Lord Duncan of Springbank

Minister for Scotland

Dover House

Whitehall

LONDON

SW1A 2AU



Dan Moore

Deputy Director

Rail Strategy, Reform and Analysis

Department for Transport

3th floor

33 Horseferry Road

London

SW1P 4DR

DATE 16 March 2018

Web Site: www.dft.gov.uk

Dear Lord Duncan

**British Transport Police Devolution**

Thank you for your letter of the 22nd January 2018 to me in my capacity as UK Government Co-Chair of the Joint Programme Board (JPB) overseeing the merger of the British Transport Police (BTP) with Police Scotland (PS). In your letter you raise a number of issues which were raised by noble Lords during the debate on the motion of regret on the recent Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2017 on 10 January 2018.

Since that letter, there have been further important developments regarding the devolution of the British Transport Police to Scotland, which I updated you about in the briefing session on 27 February. I thought that, in addition to responding directly to your letter, it would be helpful to provide a written update, which captures the discussions at each of the JPBs which took place on 30th January 2018, 20th February 2018 and 6th March 2018, and which reflects the update provided to the House of Commons by Jo Johnson, the Minister of State for Rail, in the Westminster Hall debate on 6th March 2018.

**Update on the BTP devolution programme**

Starting first with the broader update on developments. Following the JPB on 20th February, at which your letter was discussed, the JPB were advised that the planned integration date of 1st April 2019 was no longer practicable to deliver safe and effective integration. This reflected additional time required to ensure the transfer of the BTP’s functions, most particularly to ensure that these were practicable from an operational standpoint. The Scottish Government, which has responsibility for the key policy decisions regarding devolution, consistent with the devolution of legislative competence, subsequently accepted that advice and announced that a new delivery date would be established. It confirmed, however, that the integration process would continue, with the delivery date to be confirmed following a robust replanning process. This process will be supported by external advisors.

I should stress, however, that the UK bodies, working closely with the Scottish Government, and other partners in the JPB have made considerable progress, consistent with the UK Government’s commitment to fully delivering on the Smith Commission commitments. This has included confirmation that officers and staff will transfer on an “as is” basis, maintaining their current status, terms and conditions; a proposition is also being discussed with the Trustee of the BTP Shared Cost Section of the Railways Pension Scheme to enable BTP officers and staff to retain access to their current pensions. Additionally, the draft secondary legislation had reached an advanced stage of preparation in order that the original timetable could have been met. As the delivery date has changed, consistent with Jo Johnson’s update to the House of Commons, and the briefing session on 27 February, the Orders will now be delayed to reflect the updated timetable once that has been established. As the transfer date is linked to funding arrangements for the BTP, the earliest date on which the transfer can now take place is 1 April 2020, albeit, as I mention above, the precise delivery date will be confirmed following the replanning process.

I can assure you that UK officials, and those bodies within the direct ambit of the UK Government, will continue to actively and collaboratively work with partners in the Scottish Government, Police Scotland and the Scottish Police Authority to ensure the seamless and effective delivery of devolution. This will include both an active role in the replanning process and in supporting a significant increase in the level and effectiveness of broader stakeholder engagement with passengers, staff and the rail industry. The priority has been, and will continue to be, to ensure a transfer of responsibilities which provides continuity of service and secures the safety of rail customers, staff and the wider rail network.

**Specific issues raised in your letter**

With respect to the specific issues you have raised in your letter, I am conscious that many of these have already been the subject of separate correspondence with noble Lords. I can assure you that each of them have been and will continue to be carefully considered by the JPB as the process continues, including the issues you raise about complexity, maintaining the vital specialism of railway policing and providing clarity on funding. More specific answers to the points raised by noble Lords are included in the Annex.

**Concluding remarks**

I hope this update has been helpful. We will continue to provide updates to your officials, who have continued to provide important and valued assistance to the project, as the project progresses. I would also be very happy to provide a further briefing following the replanning process should that be helpful.

