We write to provide further evidence to the Justice Committee following our appearance on 1 May 2018. The devolution of the British Transport Police in Scotland is a major programme, and we are clear this must be achieved in an effective, efficient and inclusive manner to safeguard the interests of rail users, the rail industry, the general public, rail staff, and police officers and staff.

We committed to provide additional information on: staff costs of the two Governments associated with the project to devolve the functions of the British Transport Police; the organisational structure and accountable officers for the integration programme; and to set out the committed basis for the transfer of officers and staff.

It is also worth noting that the Railway Policing (Scotland) Bill Financial Memorandum specifically set out that “the cost of railway policing is not expected to rise as a result of the changes made by this Bill as the Scottish Government’s policy is that the costs of operational railway policing in Scotland would continue to be fully funded by the rail industry through the new RPAs and no net additional costs would fall on the administration.”

**Estimated staff costs**

Generally staff do not work exclusively on this project therefore the costs are based on reasonable estimates. The estimated costs, based on the salaries of officials from the UK Government staff are set out below.

**UK Government Staff costs to end FY17/18**

DfT - £150k (based on salary costs of officials engaged on the project)

As you will know, Scottish Government regularly reprioritises staff in order to meet Programme for Government commitments. Scottish Government official staff costs are part of the existing Safer Communities Directorate staffing costs in place to resource the delivery of this work. As such the required programme resources have been absorbed within overall SG resource planning.

**Scottish Government Staff costs to end FY17/18**

Scottish Government – £310k (based on salary costs of all officials engaged on the project from Royal Assent of the Railway Policing (Scotland) Act 2017.)

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1Published at
http://www.parliament.scot/S5_Finance/General%20Documents/SPBIII02FMS052016R.pdf
Costs have also been incurred for the use of professional services from Ernst & Young. The likely cost of these contracts were set out during the evidence session on 1 May.

**Future Costs**

In terms of future costs, an accurate estimate of cost will be dependent upon the conclusion of the re-planning exercise, which will determine the revised date for integration. We are, of course, happy to provide the Committee with further information on planned future costing following the conclusion of the re-planning exercise and, the subsequent decision by Scottish Ministers on the transfer date.

**Terms, conditions and pension arrangements on transfer**

The two Governments have a clear, shared intention regarding the terms on which officers and staff are transferred.

The UK Government has been clear since the outset of the project that the transfer will be executed on an ‘as is’ basis in relation to terms and conditions, which means that existing terms and conditions will be maintained when transferred.²

The Minister for Transport and the Islands referred to the ‘as is’ nature of the transfer of terms and conditions in his letter to the Committee of 20 April 2018³. BTP officers who are currently both constables and employees of the BTP Authority will retain their employee status on transfer to Police Scotland. Both the officers and civilian staff who are to transfer to Police Scotland will do so in accordance with the Cabinet Office Statement of Practice, which applies the principles of TUPE to transfers in the public sector.

In any public sector body, such transfers are conducted on the basis that when functions are transferred from one organisation to another the staff will also be transferred with the work. Transferring officers and staff will therefore continue to undertake railway policing functions once the transfer has taken place.

This is clearly set out in the Railway Policing (Scotland) Act 2017: Section 6 states that a constable transferring from the BTP to Police Scotland as a consequence of integration will ‘be assigned duties that relate to the policing of a railway or railway property, and must not be assigned duties that do not so relate unless it is necessary to meet a special demand on resources for policing.’

Employment will be treated as being continuous; there will be no cessation of employment and therefore we do not foresee the transfer resulting in a redundancy situation. Consequently the only change from the perspective of transferring employees will be the identity of the employer. We can therefore absolutely confirm that existing terms, conditions and pension rights will be retained when transferred. This is the central principle of the transfer.

² See for example, Rail Minister Jo Johnson MP, Westminster Hall debate 6 March 2018 – ‘We have been very clear throughout this process that it is our intention that the transfer should take place on an as is basis, ensuring that transferring officers and staff see no change in their terms and status.’
³ Published at [http://www.parliament.scot/S5_JusticeCommittee/Inquiries/20180420MtTitoMM.pdf](http://www.parliament.scot/S5_JusticeCommittee/Inquiries/20180420MtTitoMM.pdf)
The Order, under Section 90 of the Scotland Act 1998, which will be introduced to both the Scottish and UK parliaments in due course, and which will set out the arrangements for the transfer of contracts, including contracts of employment, and property, is being drafted on this basis.

Given the complexity of current terms and conditions in both the BTP and Police Scotland, extensive work is underway to establish the details so that the transfer is fully in accordance with the ‘as is’ approach.

