

Meeting of the Full Council
Meeting to be held on Thursday, 20 July 2017

Report submitted by: Head of Service, Planning and Environment

Part A

Electoral Division affected:
(All Divisions)

Sub-national Transport Body (Transport for the North) Regulations 2017
(Appendices 'A' and 'B' refer)

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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 Strategic Transport Plan for the North in support of the Government's wider Northern Powerhouse agenda. The County Council has been fully engaged with TfN since July 2015 through its membership of Transport for Lancashire (TfL).

In July 2016, the County Council agreed 'in principle' support for TfN's draft proposal to establish a sub-national transport body and consented to its submission to the Secretary of State. The Secretary of State is now minded to establish Transport for the North as a statutory sub-national transport body, but requires the consent of each constituent authority to the making of the Sub-national Transport Body (Transport for the North) Regulations 2017. Furthermore, as a member of Rail North Limited, the County Council is also requested to approve the transfer of Rail North Limited to TfN following its inauguration and the signing of a new Rail Franchise Management Agreement with TfN that will replicate as far as possible the arrangements entered into in respect of Rail North Limited.

Recommendation

Full Council is recommended:

- (i) To note the contents of this report.
- (ii) Subject to there being no material changes to the draft Regulations as shared with constituent authorities on 15 June 2017, to agree 'in principle' support to 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 and to agree that the Council's formal approval to join TfN be agreed as necessary under the Council's Urgent Business Procedure.

- (iii) To note that the agreement 'in principle' be contingent on TfN exercising any transport powers and functions it holds concurrently with Lancashire County Council only with the full support of the County Council.
- (iv) To consent to the transfer of Rail North Limited to TfN so that it can be subsumed within TfN.
- (v) To approve the signing of a new Rail Franchise Management Agreement with TfN that replicates as far as possible the current Rail North Limited Members Agreement.
- (vi) To approve 'in principle' the continuation of current payments towards funding for Rail North Limited to TfN after its inauguration.

Background and Advice

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 Strategic Transport Plan for the North in support of the Government's wider Northern Powerhouse agenda. The Government has undertaken to establish TfN on a statutory basis; primary legislation to implement this commitment is set out in the Cities and Local Government Devolution Act 2016.

In October 2016, with the agreement of all constituent authorities including the County Council, TfN submitted a proposal to the Secretary of State that TfN should be established as a sub-national transport body. The Secretary of State formally responded to the proposal in March 2017, confirming that he was minded to make Regulations creating TfN as the first sub-national transport body with the following functions:

- Preparation of a Northern Transport Strategy;
- Provision of advice on the North's priorities, as a statutory partner in the Department for Transport's investment processes; and
- Co-ordination of regional transport activities, (such as smart ticketing), and the co-management of the Trans-Pennine Express and Northern rail franchises through the acquisition of Rail North Ltd.

TfN has shared a draft of the Regulations with constituent authorities and continues to engage with the Department for Transport to ensure that they reflect the terms of the proposal in so far as they have been agreed by the Secretary of State and give TfN the statutory powers necessary to carry out these functions. TfN has provided a 'Frequently Asked Questions' (FAQs) summary, appended as Appendix 'A'.

General Functions

The draft Regulations set out the statutory basis for TfN and its membership; they also make provision about TfN's constitution. TfN will comprise representatives from

the 19 constituent authorities that are transport authorities in the North. There will be four meetings per year. TfN will have the following general functions:

- a) To prepare a transport strategy for its area;
- b) To provide advice to the Secretary of State about the exercise of transport functions in relation to its area;
- c) To co-ordinate the carrying out of transport functions in relation to its area that are exercisable by the different constituent authorities, with a view to improving the effectiveness and efficiency in carrying out those functions;
- d) If TfN considers that a transport function in relation to its area would more effectively and efficiently be carried out by TfN, to make proposals to the Secretary of State for the transfer of that function to TfN;
- e) To make other proposals to the Secretary of State about the role and functions of TfN.

In carrying out its functions, TfN will be a statutory partner of the Department for Transport. It is not intended that TfN take responsibilities away from its constituent authorities; instead TfN will exercise a coordinating role in relation to specified transport functions. There is no intention that TfN becomes a Highway Authority.

Before exercising any transport powers or functions it will hold concurrently with any constituent authority within the TfN area, TfN will consult such authorities and enter into a protocol covering the way in which those functions will be exercised. The concurrent powers and functions currently specified in the draft Regulations relate to capital grants as specified in Section 56(2) of the Transport Act 1968, ticketing schemes under the provisions of the Transport Act 2000 and franchise agreements under Section 13 of the Railways Act 2005.

TfN will establish a 'Partnership Board' to advise on matters relating to transport to, from or within the combined area. The Board will comprise representatives of all constituent authorities together with representatives of the other authorities who were members of Rail North Limited, representatives of the 11 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. It will continue to have an independent chair.

