



**Council**  
**Monday, 16 October 2017**

<b>REPORT TITLE:</b>	<b>Transport for the North - Incorporation as a Sub-National Transport Body</b>
<b>REPORT OF:</b>	<b>Executive Director for Strategy</b>

#### **REPORT SUMMARY**

The purpose of this report is for the Council as the Local Highway Authority to consent to the making of Regulations by the Secretary of State to establish Transport for the North (TfN) as a Sub-National Transport Body, under S102J of the Local Transport Act 2008. The consent of each Highway Authority within the area of each Combined Authority is required to the making of Regulations by the Secretary of State as the Regulations contain provisions giving TfN highway powers to be exercised concurrently with the Local Highway Authorities.

#### **RECOMMENDATION/S**

It is recommended that the Council formally consent under S102J of the Local Transport Act 2008 to the making by the Secretary of State of Regulations to establish Transport for the North (TfN) as a Sub-National Transport Body and accordingly agree to the giving of concurrent highway powers to TfN.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

To support the establishment of Transport for the North (TfN) as a Sub-National Transport Body. The Local Transport Act 2008 provides for such bodies to be created as part of the devolution agenda. The establishment of TfN will enable the North to speak with one clearly evidenced voice to Government regarding its strategic transport priorities.

Consent of highway authorities is required otherwise Regulations cannot be made by the Secretary of State in respect of TfN becoming a Sub-National Transport Body.

### **2.0 OTHER OPTIONS CONSIDERED**

No other options are available.

### **3.0 BACKGROUND INFORMATION**

- 3.1 To address concerns about transport connectivity across the North, Local Transport Authorities and Local Enterprise Partnerships across the North of England came together in 2014 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 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.
- 3.2 Getting transport right is central to achieving the Northern Powerhouse ambition which is itself central to a successful UK industrial strategy. A world class transport system linking towns and cities across the North will create a unified economic area, attracting new business, improving productivity in the North and rebalancing the UK economy.
- 3.3 There has long been under performance of the Northern economy when compared with other parts of the UK. There is a significant economic performance gap between the North and the rest of the UK. In 2014 this was a difference in income of £4,800 compared with the national average.
- 3.4 Poor connectivity is central to understanding the economic challenges of the North. There is disproportionately low investment in the North compared with London and other city regions across Europe and studies have shown how investing in transport infrastructure can unlock the economic potential of the North.
- 3.5 The North has no way of agreeing strategic priorities with the responsibility for transport being divided over many organisations at different geographical

levels. This had proved challenging to consider and prioritise strategic transport interventions to transform economic growth at a regional scale. As a result the North has been unable to speak with one clearly evidenced voice to Government on its transport priorities in spending rounds on rail or road investment.

#### **4.0 TRANSPORT FOR THE NORTH**

4.1 The ambition of TfN over time is to achieve significant devolution of transport responsibilities for the North of England and specifically to:

- a) Develop and deliver a multi-modal, integrated strategic plan that drives transformational economic growth in the North;
- b) Set the strategic outcomes, outputs and priorities for the North of England's rail infrastructure and strategic road network; and
- c) Determine specifications and contracts for future rail service franchises in the North of England.

4.2 In October 2016 with the Agreement of the 19 Constituent Authorities set out below 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.

Greater Manchester Combined Authority  
Liverpool City Region Combined Authority  
The Durham, Gateshead, Newcastle on Tyne, North Tyneside and  
Sunderland 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 Borough Council  
Blackpool Borough Council  
Cheshire East Council  
Cheshire West and Chester Council  
Warrington Borough Council  
The Council of the City of York  
The East Riding of Yorkshire Council  
Kingston upon Hull City Council  
North Lincolnshire Borough Council  
North East Lincolnshire Council

4.3 The Proposal submitted by the Constituent Authorities requested the following powers and functions:

- 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 areas;
- 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 carry out of those functions;
- g) To promote and co-ordinate road transport scheme's;
- 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 Authority;
- 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;
- m) To exercise powers to construct highways and to acquire land for that purpose under Section 8(1), 24 and 239 of the Highways Act 1980 concurrently with local Highway Authorities.

