

Transport for the North Board Meeting – Item 5

Subject: TfN Constitution, Membership, Co-options and Appointments to Committees

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Meeting Date: Thursday 5 April 2018

1. Executive Summary:

- 1.1 The Sub-National Transport Body (Transport for the North) Regulations 2018 (the Regulations) were made on the 22 January 2018 establishing TfN as the first Sub-National Transport Body in the country to come into being on the 1 April 2018.
- 1.2 As a corporate body, Transport for the North (TfN) is required to have a Constitution and Members are asked to adopt the draft Constitution which has been prepared in advance of this meeting. The Constitution has been drafted to reflect the primary legislation, the Regulations and the proposal submitted to the Secretary of State for Transport seeking the establishment of TfN on a statutory basis. An early draft of the Constitution was provided to Constituent Authorities via their Legal Officers shortly after the Secretary of State's approval of the statutory proposal in March 2017. The present draft of the Constitution reflects the input made by the Constituent Authorities since that time. A copy of the draft Constitution now recommended for adoption is attached as Appendix A.
- 1.3 The draft Constitution was discussed and endorsed in principle by TfN's Shadow Board at its meeting on 8 February 2018. A copy of the minutes of that meeting are attached as Appendix B to this report. When considering the recommendation to approve and adopt the Constitution members should note that each of the issues raised in relation to TfN's governance arrangements (paragraphs 2.1-2.18 on the minutes) has been addressed. It should be noted that issues in relation to co-option to the TfN Board (paragraph 2.2 of the minutes), chairing of the TfN Board (paragraphs 2.6 and 2.7 of the minutes) and the operating protocol on the exercise of concurrent powers (paragraph 2.12 of the minutes) have been addressed.
- 1.4 Minute 2.12 of the 8th February minutes identified the need for TfN officers to work with Legal Officers to produce an operating protocol for the exercise of concurrent powers. Clauses 19 to 22 of the Constitution

and the Protocol in Appendix 8 together set out the steps TfN will take with individual authorities in relation to transport proposals affecting their area. In particular, TfN is committed to establish an Officer Reference Group for each of its broad programmes of work to which all Constituent Authorities and, where appropriate, Highways Authorities and other affected Authorities will be entitled to send a representative. Additional working groups will be set up for individual projects and will include officers from Authorities affected including those which are not Constituent Authorities but hold concurrent powers. TfN is committed to an inclusive approach to consultation and decision making.

- 1.5 In addition to approving and adopting the Constitution (see paragraph 1.6 below), the TfN Board is also requested to:
- a) Note those individuals appointed by the Constituent Authorities to be a voting member of TfN and to note the individuals nominated as substitute member by each Constituent Authority (see paragraph 2.1 below);
 - b) Note those individuals appointed by the Rail North Authorities to be co-opted Members of TfN;
 - c) Appoint appropriate persons to be co-opted Members of TfN (see paragraph 2.2 below);
 - d) Establish a Partnership Board and to appoint persons to be members of the Partnership Board (see paragraph 2.3 below);
 - e) Note the voting rights assigned to Rail North Authorities in relation to rail franchise matters and to consider what further voting rights be granted to co-opted members (see paragraph 2.5 below);
 - f) Note the composition of the Audit and Governance Committee and to make appointments accordingly (see paragraph 2.6 below);
 - g) Note the principles governing the work of the Scrutiny Committee and to make appointments accordingly (see paragraph 2.8 below);
 - h) Note and approve the draft schedule of meetings (see paragraph 2.10 below).

1.6

Recommendation

It is recommended that the TfN Board approve and adopt the Constitution in the form attached as Appendix A.

2. Issues:

2.1 Membership

The membership of TfN is made up of the representatives of the 19 Constituent Authorities and the Co-opted Members. A meeting of the membership of TfN shall be termed the TfN Board.

Since the Shadow Board meeting of 8 February 2018, each of the Constituent Authorities has been asked to confirm the identity of its nominated member and the identity of its substitute member.

A table showing the list of persons nominated together with their substitutes is attached as Appendix C.

Recommendation

To note the members and substitute members nominated by each Constituent Authority.

2.2 Co-option

TfN has a wide power to co-opt members onto the TfN Board provided each of the voting members agrees to the co-option. The Regulations provide for representatives of the 6 Rail North Authorities to be co-opted onto TfN as well as the Independent Chair of the Partnership Board. The Shadow Board at its meeting on the 8 February 2018 recommended that the 11 LEPs represented on the Partnership Board and the statutory agencies, HS2, Network Rail and Highways England should all be invited to appoint representatives to be co-opted to the TfN Board. The Shadow Board requested that a co-option invitation be extended to a Department for Transport (DfT) representative but it was noted that it was unlikely that such an invitation could be accepted. The 19 voting Members of TfN must all vote in agreement of this proposal for it to be carried.

