The Story so far....

1. In Autumn 2014, the cross-party Smith Commission was established to agree further powers that should be devolved to Scotland. The Smith Commission Agreement was published in November 2014.

2. The Smith Commission Agreement was implemented by the Scotland Act 2016, which devolved a range of powers to the Scottish Parliament including the power to legislate for policing of the railways and railway property. The Act also designated the British Transport Police Authority (BTPA), the Chief Constable of the British Transport Police, the Deputy Chief Constable of the British Transport Police and the Assistant Chief Constables of the British Transport Police (the BTP Bodies) as cross border public authorities.

3. The Scottish Government has used the power which was devolved to it to legislate for the policing of railways and railway property. The Railway Policing (Scotland) Act 2017 was passed by the Scottish Parliament on 27th June 2017 and received Royal Assent on 1st August 2017.

4. The Railway Policing (Scotland) Act 2017 confers railway policing powers on the Police Service of Scotland (Police Scotland) and the Scottish Police Authority (SPA) and removes functions in relation to policing railways and railway property in Scotland from the British Transport Police Authority (BTPA) and constables of the British Transport Police Force (BTP). The Scottish Government has set a proposed date for Police Scotland to take on these railway policing functions of 1 April 2019.

5. There are mechanisms within the Scotland Act 1998 for certain changes to be made which are needed as a result of devolution:

Scotland Act Orders

6. Section 90 of the Scotland Act 1998 will allow for the transfer of the BTP officers and staff whose work relates wholly or partly to railway policing in Scotland to the SPA, and for the transfer of all assets and liabilities of the BTP Bodies used for their functions for policing railways in Scotland. This will be known as the ‘section 90 Order’. The section 90 Order will be laid and debated in both the Westminster Parliament and the Scottish Parliament.

7. Section 104 of the Scotland Act 1998 will be used to make any provision that is considered necessary as a result of provisions in the Railway Policing (Scotland) Act 2017. For example, this Order will be used to make provision for cross-border
policing following devolution by the Police Service of Scotland and BTP. This will be known as the ‘section 104 Order’. The section 104 Order is laid and debated by UK Parliament.

8. The Integration Programme is a developing situation; all partners very much understand the need to provide clear information as soon as possible so you are clear about how the transfer affects you. We are working hard to do so - we aim to update this Q&A regularly to make you aware of milestones and decisions taken. This Q&A reflects decisions taken to date by the Joint Programme Board. The Joint Programme Board would welcome any feedback to this Q&A. If you would like to get in touch, please email: BTPProgramme@gov.scot.
Q AND A

How will I be kept up to date with the process?

All parties in the Joint Programme Board (JPB) are committed to making this a success. This is why a key issue for the JPB from its very first meeting has been the transfer arrangements for officers and staff. This Q&A provides an update on this, particularly on some really important decisions that have been made in recent months. We will update this Q&A on a regular basis.

The JPB is committed to ensuring that all requirements for a successful transfer are fulfilled, including that you are kept updated – we will provide as much information as to how the transfer will affect you as soon as that is possible.

The BTPA will write to all affected constables and staff in the New Year.

GENERAL PRINCIPLES ON THE TRANSFER OF OFFICERS AND STAFF

What terms and conditions will I have when I transfer to Police Scotland?

The Joint Programme Board has agreed that BTP officers and staff will transfer on their current terms and conditions. The detail of how the terms will be transferred is now being worked through.

Will I keep my current pay rates and allowances?

Terms and conditions include pay and allowances so the plan is to transfer those as is.

Am I guaranteed that my terms and conditions will not change over time?

All organisations review their terms and conditions over time and employers, staff associations and unions often make proposals for adjustments to pay, terms and conditions. The key point is that any changes will be subject to negotiation with staff associations and unions, however there are no planned changes to terms and conditions.

How will I know that all my present terms and conditions will be transferred?

The project team is currently working with the BTPA, BTPF and Police Scotland to map out all the current BTP terms and conditions for officers. Once that is done we’ll develop a plan to transfer those across.
How will the transfer take place?

