

<b>Decision of:</b>	<b>EXECUTIVE</b>
<b>Decision Number:</b>	EX24/2017
<b>Relevant Officer:</b>	Alan Cavill, Director of Place
<b>Relevant Cabinet Member:</b>	Councillor Gillian Campbell, Deputy Leader of the Council (Tourism, Economic Growth and Jobs)
<b>Date of Meeting:</b>	17 July 2017

## **TRANSPORT FOR THE NORTH – INCORPORATION AS A SUB-NATIONAL TRANSPORT BODY**

### **1.0 Purpose of the report:**

- 1.1 The purpose of this report is for the Executive to consent to the making of Regulations by the Secretary of State to establish Transport for the North as a sub-National Transport Body under section 102E of the Local Transport Act 2008. The consent of each Constituent Authority is required to the making of Regulations by the Secretary of State.
- 1.2 The Executive is also asked to approve in principle the transfer of Rail North Limited to Transport for the North (TfN), following its inauguration and the signing of a new Rail Franchise Management Agreement with Transport for the North replicating as far as possible the arrangements entered into in respect of Rail North Limited.

### **2.0 Recommendation(s):**

The Executive is recommended to:

- 2.1 To approve the making by the Secretary of State of Regulations under section 102E of the Local Transport Act 2008 to establish Transport for the North as a Sub-National Transport Body.
- 2.2 To approve the transfer of Rail North Limited to Transport for the North so that it can be subsumed within Transport for the North.
- 2.3 To approve the signing of a new Rail Franchise Management Agreement with Transport for the North replicating as far as possible the current Rail North Limited Members Agreement

2.4 To agree to the continuation of the payment of the current funding for Rail North Limited to Transport for the North after its inauguration.

### **3.0 Reasons for recommendation(s):**

3.1 The approval of each Constituent Authority is required to the making of Regulations by the Secretary of State.

The Council is currently a member of Rail North Limited and its consent is required to the new

The approval of the regulations will allow the Council to influence the delivery of strategic transport functions in line with its priorities.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

Not to consent to the making of Regulations by the Secretary of State, this will mean that the Council will not a member of Transport North and its scope to influence that body will be significantly restricted.

### **4.0 Council Priority:**

4.1 The relevant Council Priorities are:

“The economy: Maximising growth and opportunity across Blackpool”

“Communities: Creating stronger communities and increasing resilience”

### **5.0 Background Information**

5.1 In 2014, Local Transport Authorities and Local Enterprise Partnerships across the North of England came together in partnership with the Department for Transport and the National Transport Agencies to form Transport for the North (TfN). Together they have developed an ambitious pan-northern transport strategy to drive economic growth in the North. The purpose of Transport for the North is to transform the transport system of the North of England and the aim of Transport for the North is to plan and deliver the improvements needed to truly connect the region

with fast, frequent and reliable transport links, driving economic growth and creating a Northern Powerhouse.

5.2 As part of this programme of improvements and devolution of transport strategy to a more local level these Local Transport Authorities came together to form Rail North Limited a company whose objects include the management of the TransPennine Express and Northern Rail Franchises on behalf of the Secretary of State for Transport.

5.3 In October 2016, with the agreement of all the Constituent Authorities, Transport for the North submitted a proposal to the Secretary of State for Transport that Transport for the North should be established as the first Sub-national Transport Body (STB) under the provisions of section 102E of the Local Transport Act 2008 as amended by the Cities and Local Government Devolution Act 2016.