Recommendation

- a) To note the co-option of the Independent Chair of the Partnership Board and representatives of the 6 Rail North Authorities as members of the TfN Board.
- b) To appoint representatives, of the 11 Local Enterprise Partnerships and representatives of HS2, Network Rail and Highways England to be co-opted members of TfN in accordance with the table of nominations shown below.

2.3 Partnership Board

The Regulations require TfN to establish a Partnership Board which has a statutory role to advise TfN on matters relating to transport to, from, or within the area of TfN. Under the Regulations, the Chair of the Partnership Board is to be a co-opted member of TfN. It is anticipated that the composition of the Partnership Board be the same as the TfN Board (as detailed in paragraph 2.1 and 2.2 above).

It should be noted that the Partnership Board has a distinct and separate identity from the TfN Board. As indicated above, the Regulations require the Partnership Board to discharge an advisory function to TfN, with TfN being the decision-making body. It will also be noted that, should the recommendation in respect of co-options be accepted the composition of the TfN Board and the Partnership will be substantially the same. The Partnership Board is not, in formal terms, a committee of TfN and TfN may determine that Partnership Board meetings should continue to be held without the public in attendance. In the interests of transparency, it is recommended that the agenda and minutes of the Partnership Board are published.

Notwithstanding the similarity in membership between the TfN Board and the Partnership Board, it is important that each meets separately so that the Partnership Board is able to formulate its advice consistent with its statutory obligations. It is recommended that when Partnership Board meetings take place, these are held on the same day and at the same venue as the TfN Board. It is recommended that when Partnership Board meet, TfN Boards be timetabled to follow the Partnership Board to enable the Partnership Board to formulate its advice to the TfN Board.

Recommendation

- a) To appoint a Partnership Board comprising representatives of the 19 Constituent Authorities, the co-optees appointed in accordance with paragraph 2.2 above, the Independent Chair of the current Partnership Board and a representative of the Department for Transport.
- b) To note the distinction between the legal status of the TfN Board and the Partnership Board and to accept the principle of when Partnership Board meet TfN Board meetings will be timetabled to follow, with meetings taking place on the same day and at the same venue.
- c) To agree that Partnership Board meetings take place without the public in attendance and that the agenda and minutes of the Partnership Board are published on TfN's website.

2.4 **Voting Arrangements**

It is anticipated that most decisions will be taken unanimously and without a vote. Where a vote is required, votes will be weighted in accordance with the population of the area the Member represents except in the case of decisions relating to rail franchise matters where the votes will be weighted in accordance with rail passenger miles on the franchises in the Constituent Authority area.

Decisions in relation to the adoption or amendment of the Constitution, the approval of the annual Budget and the adoption or amendment of the Strategic Transport Plan will all require a super majority of 75% of the weighted votes and 50% of the members to be passed.

2.5 **Voting Rights**

Under the Regulations, only the representatives of the 19 Constituent Authorities have voting rights but TfN has the power to agree to grant voting rights to co-opted members. An assurance has been given to the Rail North Authorities in the Submission Proposal that they would be granted voting rights in relation to rail franchise matters in acknowledgement of their role in relation to Rail North Limited which is to be subsumed into TfN. The Constitution provides for the Rail North Authorities' representatives to be granted voting rights in relation to rail franchise matters.

TfN has the power to grant voting rights to the Rail North Authorities in relation to matters other than rail franchise matters and voting rights to other co-opted members but this would need to be the subject of a decision by TfN.

Recommendation

To note the voting rights assigned to the Rail North Authorities in relation to rail franchise matters and to note that no further voting rights shall be granted to co-opted members.

2.6 **Audit and Governance Committee**

It is recommended that TfN establish an Audit and Governance Committee to assist members in meeting their responsibilities in relation to the integrity of TfN's financial reporting mechanisms including the effectiveness of the internal control and risk management systems.

The Shadow Board recommended that TfN should invite suitably qualified individuals to be independent members of the Audit and Governance Committee.

A recruitment exercise has been undertaken and progress upon the appointment of independent members will be reported verbally to the meeting. The meeting will be invited to appoint four of its 19 Constituent Authority members to serve on the Committee.

