



## **Leadership Board**

Monday 7th August 2017 at 3.00 pm

Meeting to be held at the Tyne and Wear Fire and Rescue Service Headquarters, Nissan Way, Sunderland, SR5 3QY

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## **SUPPLEMENTAL AGENDA**

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**To All Members**

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## **Leadership Board**

**Date:** 7 August 2017

**Subject:** Transport for the North (TfN) – Incorporation as a Sub-national Transport Body

**Report of:** Thematic Lead for Transport and Digital Connectivity

### **Executive Summary**

The purpose of this report is to seek the Leadership Board's consent to the making of Regulations by the Secretary of State to allow Transport for the North (TfN) to become a Sub-national Transport Body (STB).

In July 2016 the Leadership Board agreed in principle that, subject to further development of TfN's Proposal to become an STB with central government, the NECA should become a full member of the proposed statutory body. This report moves that decision forward in light of the Secretary of State's positive response to the Proposal put to him by NECA and other Constituent Authorities.

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### **Recommendations**

The Leadership Board is recommended to provisionally consent to:

- i. 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;
- ii. The transfer of Rail North Limited to Transport for the North so that it can be subsumed within Transport for the North;
- iii. 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; and
- iv. Continuation of the payment of the current funding for Rail North Limited to Transport for the North after its inauguration.

The Leadership Board is further recommended to agree that:

- v. Delegated authority is given to the Head of Paid Service to fully consent to items (i) to (iv) on the Leadership Board's behalf, provided that she is satisfied, in consultation with the Chair of the Leadership Board and the Monitoring Officer, that the final draft Regulations serve only to give Transport for the North the statutory powers to carry out the functions set out in paragraph 1.3; and
- vi. That the Thematic Lead for Transport be designated as NECA's main representative, and that Cllr Carl Marshall be designated as NECA's alternate representative, on Transport for the North.

The Leadership Board is also recommended to note that Chief Executives intend to develop a draft set of priorities that NECA may wish to achieve through its membership of TfN, along with internal protocols for the governance of NECA's involvement in Transport for the North, for the Leadership Board to review at a later meeting.

## Leadership Board

### 1. Background Information

- 1.1 The purpose of this report is to update the Leadership Board on the progress of Transport for the North (TfN) in its proposal to become a Sub-national Transport Body (STB); to outline the process by which TfN is intended to become an STB and the part that NECA may play in it; and to seek the Leadership Board's consent to the making of Regulations by the Secretary of State to allow TfN to become an STB.

Further background information regarding the proposals set out in this report, along with a description of TfN's role and purpose, can be found in **Appendix 1**.

- 1.2 At its meeting on the 19th July 2016, the Leadership Board considered a report concerning TfN's proposal to become a statutory body. The Board resolved that:
- i. The Leadership Board supports Transport for the North's proposal to become a statutory body with devolved powers and agrees that the proposal would be submitted to central government;
  - ii. The Leadership Board agrees, in principle, that, subject to further development of the proposal with central government, the North East Combined Authority should become a full member of the proposed statutory body; and
  - iii. The Chief Executive Officer for Transport be authorised, in consultation with the Thematic Lead for Transport, to progress the proposal with a view to a further report being brought to the Leadership Board before NECA makes a final decision to become a full member of the statutory body.

- 1.3 Subsequent to this resolution and similar resolutions from TfN's other Constituent Authorities a Proposal was submitted to the Secretary of State for Transport.

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;
- 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.

A complete list of the powers and functions that are expected to be granted to TfN through the Regulations is available in **section 6.5 of Appendix 1**.

