

Report to: Police Authority
Agenda #: 10.1
Date: 24 March 2021
Subject: Wellbeing, Health and Safety – BTPA’s role as the legal entity
Sponsor: Chief Executive
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For: Information and approval

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1. Purpose of paper

1.1 The paper has two purposes:

- Firstly, it describes the BTPA’s role and responsibilities in respect of wellbeing, health and safety, as the legal entity.
- Secondly, it recommends for approval an assurance model to ensure the discharge of BTPA’s duties and to hold the Chief Constable to account for the wellbeing, health and safety functions that are delegated.

2. Recommendations

2.1 Members are asked to note the role and responsibilities of the BTPA in respect of wellbeing, health and safety as outlined in sections three and four of this paper.

2.2 Members are invited to discuss and agree the proposals for engagement and assurance including:

- The proposed reporting arrangements within the established governance structure (5.5 to 5.7).
- Consideration of whether to have a health and safety champion within the Authority membership (para 5.8).
- The roles and responsibilities of the Authority, committees, Members and Executive in Annex B.
- The frequency of independent assurance on wellbeing, health and safety arrangements from a third party.

3. Background

3.1 BTPA is the legal entity and employer of officers and staff within BTP. As such, it is legally responsible for wellbeing, health and safety within the organisation covering its employees, visitors and interactions with the public. This is an

unusual position that does not exist in Home Office forces where these responsibilities legally sit with Chief Constables.

- 3.2 To ensure that appropriate arrangements are in place, the BTPA and Chief Constable of BTP must agree a pragmatic approach. The current approach delegates the day-to-day wellbeing, health and safety function to the Chief Constable¹ to manage. This provides a practical solution.
- 3.3 However, BTPA, as the legal entity and employer, retains the overall accountability for wellbeing, health and safety. Therefore, adequate oversight and assurance arrangements must be in place to hold the Chief Constable to account, ensuring that an adequate health and safety policy, supporting arrangements and governance procedures are in place, regularly reviewed and applied with a legally compliant, consistent and common sense approach.

4. Legal requirements

- 4.1 There are a number of legislative instruments that detail the requirements placed on organisations and employers in respect of wellbeing, health and safety. Alongside the legislation is a considerable library of guidance, including some specific to board level oversight and policy (Annex A includes a high-level summary of the areas boards should be monitoring).
- 4.2 A high-level overview of legal responsibilities for employers is provided below. Alongside the relevant guidance, this has been used to develop the proposed assurance arrangements in the next section of the paper:
 - Provide a written health and safety policy² (this should be jointly owned by the Authority and Chief Constable³);
 - Assess and document risks to employees, partners, customers and any other people who could be affected by policing activities⁴;
 - Arrange for the effective planning, organisation, control, monitoring and review of preventative and protective measures⁵;
 - Ensure that adequate health and safety training is provided on appointment, on exposure to new or increased risks and repeated periodically as appropriate⁶;
 - Ensure there is access to competent health and safety advice⁷; and
 - Consult employees about the risks at work and current preventative and protective measures⁸.

¹ Code of Governance paragraph 9.11

² The Management of Health and Safety at Work Regulations (MHSAW) 1999 s5

³ ACPO 'Police Health and Safety Guidelines - A Management Benchmarking Standard' (2012 and 2007)

⁴ MHSAW 1999 s3 (1)

⁵ MHSAW 1999 s3(3)

⁶ MHSAW 1999 s13

⁷ MHSAW 1999 s7

⁸ The Safety Representatives and Safety Committees Regulations 1977

5. Engagement and assurance arrangements

- 5.1 The proposed model for engagement and oversight is based on three levels of assurance – the three Lines of Defence. This is intended to provide a comprehensive approach to fully discharge the responsibilities of the BTPA, provide the ability to escalate and de-escalate as required and to engage with BTP on strategy and policy development.

First level of assurance

- 5.2 The first level of assurance in ensuring that the relevant arrangements are in place is delivered by the Wellbeing, Health and Safety Team based at BTP and led by the Deputy Director for Wellbeing, Health and Safety. This is the competent source of health and safety advice as required by legislation. The team ensures that BTP has arrangements in place to meet the requirements of the relevant legislation and guidance as a minimum. They are also instrumental in ensuring that our people know that we care by ensuring that wellbeing is the golden thread through all that we do.
- 5.3 In terms of Force governance, BTP has divisional committees feeding up into a Central Health and Safety Committee (CHSC) which is attended by a member of BTPA Executive staff and receives input from across the organisation. There is also the Audit, Risk, Inspection and Compliance Board (ARIC) which is the risk escalation route within BTP.

Second level of assurance

- 5.4 The Executive's role of attendance at the CHSC, and informal meetings with the Wellbeing, Health and Safety Team, forms a key part of the second line of assurance. This activity ensures that the BTPA has an understanding of the current state of wellbeing, health and safety within BTP the current risks, mitigations and issues.
- 5.5 The next step is the oversight of wellbeing, health and safety through the BTPA's established governance structure. This is currently split between the Performance and Delivery Committee which reviews quarterly high-level performance focused on sickness, Temporary Duty Restriction (TDR), safety statistics (i.e. injuries, assaults, RIDDOR) and occupational health. Separately, an annual assurance report is received at the Audit and Risk Assurance Committee.
- 5.6 The current arrangements leave room for duplication and risk gaps in assurance. Also, given the ambitious draft Wellbeing, Health and Safety Strategy, which aims to make a step change in how wellbeing, health and safety are managed across BTP, there must be clarity on where items will report and the right level of engagement. Therefore, to ensure that we fully discharge our responsibilities in this area, the following structure is proposed.

