

TAYSIDE JOINT POLICE BOARD

25 February 2013

Joint Report by the Chief Constable and Treasurer Report No. PB 13/2013

SUBJECT : POLICE AND FIRE SERVICE REFORM – PROPOSALS FOR A TRANSFER SCHEME FOR PROPERTY, RIGHTS, LIABILITIES AND OBLIGATIONS

Abstract : The purpose of this report is to advise members of the proposals for transferring property, other assets, liabilities, etc. from the Board to the new Scottish Police Authority (SPA) and to seek the Board's formal approval of those heritable properties which are proposed for transfer in accordance with the Scottish Government's request.

1. RECOMMENDATION

1.1 It is recommended that the Board:

- a) Note the contents of this report, including:
 - the legislative framework regarding property transfers from the Board to the Scottish Police Authority (SPA) as set out in paragraph 2;
 - the Principles of Transfer for Property, Rights, Liabilities and Obligations (PRiLO) ([Appendix 1](#));
 - the recommended processes regarding the transfer of individual categories of PRiLO as set out in the Handling Document ([Appendix 2](#));
 - the Dispute Resolution Process ([Appendix 3](#)); and
 - the list of heritable property, provided at [Appendix 4](#), which has been identified as requiring to transfer from the Tayside Joint Police Board to the SPA.
- b) Identify from Appendix 4, any heritable property which the Board considers should not transfer to the SPA but should instead transfer to a constituent Local Authority of the Board;
- c) Identify in Appendix 4, any heritable property which the Board does not consider eligible to transfer to the SPA and wishes the matter to be considered through the dispute resolution process;
- d) Agree that all property, rights, liabilities and obligations, other than those which the Board has identified to be transferred to a Local Authority or wishes to be referred to dispute resolution as per (b) and (c) above, transfer to the SPA;
- e) Note that the Board's position on the above will be notified to the Scottish Government through completion of the 'Agreement Document' attached at Annex A; and
- f) Note that a further report may be provided on request to the Board in March to confirm what has happened, provide an update on progress with any disputed items or provide an update on any movements in the heritable property list, e.g. disposals.

2. LEGISLATIVE FRAMEWORK

- 2.1 Schedule 5 to the Police and Fire Reform (Scotland) Act 2012 provides for Scottish Ministers to arrange the statutory transfer of property, rights, liabilities and obligations from Joint Police Boards, Unitary Authorities and Chief Constables to the Scottish Police Authority (SPA) or to local authorities, as appropriate through a Transfer Scheme.
- 2.2 In the case of heritable properties, the Transfer Scheme will vest ownership of the properties with the SPA and will constitute a valid and legal link in title which the recipients of heritable property (SPA or Local Authorities) can use to formalise the title when they need so to do, e.g. upon sale of the property at some future point.

3. BACKGROUND

- 3.1 While the 2012 Act allows for transfers to local authorities, it is generally anticipated that the property, rights, liabilities and obligations of the Tayside Joint Police Board will transfer to the SPA as at 1st April 2013.
- 3.2 Exceptions to this general position are:
- **Usable Reserves** – agreement has been reached between CoSLA and the Scottish Government on the treatment of committed and uncommitted reserves at Reform. The outcome agreed between CoSLA and the Scottish Government is that 100% of uncommitted fire reserves and 49% of uncommitted police reserves will be passed back to the relevant constituent local authorities in 2013-14, with the remaining 51% of police reserves returning to Scottish Government. Any committed reserves at Reform will be passed to the Scottish Police Authority or the Scottish Fire and Rescue Service in 2013-14.
 - **Loan Debt** – where loan debt is currently managed through Council Loans Funds, Councils will retain the loan debt with future charges being serviced by the Scottish Police Authority and/or Scottish Fire and Rescue Service.

4. THE PRILO PROJECT

- 4.1 The PRILO project has been established within the Police and Fire Reform Programmes to identify all existing property, rights, liabilities and obligations in relation to the delivery of police and fire and rescue services and to transfer these as appropriate. The multi-agency Project Board includes representation from the Scottish Government, ACPOS, CFOAS, Joint Board Conveners, Joint Board Clerks, Directors of Finance, CoSLA and the SPSA, and more recently following their appointment, the SPA and SFRS. In determining the transfer of property, rights, liabilities and obligations, Board members have agreed the following criteria:

Value for money – the work of the Project Board should minimise wherever possible the cost of transfer to the public purse and determine solutions that minimise any long-term future costs;

Fairness - the work of the Project Board should be undertaken in a manner that is fair and equitable to all parties concerned;

Detail – the Project Board should seek and be provided with a sufficient level of detail to support its decisions and to provide an adequate audit trail. Where possible, use should be made of good-quality, routinely-collected data;

Timing – the Project Board should wherever possible aim to have all Property, Rights, Liabilities and Obligations transferred as at 31st March 2013;

Government policy – the Project Board should be mindful of situations where Government policy dictates a specific approach to the manner in which certain Property, Rights, Liabilities and Obligations are transferred (e.g. uncommitted reserves); and

Transparency - the rationale informing the Project Boards' methodology should be explicable and any judgements should be made explicit.

