

DRAFT V7

## TRANSPORT FOR THE NORTH (TfN)

### PROPOSAL TO ESTABLISH A SUB-NATIONAL TRANSPORT BODY (STB)

*This proposal is made by the constituent authorities set out below pursuant to section 102F of the LTA 2008 for the establishment of a sub-national transport body (STB) covering the area of the constituent authorities. In making the proposal the constituent authorities have consulted the appropriate authorities and other persons set out in Schedule A to this proposal.*

The proposal provides as follows:

#### 1. **Constituent Authorities**

The constituent authorities making these proposals are the local transport authorities situated wholly or partly in the North East, North West and Yorkshire and the Humber regions of England, namely:-

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

#### 2. **Area of the STB**

The area of the STB will be the area of the constituent authorities

#### 3. **Name of the STB**

The name of the STB will be **Transport for the North (TfN)**

#### 4. **Membership**

- 4.1 Each constituent authority will appoint one of their councillors/members or their elected mayor as a member of TfN.
- 4.2 Each constituent authority will appoint another of their councillors / members or their elected mayor as a substitute member to act as a member of the TfN in the absence of the person appointed under paragraph 4.1.
- 4.3 There would be a presumption that decisions would normally be taken by consensus. But in the absence of such consensus there will be a system on weighted voting at full meetings of TfN *[using a formula to be agreed]* to reflect differences in the populations of the constituent authorities.
- 4.4 Some decisions including the adoption of the transport strategy and the approval of the annual budget, should require a super-majority of the weighted vote.

## **5. Co-opted Members**

- 5.1 The regulation should provide for the appointment of persons who are not elected members of the constituent authorities to be co-opted members of TfN
- 5.2 *Persons appointed as co-opted members will include:*
  - (a) *the person appointed by TfN as “independent chair of the Partnership Board” for the purposes of paragraph 6.3 below and*
  - (b) *one elected member appointed by each of the local transport authorities which are members of Rail North Ltd, but not constituent authorities of TfN, namely:-*  
  
*Derbyshire County Council*  
*Lincolnshire County Council*  
*Nottinghamshire County Council*  
*Nottingham City Council*  
*Staffordshire County Council*  
*Stoke-on-Trent City Council]*
- 5.3 Co-opted members will be non-voting members of TfN, except to the extent that the voting members of TfN resolve that such members should have voting rights.

## **6. Partnership with Business**

- 6.1 A business *body* will be established consisting of representatives of Local Enterprise Partnerships in the area covered by TfN.

6.2 The functions of this body will be to advise TfN on its policies and priorities, to conduct its own reviews on matters relating to transport and the economic well-being of the North and to make representations to TfN

6.3 TfN and *the business body* will establish a Partnership Board which will hold regular partnership meetings to be chaired by the person appointed by TfN as the “independent chair”.

## 7. Executive Arrangements

7.1 TfN will not operate formal statutory executive arrangements

7.2 TfN is a “local authority” for the purpose of section 101 of the Local Government Act 1972 and may delegate the discharge of its functions to a committee, sub-committee or officer, or to another local authority. As such, TfN may establish a committee(s) to discharge any functions as are delegated to it.

7.3 The functions of agreeing a budget and the transport strategy of TfN will **not** be delegated functions and will only be determined by a meeting of the full TfN.

## 8. Executive Body

TfN will not establish an executive officer body, but will delegate the discharge of agreed functions to its officers in accordance with a scheme of delegation or on an ad hoc basis.

## 9. Functions

The functions of TfN will include:

- General functions provided for in section 102H of the Local Transport Act 2008, including the preparation of a transport strategy.
- Local transport functions to be exercised by TfN concurrently with local transport authorities and PTEs
- Other public authority functions (including functions of the Secretary of State) to be exercised by TfN instead of by, or jointly with, the public authority
- The functional power of competence in **section 102M of the Local Transport Act 2008**

## 10. General Functions

The general functions of TfN should be:

10.1 to prepare a transport strategy for its area in accordance with **section 102 I of the Local Transport Act 2008**

- 10.2 to provide advice to the Secretary of State (SoS) about the exercise of transport functions in its area (whether exercisable by the SoS or others)
- 10.3 to co-ordinate the carrying out of transport functions that are exercisable by its different constituent authorities
- 10.4 to make proposals to the SoS for the transfer of transport functions to TfN
- 10.5 to make other proposals to the SoS about the role and functions of TfN

## **11. Exercise of local transport functions**

- 11.1 It is **not** proposed that any transport functions exercisable by a local authority (or PTE) should be exercisable by TfN instead of by the local authority (or PTE), but it is proposed that various transport functions should be exercisable by TfN concurrently with the local authority or PTE as set out below.
- 11.2 TfN should have the same power of an ITA or CA under **sections 99 and 102 of the Local Transport Act 2008** to promote the economic, social and environment well-being of its area.
- 11.3 TfN should have the general powers of a PTE under **section 10 of the Transport Act 1968** (with the omission of the words “with the approval of the Authority” where they appear), including the power to carry passengers by railway between places in Great Britain.
- 11.4 TfN should have the same powers of a local transport authority under **sections 135-138 of the Transport Act 2000** in relation to making joint and through ticket schemes.
- 11.5 TfN should have the same powers of a local authority under **section 239 of the Local Government Act 1972** to promote and oppose local or personal Bills in Parliament (which bring in rights to apply for orders under the Transport and Works Act 1992).
- 11.6 TfN should have the same powers and rights of a PTE under **section 13 of the Railways Act 2005** including rights to be consulted in relation to franchise agreements for services to, from or within its area, and to enter into agreements with the SoS or franchisees in relation to such services.
- 11.7 TfN Should have the same power of a local authority under **section 56(2) of the Transport Act 1968** to give capital grants to persons for purpose of the provision of facilities for public passenger transport.