4.4 The Proposal also contained 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, Chair, Leader or Member with delegated responsibility for transport;
- 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;
  - d) There will be appropriate mechanisms for Scrutiny of TfN's decisions;
  - e) Rail North will be wholly owned by TfN;
  - g) A wider Partnership Board including representatives of government bodies and the LEP's will be set up to inform TfN's decision making.
- 4.5 The Secretary of State has now formally responded to the Proposal and has indicated that he is mindful 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;
  - 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 Ltd.
- 4.6 Regulations have now been drafted which once they are passed will confer on TfN the majority of functions and powers requested in the Proposal. Before the Secretary of State can make the Regulations he must obtain consent to the making of the Regulations from each of the 19 Constituent Authorities and also consent to the granting of concurrent highway powers from each of the Highway Authorities within TfN's area.

## **5.0 HIGHWAY FUNCTIONS**

- 5.1 The highway powers which are contained in the Regulations are firstly the powers of the Secretary of State in relation to the construction of trunk roads which may be delegated down to TfN:
- Section 6(5) Highways Act 1980 (power to enter into agreements for works relating to trunk roads)
  - Section 105A – 105C Highways Act 1980 (functions relating to environmental impact assessments;
  - Section 239 to 240 and 246 Highways Act 1980 (powers to acquire land in connection with highways)
  - Section 250 Highways Act 1980 (powers relating to the acquisition of powers over land)
- 5.2 Secondly the following powers under the Highways Act 1980 are conferred on TfN concurrently with the local Highway Authority:

- Section 8(1) power to enter agreements with local highway authorities etc for doing certain works;
- Section 24(2) power of local highway authority to construct new highways;
- Section 25(i) powers to enter into agreement for creation of footpath etc;
- Section 26 (i) compulsory powers for creation of footpaths etc;
- Various functions in section 239, 240, 246 and 250 relating to the acquisition of land for highway purposes

5.3 Importantly Regulations 14 and 15 taken together provide that TfN will not be able to exercise any of the highway powers which they hold concurrently with the Highway Authorities unless the manner in which it proposes to exercise the function has been approved by each of the Highway Authorities whose area the highway will pass.

5.4 There is no intention that TfN will itself become a Highway Authority and as set out above the Regulations make it clear that before these powers may be exercised that TfN will need to obtain consent of the relevant Highway Authority. These powers would therefore only be exercised in circumstances where all the local Highway Authorities consider that there would be a benefit in TfN carrying out the work.

## **6.0 FINANCIAL IMPLICATIONS**

Transport for the North is funded until 2020 and the level of funding remains the responsibility of Central Government.

Partner Authorities can agree to make a voluntary contribution to TfN, however TfN will not be able to charge or levy its constituent authorities without approval. Such a decision would need to be a unanimous decision and would need to be in writing from all the constituent authorities.

The Liverpool City Region Combined Authority agreed an index lined contribution to TfN of £50,500 per annum as the funding which had previously been paid to Rail North, as Rail North is now part of TfN.

## **7.0 LEGAL IMPLICATIONS**

The Combined Authority at its meeting on the 18th August 2017 provided consent to the Secretary of State Regulations have been drafted to create TfN as a Sub-National Transport Body however before the Secretary of State may make these Regulations each of the Highway Authorities within the areas of the Combined Authorities which are Constituent Authorities must also consent to the making of the Regulations. It is anticipated that the Secretary of State will send a letter prior to the end of October 2017 requesting formal consent to the making of the Regulations.

The role of Transport for the North is not to take powers away from Local Authorities but to work in partnership so that the North can speak with one voice. Powers will be devolved down from central government, and not up from Local Authorities.

It is intended that before TfN exercises any transport powers or functions that it holds concurrently with any of the Constituent Authorities or Highway Authorities within the TfN area that TfN will enter into a written protocol with the Constituent Authorities or the local Highway Authorities covering the way in which the functions will be exercised.

## **8.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

There are no staffing implications at this stage. Existing Officers will work through the City Region Transport Partnership with Officers from TfN who have an existing staff resource.

There are no IT implications.

There are no implications for physical assets at this stage, however once established TfN will work with partners to set objectives and support priorities for investment in strategic road and rail infrastructure.

## **9.0 RELEVANT RISKS**

If all highway authorities in the Combined Authority area do not agree then Transport for the North cannot be established as a Sub-National Transport Body.

## **10.0 ENGAGEMENT/CONSULTATION**

Not applicable.

## **11.0 EQUALITY IMPLICATIONS**

There are no implications for equality.

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## **APPENDICES**

None

**REFERENCE MATERIAL**

*Liverpool City Region Combined Authority: Report of the Lead Officer – Transport for the North and Rail North Update 18<sup>th</sup> August 2017*

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
None	