The Programme Board is currently overseeing the development of legislation that will give effect to the transfer of officers, staff and assets. This legislation will be subject to scrutiny in the UK and Scottish Parliaments. We expect to be able to provide more details in the coming months.

What is dual status?

Under legislation, British Transport Police officers have “all the power and privileges of a constable” and also grants the BTPA the authority to appoint and employ Constables within the Force. So officers are both constables and employees.

Will I retain both my employee and constable status on transfer to Police Scotland?

Orders are currently being drafted to provide for officers to retain their existing dual status on transfer.

Who will represent officers after integration?

For BTP officers in Scotland, their status as constables will mean that those currently represented by the BTP Federation (BTPF) will become members of the Scottish Police Federation (SPF) under Regulation 4 of the Police Federation (Scotland) Regulations 2013.

When will BTP officers and staff be in a position to see a contract of employment?

Given there are no changes to the current provisions proposed, at this stage we would anticipate that there will be continuity of current contractual documents. If there is any change to this approach, this will be communicated well ahead of the transfer.

Does TUPE apply?

The UK and Scottish Government have agreed that TUPE will not apply in this case as TUPE does not apply to “the administrative reorganisation of public administrative authorities or the transfer of administrative functions between public administrative authorities.” However, both Governments have agreed that the principles of COSOP (the Cabinet Office Statement of Practice for staff transfers in the public sector) should be applied. The principles of COSOP will apply to both officers (as in the case of the BTP the officers are also employees of the BTPA) and staff.
What is COSOP?

COSOP is a Statement of Practice that sets out the Government’s policy on the transfer of staff. The policy is based on the principle that where TUPE does not apply in strict legal terms to certain types of transfer between different parts of the public sector, the principles of TUPE should broadly be followed (where possible using legislation to effect that transfer) and the staff involved should be treated no less favourably than if TUPE had applied. It also provides that there should be appropriate arrangements to protect occupational pensions, redundancy and severance terms of staff in all these types of transfer.

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 continue to undertake railway policing functions once the transfer has taken place. The policy also states that organisations should, however, make every effort to provide an opportunity for those who wish to stay with or return to their original organisation to do so. However the transferring organisation must ensure consistent treatment of staff affected and the needs of the work when making any decision. It is important for the constables and staff that are currently providing railway policing in Scotland to transfer to the Scottish Police Authority and the Police Service of Scotland to ensure continuity of policing provision.

Can I continue to apply for other posts prior to integration?

Yes. Constables and staff whose employment is wholly or mainly concerned or connected with the policing of the railways in Scotland and who will be transferred on 1st April can continue to apply for other posts within the BTPA in the usual manner. The Programme Board will consider whether there needs to be some transitional arrangements for a short period immediately prior to transfer where the recruitment process may overlap the transfer date.

Who will actually transfer?

The BTP must provide the necessary officers and staff to maintain an effective railway policing function in Scotland. Analysis by the British Transport Police Authority (BTPA) suggests that around 60 staff (including specials) and around 230 officers based in Scotland would transfer to Police Scotland, with the final details currently being refined as part of the work of the Joint Programme Board.
Officers

What is the basis of the transfer of constables to the Scottish Police Authority?

Each person who is employed and appointed as a constable by BTPA and whose employment is wholly or mainly concerned or connected with the policing of the railways in Scotland will on 1st April 2019:

a. have their contract of employment transferred to the Scottish Police Authority and therefore become an employee of the Scottish Police Authority. The Scottish Police Authority will simply step into the shoes of the BTPA;

b. be deemed to have been appointed as a constable of the Police Service of Scotland in accordance with the Police and Fire Reform (Scotland) Act 2012 at the same rank such constable held immediately prior to 1st April 2019;

c. have his/her period of employment with BTPA count as a period of employment with the Scottish Police Authority to ensure that the change in employment does not break the continuity of employment; and

d. have his/her terms and conditions of employment transfer to the Scottish Police Authority.