5.4 The 19 Constituent Authorities of Transport for the North are:

- Greater Manchester Combined Authority
- Liverpool City Region Combined Authority
- North East Combined Authority
- Sheffield City Region Combined Authority
- Tees Valley Combined Authority
- West Yorkshire Combined Authority
- Cumbria County Council
- Lancashire County Council
- North Yorkshire County Council
- Blackburn with Darwen Unitary Authority
- Blackpool Unitary Authority
- Cheshire East Unitary Authority
- Cheshire West and Chester Unitary Authority
- Warrington Unitary Authority
- City of York Unitary Authority
- East Riding of Yorkshire Unitary Authority
- Hull Unitary Authority
- North Lincolnshire Unitary Authority
- North East Lincolnshire Unitary Authority

## 5.5 **The Submission Proposal**

5.6 The Proposal submitted by the Constituent Authorities included the following key provisions:

- a) All Constituent Authorities will be entitled to appoint a representative to

Transport for the North, such representative to normally be the Elected Mayor or Leader;

- b) Decisions will be expected to be unanimous, but where voting is required votes will be weighted in accordance with the populations of the Constituent Authorities;
- c) Decisions in relation to the Budget, the adoption of a Transport Strategy and the Constitution will require a Super Majority;
- d) Funding will be provided by the Secretary of State and no decision to require financial contributions from Constituent Authorities can be made without the agreement of each Authority;
- e) There will be appropriate mechanisms for Scrutiny of Transport for the North's decisions;
- f) Rail North Limited will be wholly owned by Transport for the North; and
- g) A wider Partnership Board including representatives of government bodies and the Local Enterprise Partnership will be set up to inform Transport for the North's decision making.

## **5.7 The Secretary of State's Response**

5.8 The Secretary of State has now formally responded to the Proposal and has indicated that he is minded to make Regulations creating Transport for the North as the first Sub-national Transport Body with the following functions:

- a) The preparation of a Northern Transport Strategy;
- b) The provision of advice on the North's priorities, as a Statutory Partner in the Department's investment processes; and
- c) The coordination of regional transport activities, (such as smart ticketing), and the co-management of the TransPennine Express and Northern rail franchises through the acquisition of Rail North Limited.

## **5.9 The Draft Regulations**

5.10 Regulations are currently being drafted which will reflect the terms of the Proposal in so far as they have been agreed by the Secretary of State and will give Transport for the North the statutory powers to carry out these functions.

## **5.11 The Draft Constitution**

5.12 A Draft Constitution, which can be found at Appendix 2(a), has been drawn up which includes provisions which reflect and implement the Submission Proposal. The Constitution contains the following Provisions:

5.13 Articles

5.14 The Articles sets out the statutory basis for Transport for the North and its membership. Transport for the North is proposed to be made up of representatives from the 19 Constituent Authorities who are the Transport Authorities for the North of England. Transport for the North will operate through a delegation to its Chief Officers of all its functions other than those specifically reserved to Transport for the North.

5.15 The Articles contains an overview of the functions of Transport for the North and the major partnerships through which it will exercise these functions in particular its role as Statutory Partner in determining priorities for road and rail investment and its role in managing the TransPennine Express and Northern Rail Franchises.

5.16 Transport for the North will establish a Partnership Board with representatives of all the Constituent Authorities, representatives of the other Authorities who were members of Rail North Limited, representatives of the eleven Local Enterprise Partnerships and representatives of the Department for Transport and of other Government Agencies. This Board will be responsible for setting the strategic agenda for transport in the North of England.

5.17 Transport for the North will also engage with its partners in the Rail North Partnership Board setting the strategic priorities for rail investment and in the Highways North Board setting the strategic priorities for road investment.

5.18 Transport for the North will co-manage the TransPennine Express and Northern Rail Franchises through a Committee, which will include representatives of all the other Authorities who were members of Rail North Limited.

5.19 Voting

5.20 The Articles provide for weighted voting in accordance with a matrix, which gives the representative of each Constituent Authority a vote which is weighted to reflect the population of the area of the Constituent Authority.

5.21 A decision to approve the Budget, to approve the Constitution or to adopt the Transport Strategy will require an increased majority of 75% of the weighted votes and a simple majority of the Members of Transport for the North.

5.22 It is proposed that Transport for the North should be entitled to co-opt Members and that such co-opted Members should have voting rights. It is further proposed that those Authorities, which are members of Rail North Limited, but which will not be a Constituent Authority of Transport for the North (the Rail North Authorities), should each be entitled to appoint a representative to be a co-opted Member of Transport

for the North with a right to speak and vote on rail franchise matters. The voting in relation to rail franchise matters shall be weighted in accordance with a voting matrix which reflects the voting arrangements for Rail North Limited.

