

EXECUTIVE BOARD DECISION



REPORT OF:	Executive Member for Regeneration
LEAD OFFICERS:	Ian Richardson, Director of Growth and Development Brian Bailey, Director of Strategy and Funding
DATE:	10 th August 2017

PORTFOLIO/S AFFECTED:	Regeneration
WARD/S AFFECTED:	All
KEY DECISION:	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

SUBJECT: Transport for the North: Incorporation as a Sub-National Transport Body

1. EXECUTIVE SUMMARY

Transport for the North (TfN) is an evolving partnership of Local Transport Authorities, Combined Authorities and Local Enterprise Partnerships across the North of England acting collectively and working with the Government, Highways England, HS2 and Network Rail to develop a Northern Transport Strategy in support of the Government's wider Northern Powerhouse agenda.

The purpose of this report is for the Council to consent to the making of Regulations by the Secretary of State to establish TfN 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.

The Executive Board is also asked to approve in principle the transfer of Rail North Limited to TfN, following its inauguration and the signing of a new Rail Franchise Management Agreement with TfN replicating as far as possible the arrangements entered into in respect of Rail North Limited.

2. RECOMMENDATIONS

That the Executive Board:

1. Approves 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. Approves the transfer of Rail North Limited to Transport for the North so that it can be subsumed within Transport for the North.
3. Approves 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. Agrees to the continuation of the payment of the current funding for Rail North Limited to Transport for the North after its inauguration.

3. BACKGROUND

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, an ambitious pan-northern transport strategy to drive economic growth in the North has been developed. The purpose of TfN is to transform the transport system of the North of England and the aim of TfN 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”.

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.

In October 2016, with the agreement of all the Constituent Authorities, TfN submitted a proposal to the Secretary of State for Transport that TfN 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.

The 19 Constituent Authorities of TfN 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

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

- a) All Constituent Authorities will be entitled to appoint a representative to TfN, 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 TfN’s decisions;
- f) Rail North Limited will be wholly owned by TfN; and
- g) A wider Partnership Board including representatives of government bodies and the Local Enterprise Partnership will be set up to inform TfN’s decision making.

TfN, with its partners, is developing a Strategic Transport Plan (STP) and accompanying long term Investment Programme, so that people and businesses can see a firm commitment to create a stronger, more diverse and resilient economy.

Informed by important evidence, including Major Roads and Integrated Rail Reports, the plan will have a wide-ranging and ambitious scope, setting out the priorities for connectivity that will inform the Investment Programme required to transform economic performance until 2050.

The key dates for this process are as follows:

- June 2017: TfN publishes its STP position statement along with the Evidence Base, Initial Integrated Rail and Initial Major Roads reports.
- Summer 2017: TfN to undertake initial engagement around the evidence base, which will then be used to produce the STP and long term, sequenced Investment Programme.
- Autumn 2017: Publication of the STP and Integrated Sustainability Appraisal for public consultation.
- Winter 2017 / Spring 2018: Public consultation on the STP and Integrated Sustainability Appraisal. Publication of the Single Integrated Rail Plan.
- Summer 2018: Publication of the final STP and Integrated Sustainability Appraisal. Adoption of the STP as the plan of the statutory body.

For Blackburn with Darwen, existing strategic priorities to improve local road and rail linkages (east / west on the Preston to Leeds railway line and to upgrade the M65 motorway) and improve sustainable public transport are identified by TfN within the June 2017 STP Position Statement as follows:

- Strategic Development Corridors: Central Pennines - key population centres and diverse mix of strategic movements that serve emerging capabilities as well as providing enhanced and additional road and rail capacity across the Pennines.
- Portfolio of Rail Connectivity Priorities: East – West rail (Lancashire, North Yorkshire, Leeds City Region)
- Portfolio of Road Connectivity Priorities: Central Trans-Pennine Corridor Connectivity
- Integrated and Smart Travel: Pan-Northern TfN programme to develop smart travel solutions.

Full details can be found via <http://www.transportforthenorth.com>

4. KEY ISSUES & RISKS

The Secretary of State has now formally responded to the Proposal and has indicated that he is minded to make Regulations creating TfN 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 co-ordination 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.

The Draft Regulations

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 TfN the statutory powers to carry out these functions.

The Draft Constitution

A Draft Constitution has been drawn up which includes provisions which reflect and implement the Submission Proposal. The Constitution contains the following Provisions:

Articles

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

The Articles contains an overview of the functions of TfN 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.

TfN 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.

TfN 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.

TfN 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.

Voting

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.

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 TfN.

It is proposed that TfN 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 TfN (the Rail North Authorities), should each be entitled to appoint a representative to be a co-opted Member of TfN 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.

Powers and Functions

This section sets out the powers and functions, which will be given to TfN through the Regulations and by legislation.

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 TfN;
- i) To make other proposals to the Secretary of State about the role and functions of TfN;
- 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.