Staff

What is the basis of the transfer of staff to the Scottish Police Authority?

Each person who is employed by BTPA whose employment is wholly or mainly concerned or connected with the policing of the railways in Scotland on 1st April 2019:

a. have their contract of employment transferred to the Scottish Police Authority and therefore become an employee of the Scottish Police Authority. The Scottish Police Authority will simply step into the shoes of the BTPA;

b. have his/her period of employment with BTPA count as a period of employment with the Scottish Police Authority to ensure that the change in employment does not break the continuity of employment; and

c. have his/her terms and conditions of employment transfer to the Scottish Police Authority
TRAVEL ENTITLEMENTS

Will I keep all my current travel entitlements on transfer?

The Scottish Government has stated its intention to mirror the current travel entitlements on the transfer of BTP officers and staff.

The project team are working with partners to understand the current provisions for concessionary travel for BTP officers and staff in Scotland, in order to ensure arrangements are in place for 1 April 2019.

PENSIONS

What guarantee do I have that my pension will not change?

Pensions form part of Scottish Ministers “Triple Lock” guarantee on jobs, pay and pensions. On 9 May 2017 Mr Michael Matheson, Cabinet Secretary for Justice in the Scottish Government, gave clear assurances that the terms and conditions, pay and pensions of British Transport Police officers and staff will be the same as they are currently, or that an equivalent level of benefit will be provided to ensure transfer takes place on a no-detriment basis.

What pension scheme will I have?

The JPB has agreed that, subject to the approval of the trustee, existing officers and staff should continue to have access to their current pension scheme on transfer, and a detailed proposal is now being prepared for submission to the scheme trustee. There may be other requirements to continue to remain in the rail pension scheme and these provisions are being investigated so that we can be clear with staff and officers.

Officers and staff recruited after the merger with Police Scotland will become members of the relevant Police Scotland schemes for officers and staff.

Will I pay more into my pension?

The proposed approach will ensure continued membership of your current scheme which sets the rate of contributions you have to pay.

What will happen to my existing pension?

It is proposed, subject to approval by SPA Board and the scheme trustee, existing BTP officers and staff can remain in their existing schemes but will transfer to a new section within the schemes, with SPA becoming the designated employer for these new sections.
Will I have an option to transfer to the new section?

No – members will transfer to the new sections within the existing British Transport Police Force Superannuation Fund (BTPFSF) and Railway Pension Scheme (RPS) via compulsory transfer. This can be achieved where the benefits in the new section are no less favourable, which will be certified by actuaries.

Will my pension benefits remain the same on transfer to the new section?

Yes – the benefits will be precisely mirrored in the new sections.

When will the transfer to the new section happen?

With effect from the integration date on 1/4/2019

Why are new sections of the existing schemes being set up?

The new sections are being set up to protect the benefits for those transferring.

What happens to my pension if I choose to move out of railway policing and into another role in Police Scotland?

This is still being considered and arrangements will be communicated in due course.

What happens if I am promoted within Police Scotland?

Full consideration of what should happen if a rail officer seeks promotion will require to be worked through based on further information relating to pensions provisions etc. that is currently being established.

Will my pension scheme administrator change?

Whilst you remain in the Fund, your pension will continue to be administered by RPMI. All other decisions in relation to membership are still in development and will be communicated in due course.

What scheme will officers and staff assigned to railways policing join after 1/4/2019?

Any new recruits after 1/4/2019 will join Police Scotland and be subject to the Police Pension Scheme 2015 (for officers) or the Local Government Pension Scheme 2015 (for staff) in the local authority fund relative to the geographical location of their post.
Will I have an option to transfer to the Police Pension Scheme 2015/LGPS 2015 if I want to?

This option is not planned as part of the integration process, and due to key differences in the schemes there is currently no provision to offer transfer on comparable terms.

What happens if I have to retire on ill health?

The plan set out above is based on existing terms and conditions continuing to apply, and access to ill-health benefits remains at the discretion of the scheme trustees.