5.22 Powers and Functions

5.23 This section sets out the powers and functions, which will be given to Transport for the North through the Regulations and by legislation.

5.24 These will be as follows:

- a) To prepare a Transport Strategy for the Combined Area in accordance with section 102I of the Local Transport Act 2008;
- b) To provide advice to the Secretary of State about the exercise of the transport functions in the Combined Area;
- c) To be a Statutory Partner with the Secretary of State in both road and rail investment processes and to be responsible for setting the objectives and priorities for strategic road and rail investments in the Combined Area;
- d) To be consulted in relation to rail franchise agreements for services to and from or within its area;
- e) To co-manage with the Secretary of State the TransPennine Express and Northern Rail Franchises;
- f) To co-ordinate the carrying out of specified transport functions that are exercisable by its different Constituent Authorities with a view to improving the effectiveness and efficiency of the carrying out of those functions;
- g) To promote and co-ordinate road transport schemes;
- h) To make proposals to the Secretary of State for the transfer of transport functions to Transport for the North;
- i) To make other proposals to the Secretary of State about the role and functions of Transport for the North;
- j) To undertake Smart Ticketing within the Combined Area;
- k) To promote and oppose local or personal bills in Parliament;
- l) To pay Capital Grants to support the funding and delivery of joint projects; and
- m) To exercise the powers of a highway authority to acquire land and to construct highways under Section 24.

5.25 Concurrent Functions

5.26 Before exercising any transport powers or functions it holds concurrently with any of the Constituent Authorities or Highways Authorities within the Transport for the North area, Transport for the North will consult those Authorities and enter into a Protocol covering the way in which those functions will be exercised.

5.27 Responsibility for Functions

5.28 The Membership of Transport for the North will together be responsible for approving the Budget, the Constitution and the Transport Strategy.

5.29 Officers of Transport for the North would have delegated responsibility to carry out all of Transport for the North's day-to-day functions and to implement the strategic decisions made by Transport for the North.

5.30 In carrying out these functions Transport for the North and its officers will have due regard to the views and advice of the Partnership Board, the Department for Transport and other Statutory Agencies.

5.31 Audit and Governance Committee

5.32 Transport for the North will appoint an Audit and Governance Committee to provide independent review and assurance to Members on governance, risk management and control frameworks. It oversees financial reporting, the Annual Governance Statement process and internal and external audit, to ensure efficient and effective assurance arrangements are in place.

5.33 Scrutiny Committee

5.34 Each of the Constituent Authorities will be entitled to appoint a representative (and a substitute) to the Scrutiny Committee.

5.35 The role of the Scrutiny Committee will include:-

- a) reviewing the decisions of Transport for the North and of officers of Transport for the North under the scheme of delegations;
- b) making reports or recommendations to Transport for the North with respect to the discharge of the functions of Transport for the North and on transport matters that affect the Transport for the North area.

5.36 The Rail North Committee

5.37 Transport for the North will establish a Rail North Committee, which will advise on Transport for the North's statutory Partner role in relation to rail investment and will have oversight of the management of the TransPennine Express and Northern Rail Franchises.

5.38 Procedure Rules

5.39 This section sets out the procedures, which shall apply to meetings of Transport for the North. The Rules of Debate reflect the nature of the business of Transport for the North and that most decisions are expected to be consensual without the need for formal debating procedures.

5.40 Scrutiny Procedure Rules

5.41 These set out the role of Scrutiny within Transport for the North.

5.42 The Scrutiny Procedure Rules provide for Scrutiny Committee to set up smaller Scrutiny Panels to review discreet topics and to allow these Panels to invite representatives of outside bodies to attend to inform their Reviews.

5.43 Financial Procedures

5.44 This section sets out the financial rules and controls, which will govern all expenditure by Tran. It also contains the Contract Procurement Rules which will govern how Transport for the North tenders and awards contracts.

5.45 It is expected that more detailed financial controls in relation to individual projects will be set out in the Funding Letter from the Secretary of State.