5. PRILO PRINCIPLES

- 5.1 The PRiLO Project Board has developed a set of principles which should be used to determine the manner in which PRiLO should transfer. The principles are attached at Appendix 1.

6. IDENTIFICATION AND VERIFICATION OF PRILO

- 6.1 The PRiLO Project Board has identified the need for formal identification and verification of property, rights, liabilities and obligations to be undertaken in two stages. Firstly, with regard to identifying, there needs to be an exercise undertaken prior to 31st March 2013 in which Police and Fire Joint Boards, Chief Constables and Local Authorities identify which property, rights, liabilities and obligations should transfer to the SPA, the Chief Constable, SFRS and Local Authorities, as appropriate. Secondly, with regard to verification, there needs to be an exercise post 1st April 2013 whereby the SPA, the Chief Constable, SFRS and Local Authorities satisfy themselves that all that was identified to transfer has in fact been transferred.
- 6.2 The recommended identification and verification processes regarding the transfer of individual categories of PRiLO are set out in the Handling document attached at Appendix 2.
- 6.3 As part of the preparatory identification work undertaken by the Project Board, it was agreed that lists of all heritable properties currently identified for transfer from Joint Police Boards/Joint Fire and Rescue Boards/Unitary Authorities to the SPA/SFRS and the Local Authority should be shared with Joint Boards/Unitary Authorities for their information. Report PB 85/12 gave Members an opportunity to view what was provisionally proposed and raise any queries on the proposed treatment of particular assets. Since then the PRiLO project team has been working with all parties to ensure that there are no outstanding issues.
- 6.4 All heritable properties owned by Tayside Joint Police Board or where Tayside Joint Police Board currently has tenant / user rights identified to date are included at Appendix 4. This draft list is subject to regular up-dating as a consequence of further information and alterations to the existing property portfolio but the list attached is considered to be a complete and accurate listing of the Board's heritable property and related interests as at 5 February 2013. Where the properties listed in Appendix 4 refer to "tenant's interest" or "user rights" it is only these interests/rights which will

transfer to SPA not the ownership of the properties themselves which will remain with their current owner.

7. PROJECT ASSURANCE

- 7.1 The property identification work has been undertaken for the PRiLO Board, which is applying the legislation to the legal transfer of PRiLO. The PRiLO Board have had full oversight of the work to identify the process and principles that underlines this work. Whilst the PRiLO Board and the Project Team which supports it believe that all relevant matters concerned with property, rights, liabilities and obligations are captured in this report further due diligence has been undertaken locally by the authors of this report to confirm the accuracy of the property lists and the position regarding transfers which the Tayside Joint Police Board is being asked to agree.

8. DISPUTE RESOLUTION

- 8.1 The PRiLO Project Board has prepared a Dispute Resolution Process for any disputes that arise as a result of the identification and verification work undertaken on heritable properties identified for transfer. This process has been tailored in view of where disputes are likely to arise and is attached at Appendix 3.
- 8.2 In accordance with paragraph 19(7) of Schedule 5 to the Act, Scottish Ministers may issue a certificate that any property has, or has not, been transferred by virtue of the Transfer Scheme. Such a certificate is conclusive evidence of the transfer or the fact that there has not been a transfer.
- 8.3 Where a Joint Board dispute cannot be resolved by Friday 15th March 2013, the property, right, liability or obligation will transfer to the SPA or SFRS on 1st April 2013 and the dispute will be resolved after that date. If appropriate, the property, right, liability or obligation may subsequently transfer by Scheme to a Local Authority.
- 8.4 Where a Unitary Authority dispute cannot be resolved in advance of 1st April 2013, the property, right, liability or obligation, will remain with the Local Authority until such time as it is resolved as the Unitary Authorities, unlike the Joint Boards, will still be legal entities post 31st March.

9. FINANCIAL IMPLICATIONS

- 9.1 There are no financial implications resulting from this report.

10. SUSTAINABLE DEVELOPMENT

- 10.1 This report does not have any impact on the environment

11. CONSULTATION

- 11.1 The Clerk to the Board has been consulted in the preparation of this report.

12. CONCLUSION

12.1 The Report asks members to agree the proposals for transfer of the Board's heritable property assets to the SPA and to identify any property which the Board considers should not transfer to the SPA. The report also seeks approval for this Board's position to be formally signed off and this position notified to the Scottish Government.

13. COMPLIANCE

13.1 Is the proposal;

(a) Human Rights Act 1998 compliant?	YES
(b) Equality & Diversity compliant?	YES

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NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report

SUMMARY OF ANNEXES AND APPENDICES ATTACHED:

Annex A - Agreement Document for Joint Board

Annex B - Schedule of Properties transferring to Local Authorities (if any) (part of Agreement Document)

Annex C - Schedule of Disputed Properties (if any) (part of Agreement Document)

Appendix 1 - Principles of transfer for Property, Rights, Liabilities and Obligations (PRiLO)

Appendix 2 - Identification and Verification Handling Document

Appendix 3 - Dispute Resolution Process

Appendix 4 - List of Heritable Property of Tayside Joint Police Board subject to transfer under the Police and Fire Reform (Scotland) Act 2012