Committee	W,H&S Responsibility
Strategy and Planning	<ul style="list-style-type: none"> • Annual review and endorsement of the W,H&S Policy. • Periodic review and endorsement of the W,H&S Strategy. • W,H&S legislative change. • Evidence that health and safety implications have been considered when setting the Strategy, operational objectives and when considering new working processes.
Performance and Delivery	<ul style="list-style-type: none"> • Oversight of implementation of W,H&S strategy. • Oversight of policy compliance. • Reporting by exception on wellbeing, health and safety arrangements including resourcing, availability of competent health and safety advice, risk assessments and training. • Annual assurance report (previously went to ARAC) including assurance on BTPA and the discharge of our duties. • Quarterly trend/statistical reporting, covering: <ul style="list-style-type: none"> ○ RIDDOR. ○ Accidents and near miss data. ○ Incidence of long-term sickness and work-related ill health, use of recuperative/restricted duties and consequential early medical retirement. ○ OH referrals. ○ Civil actions brought by staff against the organisation. ○ Training.
Audit and Risk Assurance Committee	<ul style="list-style-type: none"> • Health and Safety risks that are escalated to strategic level will be dealt with through the usual risk processes and report to the Audit and Risk Assurance Committee, which will inform the P&DC as the lead for W,H&S oversight. • Programme of wellbeing, health and safety audits included in assurance activities.
Authority	<ul style="list-style-type: none"> • Annual W,H&S assurance report as endorsed by P&DC. <i>(Is something tangible required quarterly at this level or will P&DC feedback suffice?)</i> • Approve the W,H&S policy and Strategy. • Ensure that health and safety implications are considered when setting strategic and operational objectives • When considering the implications of new processes and working practices be satisfied that the health and safety implications have been fully considered and resolved.

5.7 The Health and Safety Annual Report is intended to provide a formal review of wellbeing, health and safety performance to the BTPA. The focus of the report is to establish whether the essential health and safety principles – strong and active leadership, employee involvement, and assessment and review are embedded in BTP and BTPA. The overall aim being to establish if the current system is effective in managing risk and protecting people.

- 5.8 Members may also want to consider whether to appoint a W,H & S champion from within the Authority membership. This will not only demonstrate BTPA's commitment to our responsibilities in this area but provide a sounding board for the BTP leadership and enables the Member to provide assurance to the wider membership and alert them to concerns as necessary.

Third level of assurance

- 5.9 The final element is independent assurance through a third party, in this case usually the Government Internal Audit Agency (GIAA). This sits outside of the internal risk management process and as such can offer independent assurance on how effectively the first two lines are working and advise on how they could be improved. The BTPA will need to agree in partnership with BTP how frequently this independent assurance is required in addition to BTP audit activity, a minimum of every three years is recommended.
- 5.10 A breakdown of the proposed roles and responsibilities within the BTPA can found at Annex B. These oversight arrangements should also be reviewed annually, including the impact of relevant committee and management decisions.

Annex A: W,H&S monitoring guidance for Boards

Key health and safety aspects of which to be aware and regularly monitor at a Board level are as follows:

- Assurance that the health and safety policy is in place and understood and that it reflects the force's current priorities, plans and targets;
- Assurance as to how risk management/assessment and other health and safety systems have been effectively reporting through internal governance at BTP;
- Assurance on the provision of competent advice on occupational health, safety and wellbeing within the Force;
- Assurance that both frontline, officers and those in command have appropriate training and equipment to ensure they can make appropriate risk-benefit decisions in delivering policing imperatives and awareness of the health and safety responsibilities as directed within the policy.
- Any health and safety shortcomings, and the effect of all relevant Authority/COG decisions;
- Actions to address any weaknesses and a system to monitor their implementation;
- Any immediate reviews necessary as a result of any major shortcomings or events;
- How employees are consulted about the risks at work and current preventative and protective measures:
- Formal health and safety committee structure providing a consistent escalation pathway, overseen by the Central Health and Safety Committee, chaired by the Director of People and Culture.

Annex B: Roles and responsibilities

This section describes the various roles and responsibilities within BTPA.

Full Authority level

- Annual and quarterly W,H&S assurance reports.
- Approval of the W,H&S policy and Strategy.
- Ensure health and safety implications have been considered when setting strategic and operational objectives.
- When considering the implications of new processes and working practices the Full Authority must be satisfied that the health and safety implications have been fully considered and resolved.

Committee level

- Aware of the significant health and safety risks faced by the Force.
- Review the health and safety strategy (direction) and policy (actions) annually, ensuring they support the strategic direction of the organisation.
- Provide oversight and scrutiny of arrangements ensuring that:
 - the health and safety arrangements are adequately resourced;
 - competent health and safety advice is available;
 - risk assessments are conducted;
 - sufficient training has been provided;
 - employees and their representatives are involved in decisions that affect their health and safety; and
 - receive trend data on preventative measures and incidents.
- Awareness of any changes to legislative requirements and their implications.
- Evidence that health, safety and wellbeing matters are considered as part of decision-making.

Members

- Sounding board for Deputy Director of People and Culture (Wellbeing, Health and Safety)
- Improve governance and oversight arrangements of the wellbeing, health and safety area by developing the BTPA's understanding of the key issues in this area.
- Provide assurance to other Members on this area, alert them to areas of concern and ensure wellbeing, health and safety matters are considered when setting strategic direction, carrying out their objective and resource planning and scrutiny functions.

BTPA Executive

- Work with BTP colleagues to ensure BTPA and relevant committees receive the right information at the right time to effectively conduct their oversight and scrutiny roles.
- Ensure that the Authority is involved at the appropriate stages of projects.
- Attend the CHSC and keep Members updated on W,H&S matters in between committee meetings.