5.46 Codes and Protocols

5.47 It is not intended that Transport for the North should have its own Code of Conduct for Members, but Members will be expected to adhere to the Code of Conduct of their appointing Authority in the conduct of Transport for the North's business and any Standards issue would be referred back to the appointing Authority by the Monitoring Officer.

5.48 The section includes the Codes of Conduct for Officers of Transport for the North, the Protocol on Member/Officer Relations, the Code of Corporate Governance, the Anti-Fraud and Corruption Policy and the Whistleblowing Policy.

5.49 Although Transport for the North is not required to adopt its own Code of Conduct for Members, it will need to have a separate Disclosure of Interests by each Member in respect of their interests within the whole of the Transport for the North geographical area.



- 5.50 The Code of Conduct for Officers sets out the standards of behaviour expected from Transport for the North's officers.
- 5.51 The Protocol on Member/ Officer Relations sets out guidance on the mutual respect, which should exist between officers and Members and the way in which they should interact with each other.
- 5.52 The Code of Corporate Governance sets out the core principles and values which will govern the way in which TfN operates.
- 5.53 The Anti-Fraud and Corruption Policy sets out the measures that Transport for the North will put in place to avoid and address fraud and corruption in any of its dealings.
- 5.54 The Whistle blowing Policy sets out the ways in which whistle-blowers may bring their concerns to management and the protections that are in place to ensure that whistle-blowers are not victimised or discriminated against.

#### **5.55 Role of the Partnership Board**

- 5.56 Transport for the North has evolved over the years, from the inception of Transport for the North as a partnership representing all those with an interest in the improvement of transport in the North of England to the creation of Transport for the North as the first Sub-Nation Transport Body. Although Transport for the North as a corporate body will consist of the representatives of the 19 Constituent Authorities, there is an aspiration that it will continue to operate through the Partnership Board taking decisions in partnership with the representatives of the 11 Local Enterprise Partnerships as representatives of the business community and with representatives of the Department for Transport and other Government Agencies and will continue to have an independent chair.
- 5.57 The draft Constitution reflects the legal requirements for decision making within Transport for the North as a corporate body, but it will be open to Transport for the North to operate these constitutional arrangements in a way that is consistent with continuing the present arrangements of the Partnership Board if Members so agree.

#### **5.58 Rail North Limited**

- 5.59 One of the drivers for the creation of Transport for the North as a Sub-National Transport Body was to create a body that could speak with one voice on all transport matters affecting the North of England. To achieve that, it is proposed that Transport for the North should take over ownership of Rail North Limited and subsume all of its functions directly into Transport for the North.
- 5.60 Rail North Limited would be replaced by a Committee of Transport for the North on which

the former Rail North Member Authorities would be represented and have the same voting rights as under the Memorandum and Articles of the Company.

5.61 Before this can be achieved all the current members of Rail North Limited will need to formally agree to the proposals for the transfer of Rail North Limited to Transport for the North

**5.62 The Rail Partnership Board**

5.63 A Rail Partnership Board will be set up to include representatives of the Department for Transport. This Board will make recommendations in relation strategic priorities for rail investment and in relation to existing and future rail franchises.

**5.64 The Highways North Board**

5.65 Transport for the North will participate in the Highways North Board with representatives of the Department for Transport and Highways England. The role of the Board will be to make recommendations in respect of the future Roads Investment Strategy and competitive major roads funding programmes.

**5.67 The Chief Executives Meeting**

5.68 The Chief Executives or their representatives will continue to meet to provide oversight of the activities of Transport for the North and review draft Board papers and advise on policy and strategy proposals.

**5.69 Consent to the Regulations**

5.70 Draft Regulations are being drafted to create Transport for the North as a Sub-National Transport Body. Before the Secretary of State may make these Regulations each of the Constituent Authorities must consent to the making of the Regulations. It is anticipated that the Secretary of State will send a letter to each of the Constituent Authorities at the beginning of September 2017 requesting formal consent to the making of the Regulations. The letter will request a response within 14 days.

5.71 Does the information submitted include any exempt information? No

**5.72 List of Appendices**

Appendix 2(a) – Draft TfN Constitution.