AGREEMENT DOCUMENT (JOINT BOARD)

JOINT BOARD AGREEMENT TO THE TRANSFER OF THE PROPERTY, RIGHTS, LIABILITIES AND OBLIGATIONS OF THE JOINT POLICE BOARD TO THE SCOTTISH POLICE AUTHORITY

This agreement document provides confirmation that the Tayside Joint Police Board has considered the Chief Constable and Treasurer's Report (PB 13/2013) dated 25 February 2013 on the transfer of property, rights, liabilities and obligations of the said Board; has considered the proposals regarding the transfer of property, rights, liabilities and obligations as outlined in that Report; and has agreed the actions as set out below at Parts A, B and C with regard to the transfer to the Scottish Police Authority (SPA) It is for the Joint Board to seek appropriate assurance on the accuracy of the list of properties identified. This assurance should be sought from the police, constituent local authorities and any other party that the Convener considers appropriate.

This agreement document is required in order to provide the Scottish Government (SG) with the appropriate confirmation that the necessary identification has been undertaken and the necessary authority to transfer. Transfer will be undertaken through SG transfer schemes made under the Police and Fire Reform (Scotland) Act 2012, with a copy issued to the constituent Local Authorities for their records.

This agreement document must be completed and submitted to the SG by Thursday, 28th February 2013 at the latest.

If the SG has not received a response by that date, it will be accepted by the Scottish Government that the Board is content for all property, rights, liabilities and obligations to transfer to SPA in accordance with the Chief Constable and Treasurer's report (PB 13/2013) dated 25 February 2013.

Part A - NOT CURRENTLY APPLICABLE – NO PROPERTIES EXPECTED TO TRANSFER TO LOCAL AUTHORITIES

AGREEMENT TO TRANSFER HERITABLE PROPERTIES AND ITEMS INCLUDED WITHIN THE CATEGORIES OUTLINED AT APPENDIX 4 OF REPORT PB 13/2013 DATED 25 FEBRUARY 2013 TO LOCAL AUTHORITIES

On behalf of Tayside Joint Police Board, as Convenor, I confirm that it has been agreed by both _____(Local Authority) and the SPA that the specific properties listed in Annex B are not to transfer to the SPA, but instead to _____ Council(s) (as one or more of the constituent Local Authorities). If necessary, SPA will be asked to provide confirmation separately that this has been agreed.

Signed _____ Date _____

Witness _____ Date _____

Witness Name and Address:

Part B NOT CURRENTLY APPLICABLE – NO PROPERTIES TO TRANSFER ARE IN DISPUTE**WHERE AGREEMENT TO TRANSFER HERITABLE PROPERTIES AND ITEMS INCLUDED WITHIN THE CATEGORIES OUTLINED AT APPENDIX 4 OF REPORT PB 13/2013 DATED 25 FEBRUARY 2013 TO SPA HAS NOT BEEN REACHED**

On behalf of Tayside Joint Police Board, as Convenor, I acknowledge that no agreement has been reached between _____ and the SPA on the specific properties listed in Annex C. If agreement is not achieved by 15th March 2013, in line with the agreement of the PRiLO Board, I accept that such properties will transfer to SPA until such time as the dispute is settled. I also accept that in line with the Act's provisions, Scottish Ministers can determine the appropriate owner.

Signed _____ Date _____

Witness _____ Date _____

Witness Name and Address:

Part C**AGREEMENT THAT ALL HERITABLE PROPERTIES INCLUDED IN THE REPORT OTHER THAN THOSE INDICATED IN PARTS A and B ABOVE ARE TO TRANSFER**

On behalf of Tayside Joint Police Board, as Convenor, I agree that all heritable properties other than heritable properties listed in Annexes B or C, are to transfer to the SPA.

Signed _____ Date _____

Witness _____ Date _____

Witness Name and Address:

This agreement document should be completed and returned electronically by Thursday, 28th February 2013 at the latest to Scott Reid at scott.reid@scotland.gsi.gov.uk, copied to Iain Morrison, Project Manager at Iain.S.Morrison@scotland.gsi.gov.uk.

**AGREEMENT TO TRANSFER HERITABLE PROPERTIES AND ITEMS INCLUDED
WITHIN THE CATEGORIES OUTLINED AT APPENDIX 4 OF REPORT PB 13/2013
DATED 25 FEBRUARY 2013 TO THE CONSTITUENT COUNCILS**

The following properties (included in Appendix 4) are not to transfer to the SPA but have instead been agreed to transfer to the constituent councils as listed:-

Angus Council

Nil

Dundee City Council

Nil

Perth & Kinross Council

Nil

**AGREEMENT TO TRANSFER HERITABLE PROPERTIES AND ITEMS INCLUDED
WITHIN THE CATEGORIES OUTLINED AT APPENDIX 4 OF REPORT PB 13/2013
DATED 25 FEBRUARY 2013 TO SPA HAS NOT BEEN REACHED**

No agreement has yet been reached regarding the following properties (included in Appendix 4). If agreement has not been reached by 15 March 2013 these properties will be referred to the dispute resolution process:-

Nil