TfN must also appoint a Scrutiny Committee to which constituent authorities will be entitled to appoint a representative and a substitute. The role of the Scrutiny Committee will be to

- a) Review or scrutinise decisions made, or other action taken, in connection with the discharge by TfN of its functions;
- b) Make reports or recommendations to TfN with respect to the discharge by TfN of its functions; and
- c) Make reports or recommendations to TfN on matters relating to transport to, from or within TfN's area.

Voting

A question to be decided by TfN on matters relating to:

- the approval or revision of TfN's transport strategy,
- the approval of TfN's annual budget, and
- any changes to TfN's constitution

may be decided only if agreed by **both** a 75% majority of the members in a weighted vote **and** a simple majority of the members. All other matters may only be decided if agreed by a majority of the members in a weighted vote.

For the purposes of this regulation, a weighted vote is one in which the number of votes to be cast by a member appointed by a constituent authority is determined by dividing the resident population of that constituent authority by 200,000 and, if the result is not a whole number, rounding up to the next whole number. The size of the resident population is taken to be the size estimated by the Statistics Board in its most recent estimate prior to the vote. In the event of a vote being tied, a question to be decided by TfN is deemed not to have been carried.

Rail North Limited

One of the drivers for the creation of TfN as a sub-national transport body is to create an organisation that can speak with one voice on all transport matters affecting the North. To achieve that, it is proposed that TfN take over ownership of Rail North Limited and subsume all of its functions directly into TfN. The Secretary of State's response to the proposal to establish TfN as a sub-national transport body confirmed that TfN would co-manage the Trans-Pennine Express and Northern rail franchises through the acquisition of Rail North. TfN will not, however, be granted the power to carry rail passengers at this present time. TfN has prepared a short briefing note setting out how it proposes to implement the acquisition of Rail North; this is attached as Appendix 'B'.

In summary, the Association of Rail North Partner Authorities (ARNPA) will be subsumed within TfN's governance structure to reduce administration and the burden on constituent authority representatives. Rail North Limited will be replaced by a committee of TfN on which the former Rail North member authorities will be represented and have the same voting rights as under the Memorandum and Articles of the Company. For this to be achieved, all current members of Rail North Limited will need to formally agree to the proposal for the transfer of Rail North Limited to TfN. The current Members Agreement with Rail North Limited will be replaced by a Rail Franchise Management Agreement between TfN and the current members of Rail North Limited, which TfN intends will replicate as far as possible the provisions of the Members Agreement.

The purpose of the Rail North Committee will be to consider and advise TfN on all matters relating to rail transport in the Rail North area (both franchise services and infrastructure), including its statutory partner role with the Department for Transport in relation to rail investment and the development and delivery of TfN's long term rail strategy. The committee will also have oversight of the management of the Trans-Pennine Express and Northern Rail Franchises. It will include representatives of the six non-TfN Rail North authorities as co-opted members. Voting in the Rail North Committee will be on the basis of weighted votes that replicate the voting provisions of Rail North Limited.

TfN will also establish a Rail North sub-committee to replace the existing Rail North Limited Board and comprising representatives of the current 11 Rail North area groups, appointed according to provisions that will replicate those for appointing to the Rail North Limited Board. The sub-committee's remit will include oversight of TfN's rail infrastructure and rail franchise functions. Where requested, TfN will set up area sub-committees to take the place of the Regional Business Units permitted under the provisions of the Rail North Members Agreement.

The Rail North Partnership Strategic Board will continue as a forum through which TfN will work jointly with the Department for Transport to co-manage current rail franchises. Its remit will be broadened to reflect TfN's enhanced role as a statutory partner to DfT for strategic rail infrastructure investment planning. The Rail North Committee will agree with TfN the representatives on the Rail North partnership Strategic Board.

Highways North Board

TfN will participate in a Highways North Board alongside representatives of the Department for Transport and Highways England. The role of the Highways North Board will be to make recommendations to the Department for Transport in respect of future Road Investment Strategies and competitive major roads funding programmes.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

No significant risks have been identified. However, given that discussions between TfN and the Department for Transport are ongoing, it is possible that the final draft Regulations may differ from that shared with constituent authorities on 15 June 2017.

Financial

The draft Regulations allow for constituent authorities to make a contribution in respect of any reasonably incurred costs of TfN, but only if they all agree on the need for a contribution and the amount required.

The amount of any contribution would be apportioned between the constituent authorities in proportion to the total resident population of the area of each authority at the relevant date as estimated by the Statistics Board or on such other basis as may be agreed by all the constituent authorities.

A constituent authority may contribute to the costs of TfN individually if it chooses to do so.

Local Government (Access to Information) Act 1985
List of Background Papers

Paper	Date	Contact/Tel
Report to Full Council: Transport for the North	21 July 2016	Dave Colbert (01772) 534501

Reason for inclusion in Part II, if appropriate

N/A