Concurrent Functions

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

Responsibility for Functions

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

Officers of TfN will have delegated responsibility to carry out all of TfN's day-to-day functions and to implement the strategic decisions made by TfN.

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

Audit and Governance Committee

TfN 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.

Scrutiny Committee

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

The role of the Scrutiny Committee will include:-

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

The Rail North Committee

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

Procedure Rules

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

Scrutiny Procedure Rules

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.

Financial Procedures

CIPFA provisions set out the financial rules and controls, which will govern all expenditure by TfN. 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.

Codes and Protocols

It is not intended that TfN 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 TfN's business and any Standards issue would be referred back to the appointing Authority by the Monitoring Officer.

Although TfN 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 TfN geographical area.

The Code of Conduct for Officers sets out the standards of behaviour expected from TfN's officers.

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.

The Code of Corporate Governance sets out the core principles and values which will govern the way in which TfN operates.

The Anti-Fraud and Corruption Policy sets out the measures that TfN will put in place to avoid and address fraud and corruption in any of its dealings.

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.

Role of the Partnership Board

TfN has evolved over the years, from the inception of TfN as a partnership representing all those with an interest in the improvement of transport in the North of England to the creation of TfN as the first Sub-Nation Transport Body. Although TfN 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.

The draft Constitution reflects the legal requirements for decision making within TfN as a corporate body, but it will be open to TfN to operate these constitutional arrangements in a way that is consistent with continuing the present arrangements of the Partnership Board if Members so agree.

Rail North Limited

One of the drivers for the creation of TfN 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 TfN should take over ownership of Rail North Limited and subsume all of its functions directly into TfN.

Rail North Limited would be replaced by a Committee of TfN 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.

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 TfN.

The Rail Partnership Board

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.

The Highways North Board

TfN 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.

The Chief Executives Meeting

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

Consent to the Regulations

Draft Regulations are being drafted to create TfN 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. POLICY IMPLICATIONS

TfN is an evolving partnership of Local Transport Authorities, Combined Authorities and Local Enterprise Partnerships across the North of England acting collectively and working with the Government, Highways England, HS2 and Network Rail to develop a Northern Transport Strategy in support of the Government's wider Northern Powerhouse agenda.

TfN was established in October 2014 to enable the North to speak with one voice on the big decisions necessary to deliver transformational change through improved connectivity, thereby making the North a more attractive place to live, work and do business.

The approval of the regulations will allow the Council to influence the delivery of strategic transport functions in line with its priorities. As the TfN strategy and proposed schemes progress, alignment will be sought with the Council's emerging Local Transport Plan 4.

6. FINANCIAL IMPLICATIONS

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

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 TfN assuming the responsibilities and functions of Rail North Limited, these payments will continue to be made to TfN to enable it to continue to support rail franchise management.

The Submission Proposal provides that the Constituent Authorities may all agree to contribute to the costs of TfN 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.

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.

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

7. LEGAL IMPLICATIONS

The Cities and Local Government Devolution Act 2016 provided for the establishment by secondary legislation of Sub-National Transport Bodies. A Sub-National Transport Body is a Body Corporate, and consists of 2 or more relevant authorities i.e. Combined Authorities and/or Local Authorities (see Appendix A).

The process for establishing a Sub-National Transport Body is that the constituent authorities (the Combined Authorities and/or relevant Local Authorities) are required to make a joint proposal to establish a Sub-National Transport Body and all constituent authorities are required to consent.

The TfN proposal can only be submitted with the agreement of the authorities which, if the Sub National Transport Body is established, will be its constituent authorities. The TfN proposal sets out the powers and functions that are being requested by TfN. These include general functions, functions to be exercised concurrently with Local Authorities (or PTEs), and powers devolved from the Government. The proposal does not include a proposal for any local authority functions to be carried out by TfN instead of a Local Authority, only concurrently. The proposal includes a requirement for constituent authorities to make statutory contributions towards the costs of TfN apportioned on the basis of resident population which can only be raised with unanimous support of the Constituent Authorities. The proposal also sets out the decision-making and voting arrangements that TfN will adopt.

The Council will be asked to consider and provide consent to the draft regulations that would establish TfN as a sub-national transport body.

8. RESOURCE IMPLICATIONS

Future input into the activities of TfN will be made with existing Council resources and staff.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. (*insert EIA link here*)

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. (*insert EIA attachment*)

10. CONSULTATIONS

Consultation will continue with TfN through TfL mechanisms through to formulation of TfN as a Sub-National Transport Body.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

VERSION:	0.01
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CONTACT OFFICER:	Mike Cliffe, Strategic Transport Manager, ext 5310
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DATE:	3 rd July 2017
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BACKGROUND PAPER:	Executive Member decision dated 5 th August 2016: Transport for the North: Approval to support the establishment of a Sub-National Transport Body Appendix A: Local Transport Act 2008 Section 102E
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