We are working with the Trustee of the pension schemes to develop proposals that will ensure officers and staff retain membership of their respective pension schemes. Establishing new sections within the existing funds, where there are already precedents within the Railways Pension Scheme, could provide the most appropriate course of action to ensure this objective is met.

The integration programme is focussed on the practical actions necessary to ensure that existing terms and conditions are maintained to the point of the transfer i.e. how to deliver the agreed ‘as is’ outcome, not the principle of doing so.

The Scottish Government has similarly stated its commitment to a ‘triple lock’ guarantee on jobs, pay and pensions, providing assurances that the terms and conditions, pay and pensions of transferring British Transport Police officers, staff and existing and deferred BTP pensioners will be the same as they are currently. The detail of how this will be delivered is being worked through by the Scottish Government, in collaboration with stakeholders.

The Scottish Government is clear that the overall contractual and pension entitlement package will be maintained upon transition to Police Scotland, ensuring BTP officers and staff transfer without detriment. Over time, as a consequence of future organisational requirements, there may be a need to negotiate changes to terms and conditions, however, this will be a decision for Police Scotland and would follow an extensive period of formal consultation and negotiation with staff association colleagues through negotiation mechanisms. BTP Officers can therefore be reassured that upon transfer to Police Scotland there will be no fundamental changes to their contracts of employments in relation to T&C’s, pay and pensions.

We recognise that there will of course be other impacts for officers and staff of the transfer, such as potential differences in the working environment. The Scottish Police Authority and Police Scotland are committed to working closely with the BTP and BTPA to manage these in an effective and collaborative manner.

While there has already been considerable engagement to date, we recognise that more must be done to secure an inclusive process. We can assure the Committee that this is an important element of the re-planning exercise.

We have taken immediate steps to address this by expanding the membership of the Joint Programme Board to include the British Transport Police Federation and Scottish Police Federation helping us to ensure a renewed focus on capturing and prioritising the human factors of integration across the integration Programme. Stakeholder engagement events for affected BTP officers and staff are currently
being arranged. These will seek to provide assurance to transitioning BTP officers and staff, provide information on the re-planning process and timescales, and set out how and when information, such as the revised date for integration, will be available.

**Organisational structure and accountable officers for the integration programme**

An organogram detailing the structure and accountability for the integration programme is included at Annex A, attached.

**Continuing to update the Committee to progress**

In the light of the clear interest by the Committee, and the public interest in this matter, we would be very happy to keep the Committee updated on progress. In particular, we will write to the Committee following the conclusion of the re-planning exercise and to update the Committee about the gateway process we discussed during the session on 1 May. We would then be very happy to update the Committee periodically on progress, and would be very content to agree practicalities of this with the Clerk to the Committee if that would be convenient.

Donna Bell (Joint Chair JPB)  
Deputy Director, Police Division  
Scottish Government

Dan Moore (Joint Chair JPB)  
Deputy Director, Rail Market Strategy  
Department for Transport

29 May 2018
Annex A - BTP Integration – Programme Organisation & Governance
Annex A – BTP Integration – Programme Organisation & Governance

- Donna Bell and Dan Moore are the joint SROs for the programme and joint Chairs of the Joint Programme Board, reporting to Ministers on progress, issues and risks as required.

- The Joint Programme Board has shared accountability for the delivery of the BTP Integration Programme, its aims are:
  - To provide joint leadership and partnership working in order to deliver the shared objectives of the UK and Scottish governments for the devolution of policing of railways and railway property.
  - To deliver the Scottish Government’s intent for the integration of the BTP in Scotland into Police Scotland by a date subject to agreement.
  - In doing so, to take appropriate account of implications for the policing of the railway across the whole of the UK, ensuring as far as possible that there is no detriment to Scotland or the rest of the UK from the proposed approach.

- Within the programme the partners each have clear roles in handing over, receiving and ensuring safe and seamless operation going forward:
  - **British Transport Police Authority (BTPA)**
    - existing employer, responsible for the transfer (at agreed date of transfer) of BTP officers and staff in Scotland to maintain an effective railway policing function in Scotland
  - **British Transport Police (BTP)**
    - existing police force, responsible for the divestment of the railway policing operation in Scotland and safe and effective handover to PS at the agreed date for transfer
  - **Scottish Police Authority (SPA)**
    - receiving employer of BTP officers and staff. Responsible for maintaining policing in Scotland and holding the Chief Constable to account for the policing of Scotland at the agreed date of transfer and beyond
  - **Police Scotland (PS)**
    - responsible for design and delivery of an operating model for railway policing in Scotland at the agreed date of transfer and beyond
  - **SPA/BTPA/PS/BTP**
    - responsible for the continued seamless and effective delivery of UK wide railway policing post devolution