OPERATIONAL

During the transition phase of the Integration Programme, the overarching objective, from an operational perspective, is to ensure the continued safety of rail staff and the travelling public. This will be achieved through preservation of the railway specialism and command structures, by means of future proofing training programmes, securing the terms and conditions of the Officers and Staff transferring and honouring the wishes of those who want to remain within railway policing for the remainder of their service. In essence, where possible, the same people will be doing the same jobs at the same locations across Scotland to provide at least the same level of service currently delivered.

Would Rail Division continue to have a covert capability?

It is anticipated that this function will form part of the overall Police Scotland capability, however the focus on Rail related activity would be retained by the current officers and staff working under the Police Scotland command structure.

Will the command structure remain the same in Rail Division?

Yes. The plan is to retain the current command structure for railway policing in Scotland. The main change will be that the Divisional Commander will report to the Police Scotland Executive instead of the BTP one.

How will Rail Division resources be ring-fenced?

Railway Policing in Scotland will continue to be paid for by the railway industry through Railway Policing Agreements (RPA) and a cost allocation model. Discussions with the rail industry and key stakeholders will continue to develop a suitable structure for the Railway Policing Management Forum and additional engagement with other interested people to agree priorities, objectives and costs to provide this service.
Are there any plans to carry out a Training Needs Analysis?

A first draft training needs assessment has been completed by Police Scotland. This is intended to ensure the Railway Policing specialism is future-proofed and preserved. This is being further developed to look at all training requirements for BTP and Police Scotland Officers and Staff.

As a DC covering a large area in Scotland how will I be able to access the various ICT systems currently in operation in Police Scotland?

Police Scotland is continuing to work towards integrated national systems for key processes. As it stands, various national units within Police Scotland have arrangements in place to support the fact they work across the country. The BTP and Police Scotland are actively involved in this work to ensure the best available operational solution is reached.

Has consideration been given to A Division resources who work in Scotland transferring to Police Scotland?

This is an ongoing piece of work, however the expectation is that all staff who work in Scotland will transfer over.

What are the plans for Police Staff?

The plan is for all Police staff to transfer according to their current roles. For some roles, there will need to be a process of matching into Police Scotland structures which will be done through a process of consultation.

What will Taser look like in Rail Division?

All aspects of BTP working practices, including carrying of Taser and other PPE, will be subject to review prior to 1 April 2019, to ensure that any risks are mitigated, that there is no conflict with Police Scotland practices and that the transferring Officers have the legal competence to carry out their role. The carrying of Taser by non-Authorised Firearms Officers is in line with the model currently being considered within Police Scotland at Local Policing Divisions.

What will the training look like for probationers entering Police Scotland with regards Railway Policing?

This forms part of the Training Needs Analysis work being carried out, however the plan is for all probationers attending the Scottish Police College to receive a basic level of legislative and procedural input with regards to Railway Policing similar to that provided around Roads Policing. Any officer who subsequently applies to work in Railway Division will require to undergo the additional specialist training including the Personal Track Safety qualification to ensure they can operate effectively in the
specialist railway environment. This model mirrors that applied to other specialisms within Police Scotland.

**What has been put in place to address cross border powers?**

Cross border legislation is being prepared to ensure a seamless process. This draft legislation is now at an advanced stage, with the BTP and PS being closely involved in its preparation to help ensure its effectiveness.

**Would there be a change to shift patterns and the Annual Leave process?**

Shift patterns and allocation of annual leave will be an issue for the Divisional Commander in conjunction with the relevant ACC.

**What about Specials?**

Police Scotland intend that Specials, which play a critical role in the policing of the railways, will transfer from BTP to Police Scotland the same way as regular officers as part of the transfer process.

**Could I apply for specialist training and remain in Rail Division?**

Yes, there could be real opportunities for staff/officer development in such training helping officers and staff to play an even broader role. Example being an officer being trained as a non-dedicated firearms officer who could remain in Rail Division and be deployed on the network if the Threat Level was increased. It should be noted that there is high demand for such specialist training and any applicant would be required to go through the required process.