Yours Sincerely



**Dan Moore**

**Co-Chair**

**Joint Programme Board**

**BTP Integration Programme**

**ANNEX: ISSUES RAISED BY NOBLE LORDS – SUMMARISED QUESTIONS**

**Who is funding the BTP in Scotland and how will it work?**

Future funding of policing in Scotland, once the British Transport Police’s functions have been transferred, as clearly envisaged by the Railway Policing (Scotland ) Act 2017, is a matter for the Scottish Government. We understand that it is their intention to charge the railway operators as the British Transport Police currently do. Any train operator who runs services in both Scotland and in England and Wales will therefore be charged separately for the policing services received.

**What are the proposals for the practical issues in terms of policing the railways between the two** **forces?**

Arrangements will be put in place to provide for officers of the BTP and Police Scotland to have jurisdiction to police in the others’ normal jurisdiction when necessary to ensure effective policing across the border. The two Governments are working together, through the Joint Programme Board, with the two forces and the two police authorities to identify the legislative provisions necessary to achieve this – these are now at a developed stage. The border clearly cannot be a barrier to the effective policing of the railway. Mutual aid arrangements will remain in place.

**What is the number of officers who are being taken out of the BTP, and where does that leave the rest of the BTP and its infrastructure arrangements? How will the merger affect the ‘floor’ for police officers in Scotland?**

The exact number affected by the transfer will depend on numbers in post at the time of the transfer, but the expectation at the current time is this will be approximately 225 officers and around 60 civilian support staff.  This represents well under 10% of the British Transport Police’s existing front line police officer complement. During the passage of the Railway Policing (Scotland) Act 2017 through the Scottish Parliament, specific assurances were provided by the Scottish Government and Police Scotland that a specialist railway policing service will be maintained in Scotland. The Scottish Police Authority is now required in that legislation to agree the priorities, objectives, arrangements and costs for railway policing with railway operators.

We are clear that following the transfer, the BTP must have sufficient staff and officers to continue to play its important, specialist role in England and Wales.

The Scottish Government and Police Scotland have provided assurances that railway policing is not related to the question of wider police numbers.

**If it transpires that there are costs to transport policing in England and Wales, where will those costs fall?**

The underlying principle of the approach to the transfer is that costs should lie where they fall. Any additional cost burden which falls on the British Transport Police as a result of the transfer of its functions in Scotland, once the transfer has taken place, will need to be met by the British Transport Police Authority. The UK Government are working with the British Transport Police Authority to seek to ensure that such costs are kept to the absolute minimum necessary, so that the impact on those railway operators who will continue to use and pay for the British Transport Police’s services, is minimised. Any additional costs in Scotland will be the responsibility of the Scottish Government, and the Scottish Police Authority.

**Can the no detriment policy apply to train operators that make contributions in this area?**

Whilst it has been argued that as the transfer cannot be delivered at no cost, it does not meet the ‘no detriment’ principle, this misunderstands the context set out in the Smith Commission’s report which relates to fiscal matters only. However, we are working closely with the BTP/BTPA to minimise the costs associated with the transfer.

**What are the terms and conditions and the extra costs associated with harmonising terms and conditions between the two forces?**

Scottish Ministers have provided assurances to the Scottish Parliament that British Transport Police officers and staff in Scotland will transfer to Police Scotland with their current terms and conditions of service including pensions. Costs should lie where they fall.

**Who will provide transport-specific training to officers working on the railways post-Police Scotland merger?**

Future arrangements for training are a matter for the two forces. Training is an operational matter and it would be inappropriate for the UK Government to become directly involved in these arrangements. However, during the passage of the Railway Policing (Scotland) Act 2017 through the Scottish Parliament, assurances were provided by the Scottish Government and Police Scotland that a specialist railway policing service will be maintained in Scotland. As such, there is scope for Police Scotland to draw on the British Transport Police’s experience and consider the opportunities for adopting similar, or indeed joint, training programmes.

Maintaining high levels of service across the UK is at the forefront of our planning for an efficient and effective transfer of functions. The two Governments are working closely to ensure maintenance of the standards of railway policing in Scotland and to prevent any detrimental effect on the British Transport Police for the rest of England and Wales.

**Do firearms officer in Police Scotland have the same type and level of training as those in the BTP?**

Firearms officers are trained to consistent standards. It should be noted that there are currently no trained firearms officers in the British Transport Police in Scotland.