**6.0 Legal considerations:**

6.1 As outlined in the background information section above.

**7.0 Human Resources considerations:**

7.1 Transport for the North will appoint its three Statutory Officers, the Chief Executive as the Head of Paid Service, the Monitoring Officer and the Finance Director as its Chief Officers to whom it will delegate day to day operations of Transport for the North.

7.2 Chief Officers will have due regard to the recommendations of the Partnership Board, the Rail Partnership Board and Highways North in carrying out their functions.

**8.0 Equalities considerations:**

8.1 There are none arising from the decision.

**9.0 Financial considerations:**

9.1 Transport for the North is funded through government grant and although future funding decisions will remain the responsibility of the government at the time, establishing Transport for the North in statute ensures it has the stability and permanence to be confident of long-term central Government support.

9.2 At present, the Constituent Authorities and the Rail North Authorities make the Rail North Support Payment and the Authorities in receipt of rail administrative grant make the Rail North Supplemental Payment to support Rail North Limited. Upon Transport for the North assuming the responsibilities and functions of Rail North Limited, these payments will continue to be made to Transport for the North to enable it to continue to support rail franchise management.

9.3 The Submission Proposal provides that the Constituent Authorities may all agree to contribute to the costs of Transport for the North in the future. However, a decision to raise such contributions and the amount would require a unanimous decision of the Constituent Authorities and could only be taken after written consent to the proposal has been received from each of the Constituent Authorities.

9.4 Unless unanimously agreed otherwise, the apportionment of any financial contributions would be determined on the basis of the Resident Populations of each of the Constituent Authorities.

Transport for the North would be entitled to accept voluntary contributions towards its costs from any of the Constituent Authorities.

**10.0 Risk management considerations:**

10.1 There is information on risk management in the following sections of the background information above.

**11.0 Ethical considerations:**

11.1 None.

**12.0 Internal/ External Consultation undertaken:**

12.1 None.

**13.0 Background Papers**

13.1 None.

**14.0 Key decision information:**

14.1 Is this a key decision? Yes

14.2 If so, Forward Plan reference number: 25/2017

14.3 If a key decision, is the decision required in less than five days? No

14.4 If **yes**, please describe the reason for urgency:

**15.0 Call-in information:**

15.1 Are there any grounds for urgency, which would cause this decision to be exempt from the call-in process? No

15.2 If **yes**, please give reason:

**TO BE COMPLETED BY THE HEAD OF DEMOCRATIC GOVERNANCE**

**16.0 Scrutiny Committee Chairman (where appropriate):**

Date informed: 7 July 2017 Date approved:

**17.0 Declarations of interest (if applicable):**

17.1 None.

**18.0 Executive decision:**

18.1 The Executive agreed the recommendation as outlined above namely:

1. To approve the making by the Secretary of State of Regulations under section 102E of the Local Transport Act 2008 to establish Transport for the North as a Sub-National Transport Body.
2. To approve the transfer of Rail North Limited to Transport for the North so that it can be subsumed within Transport for the North.
3. To approve the signing of a new Rail Franchise Management Agreement with Transport for the North replicating as far as possible the current Rail North Limited Members Agreement
4. To agree to the continuation of the payment of the current funding for Rail North Limited to Transport for the North after its inauguration.

**18.2 Date of Decision:**

17 July 2017

**19.0 Reason(s) for decision:**

The approval of each Constituent Authority is required to the making of Regulations by the Secretary of State.

The Council is currently a member of Rail North Limited and its consent is required to the new

The approval of the regulations will allow the Council to influence the delivery of strategic transport functions in line with its priorities.

**19.1 Date Decision published:**

18 July 2017

**20.0 Executive Members in attendance:**

20.1 Councillor Campbell, in the Chair

Councillors Benson, Cain, Cross, Jackson, Kirkland, Smith, I Taylor and Mrs Wright.

**21.0 Call-in:**

21.1

**22.0 Notes:**

22.1 Apologies were received from Councillor Blackburn who was elsewhere on official Council business.