staff should be aware of the provisions of the Code. The Code should form part of the terms and conditions of employment.</b>	<b>Partly Compliant.</b> BTPA employees are subject to the same standards of behaviour as the police; a version specific to staff is not yet in place but is expected to become so in the course of 2014.
<b>There should be clear rules and procedures in place for managing conflicts of interest. There is a publicly available Register of Interests for board members and senior staff. This is regularly updated.</b>	<b>Not Compliant.</b> The Authority's Code of Conduct sets out in detail the arrangements for recording members' interests. However, the website entry for a register of interests does not link into a register as such, and the papers it does link to do not appear to cover any relevant issues other than gifts and hospitality. There are no published procedures for dealing with conflicts of interest. <b>It is recommended that the Authority agrees and publishes rules for managing conflicts of interest and that its arrangements for recording and publishing registered interests are regularised.</b>
<b>There should be clear rules and guidelines in place on political activity for board members and staff, and effective systems in place to ensure compliance with any restrictions.</b>	<b>Partly compliant.</b> Relevant guidance is included in appointment letters but is not in the Code of Governance. <b>It is understood that consideration is being given to placing relevant statements in the Code and it is recommended that this is done as soon as possible.</b>
<b>There are rules in place for board members and senior staff on the acceptance of appointments or employment after resignation or retirement. These are effectively enforced.</b>	<b>Not Compliant</b> All Board members are non-executive and most are in full-time jobs throughout their BTPA appointments. In many cases their job provides the justification for their appointment. However, there remains the possibility that a change of job for a member could be seen as connected in some way to how they have conducted



	<p>themselves as members. The current terms of appointment for members do impose a requirement to inform the Secretary of State of <u>changes</u> of employment and to report any perceived conflicts of interest. It is recommended that the terms of appointment are strengthened to require members to notify the Chair of the BTPA in advance of any appointment or employment offered during membership of, or within two years of leaving, the BTPA which could be seen as creating a conflict of interest in relation to their membership of the CNPA. A similar term of appointment, but requiring reference to the Secretary of State, should be applied to the BTPA Chair.</p>
<p><b>Board members and senior staff should show leadership by conducting themselves in accordance with the highest standards of personal and professional behaviour and in line with the principles set out in respective Codes of Conduct.</b></p>	<p><b>Compliant.</b> There is no evidence that the required standards are not met.</p>