- 11.8 *TfN should have the power of county councils and unitary districts under **section 24 of the Highways Act 1980** to construct highways (subject to the consent of the highway authority) and their powers under **Part XII of the Highways Act 1980** to acquire land etc.*
- 11.9 There will be an operating agreement between TfN and the constituent authorities providing, inter alia, for the drawing up of agreed protocols in relation to the exercise of concurrent functions. Such protocols would be kept under regular review.

## **12. Other Public Authority Functions**

- 12.1 TfN should have the function of the SoS under **section 3 and Schedule 2 of the Infrastructure Act 2015** to set and vary the Road Investment Strategy (RIS) insofar as the RIS relates to TfN's area. This function would be exercised jointly with the SoS.
- 12.2 TfN should have the function of the SoS under **Schedule 4A, paragraph 1D, of the Railways Act 1993**. In relation to the High Level Output Specification (HLOS) insofar as it relates to railway activity in TfN's area. This function should be exercised jointly with the SoS.
- 12.3 *Devolution of Rail Franchising*
- Under section 23 and 26 to 30 of the Railways Act 1993, the SoS is responsible for the rail franchising. RNL jointly manage with the SoS the Northern and Transpennine franchises and have various rights under a contractual agreement. At the end of the recently let franchises in 2023/25, it is envisaged that the function would be devolved to TfN. The preferred legal route is that there should be an exemption order under section 24 enabling TfN to let concessions in the same way as TfL and Merseyside PTE do with exempted services in their area. [An alternative route would be to devolve the franchising functions of the SoS under the Railways Act 1993 to TfN as in Scotland and Wales]*
- 12.4 **Section 6(5) of the Highways Act 1980** enables the SoS or Highways England to enter into agreements with a county council or metropolitan district council for the construction or improvement of trunk roads. It is proposed that this section be modified to include TfN as an authority having power to enter into such agreements.
- 12.5 **Section 8 of the Highways Act 1980** enables local highways authorities or Highways England to enter into agreements with other such authorities in relation to the construction, improvement or maintenance of a highway for which any party to the agreement is the highway authority. It is proposed that this section be modified to

enable TfN to be a party to such agreements as if they were a highway authority.

### **13. Financial**

13.1 TfN should be able to accept voluntary contributions to its costs from constituent authorities.

13.2 *Constituent councils should be required to make statutory contributions towards the costs of TfN to be apportioned on the basis of resident population, provided only that a decision to require such contributions is agreed by all constituent councils.*

13.3 An order should be made by the Treasury specifying TfN (or STBs generally) as a body to which **section 33 of the Value Added Tax Act 1994** applies. This would enable TfN to claim refunds of VAT paid by it in certain cases.

### **14. Scrutiny**

14.1 It is proposed that TfN arrange for the appointment of a scrutiny committee including one member of each constituent authority nominated by the constituent authority.

14.2 The scrutiny committee appointed by TfN may not include a member, substitute member or co-opted member of TfN, but may include co-opted persons representative of non-constituent authorities and non-councillor representatives of passengers, road users, employers and employees.

14.3 The arrangements should ensure that the scrutiny committee has power:-

- (a) to review and scrutinise decisions made, or other action taken, by TfN
- (b) to make reports or recommendations with respect to the discharge of the functions of TfN
- (c) to make reports or recommendations on transport matters that affect the area of TfN or inhabitants of the area
- (d) to require members or officers of TfN to attend meetings of the committee to answer questions.
- (e) to invite other persons to attend meetings of the committee

### **15. Rail North Ltd (RNL)**

15.1 *It is proposed that TfN should become the sole owner of RNL, provided that any changes to RNL's constitutional arrangements ensure:*

- *That the rights and interests of those RNL member authorities which are not constituent authorities of TfN are protected*
- *That RNL member authorities which are TfN constituent authorities are able to retain rights similar to their existing rights through TfN's constitutional arrangements*

15.2 *Such protection would include:*

- *Existing geographical sub-groups continuing to nominate directors of RNL*
- *RNL authorities which are not TfN constituent authorities becoming co-opted members of TfN with a right to vote on "Rail North matters"*

## 16. **Miscellaneous**

It may be necessary that certain additional local authority enactments are applied to TfN as if TfN were a local authority, including staffing arrangements, pensions etc. In this respect, it is also proposed that TfN should be a "local authority" for the purposes of **section 1 of the Local Authorities (Goods and Services) Act 1970**, to enable constituent authorities to provide services to TfN.