The Constitution provides for all members of the Audit and Governance Committee to have ordinary voting rights of one member one vote on this Committee.

Recommendation

That an Audit and Governance Committee be established with a membership of 3 independent members and 4 members drawn from the TfN Board.

2.7 Scrutiny Committee

The Regulations require TfN to appoint a Scrutiny Committee consisting one representative from each of the 19 Constituent Authorities. The role of the Scrutiny Committee is to review the decisions of TfN and to make recommendations to TfN on matters relating to transport in the TfN area.

A table showing the list of persons nominated to serve on the Scrutiny Committee is attached as Appendix D.

The Scrutiny Committee will appoint its own Chair and Vice Chairs at its first meeting.

The objective of the Scrutiny Committee is to act as a focus for the scrutiny and challenge of TfN, and for investigating matters of strategic importance to residents, those travelling within the combined administrative area covered by the Constituent Authorities and other stakeholders.

The Shadow Board recommended that the Scrutiny Committee should have a role of "Scrutiny First" rather than a power of Call In. This was to enable the Scrutiny Committee to make a meaningful contribution to the development of TfN's strategy and future proposals for transport improvements. Meetings of the Committee will be scheduled to facilitate such contribution and will be convened no less than two weeks before the meeting of the TfN Board to enable the Scrutiny Committee's views to be reported to the TfN Board and to inform its decision making.

The Scrutiny Committee will control its own agenda, determining the transport issues it wishes to explore in depth and report back to the

TfN Board. It is anticipated that the Scrutiny Committee will operate through smaller Scrutiny Panels set up on a 'task and finish' basis to explore individual issues of interest in relation to transport in the area. The Constitution provides for ordinary voting rights of one member one vote to be granted to all members of the Scrutiny Committee. The Scrutiny Committee will also have the right to invite any third party to attend its meetings in an advisory capacity but with no voting rights.

Recommendation

That the composition of the Scrutiny Committee be noted and the principles governing its way of working be noted and endorsed.

2.8 Rail North Committee

The Rail North Committee has been established to take over the role of Rail North Limited in relation to the management of the Trans Pennine Express and Northern rail franchises.

Voting in the Committee on rail franchise matters will be on the basis of votes weighted in accordance with the rail passenger miles on the franchises in the area of the Authority. Representatives of each Regional Group will have the weighted votes of all the Authorities they represent.

Member Groups	Members
Greater Manchester Combined Authority	1
West Yorkshire Combined Authority	1
Council of the City of York	
Sheffield City Region	1
Liverpool City Region	1
North East Combined Authority	1
Blackburn with Darwin Borough Council	1
Blackpool Borough Council	
Cumbria County Council	
Lancashire County Council	
Tees Valley Combined Authority	1
North Yorkshire County Council	1

East Riding of Yorkshire Council	1
Hull City Council	
North East Lincolnshire Council	
North Lincolnshire Council	
Cheshire East Council	1
Cheshire West and Chester Council	
Staffordshire County Council	
Stoke on Trent City Council	
Warrington Borough Council	
Derbyshire County Council	1
Lincolnshire County Council	
Nottinghamshire City Council	
Nottinghamshire County Council	

2.9 Standards

TfN has not been required to adopt a Members Code of Conduct or to set up a Standards Committee. In the case of Members who are elected Members of a Local Authority, they will be expected to abide by the Code of Conduct of their appointing Authority and any Standards complaints will be referred to that Authority.

Members who are not elected Members will be expected to adhere to the Nolan Principles of Conduct in Public Life.

All Members, including co-opted members, will be required to complete a Declaration of their Disclosable Pecuniary Interests which will be published on the TfN website by the Monitoring Officer in accordance with the requirements of the Regulations.

2.10 Schedule of Meetings

The Regulations explicitly require TfN to hold at least four meetings each year. TfN is entitled to hold more meetings than the statutory minimum should it so determine. A provisional schedule of meetings of the TfN Board, the Partnership Board and the Scrutiny Committee is attached as Appendix E. The schedule includes the proposed meeting times for Executive Board as well.

Recommendation

To note and approve the attached schedule of meetings.

3. Purpose:

- 3.1 The TfN Board is asked to approve and adopt the Constitution, note TfN's membership, make co-options to TfN and make appointments to its Committees.

4. Appendices:

Appendix 1: Transport for the North Constitution

Appendix 2: Minutes of the Shadow Board Meeting held on Thursday 8 February 2018

Appendix 3: TfN Board Member Details

Appendix 4: Scrutiny Committee Member Details

Appendix 5: Schedule of Meetings