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- 1.4 A core aspect of the powers and functions of TfN is that Rail North Limited will be subsumed by TfN. The additional level of local involvement with the local rail network that has been achieved by the creation of the 'North East Rail Management Unit' (NERMU) will be preserved through the creation of a Rail North (North East) Area Sub Committee.
- 1.5 At the time of writing this report the legislative Regulations are currently being drafted which 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. It is expected that the drafting of the Regulations will be concluded in July or August. The NECA Heads of Legal Services (or their representatives) have had meetings with TfN and the Department for Transport (DfT) regarding the proposed regulations.
- 1.6 It is anticipated that the Secretary of State will send a letter to each of the Constituent Authorities of TfN requesting formal consent to the making of the Regulations to be provided by early September 2017.
- 1.7 A draft Constitution for TfN has also been drawn up which includes provisions which reflect and implement the Submission Proposal. It is proposed that the constitution is approved at the inaugural meeting of TfN when it is formally created as a Sub-national Transport Body during 2018. An outline of the draft Constitution is included in **section 6 of Appendix 1**.
- 1.8 It is anticipated that the first formal meeting of TfN will take place following the making of the Regulations, and that that meeting will formally approve the Constitution.
- 1.9 The Proposal noted that all Constituent Authorities of TfN will be entitled to appoint a representative to TfN, such representative to normally be the Elected Mayor, Leader or Member with delegated responsibility for transport. In addition, the NECA will need to nominate an alternate member. The NECA representative and their alternate would represent NECA on:
- TfN Partnership Board;
  - Rail North Committee (which will effectively replace the previous 'Association of Rail North Authorities')
  - Rail North Sub Committee (which will effectively replace the previous 'Rail North Limited Board')
  - Rail North (North East) Area Sub Committee (which will effectively replace the 'North East Rail Management Unit (NERMU) Board').

## 2. Proposals

- 2.1 Leaders are asked to provisionally consent to the making by the Secretary of State of Regulations under section 102E of the Local Transport Act 2008 to establish TfN as a Sub-National Transport Body.

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- 2.2 TfN are carrying out further work to develop the Regulations, but the final version of the Draft Regulations is not expected to be available before the next meeting of the Leadership Board. Therefore Leaders are also being asked to give delegated authority to the Head of Paid Service to provide full consent to the Regulations on the Leadership Board's behalf when the final draft Regulations are available. In determining whether to do so she will consult with the Chair of the Leadership Board and the Monitoring Officer, and satisfy herself that the final draft Regulations serve only to give Transport for the North the statutory powers to carry out the functions intended for it, and that they do not prejudice the NECA's interests.
- 2.3 The Leadership Board is also asked to consent to transfer the functions and powers of Rail North to TfN. 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 it is proposed that these payments will continue to be made to TfN to enable it to continue to support rail franchise management.
- 2.4 Finally it is proposed that the Thematic Lead for Transport be designated as NECA's main representative, and that Cllr Carl Marshall be designated as NECA's alternate representative, on TfN.

### **3. Reasons for the Proposals**

- 3.1 The proposals are being put forward to enable TfN to become a Sub-national Transport Body so as to improve transport in the North of England. Further information is provided in **Appendix 1**.

The main benefit to NECA of being a part of TfN is the added influence a Sub-national Transport Body can have with the DfT and the national delivery agencies of Network Rail and Highways England when setting and allocating national infrastructure delivery spending.

- 3.2 In July 2016 the Leadership Board agreed in principle that, subject to further development of the proposal with central government, the NECA should become a full member of the proposed statutory body. These proposals move that decision forward in light of the Secretary of State's positive response to the Proposal put to him by NECA and other Constituent Authorities.

### **4. Alternative Options Available**

- 4.1 Option 1 – The Leadership Board may accept the recommendation set out in paragraphs (i) - (vi) above.
- 4.2 Option 2 – The Leadership Board may not accept the recommendations set out in paragraphs (i) - (vi) above.

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- 4.3 Option 1 is the recommended option. If NECA were to decide not to become part of TfN, TfN would have no remit to work to improve the economy of the North East. Its Strategic Transport Plan would assume that the North East was a neighbouring area (much as it currently does for Scotland and the Midlands) and would therefore not propose or advocate investment in the NECA's transport assets to DfT, Highways England or Network Rail. TfN projects such as Northern Powerhouse Rail and Smart ticketing would not include the North East in their scope, and studies to consider ways to promote economic growth through transport would not consider benefits to the North East.

Whilst clearly the NECA would have the same opportunities open to it as today to make the case itself for investment in its transport links and assets, it would be doing so in competition with TfN and other Sub-national Transport Bodies which would be much larger than NECA and far better resourced.

## **5. Next Steps and Timetable for Implementation**

- 5.1 If the Leadership Board agrees to the recommendations set out in this report, the next steps are expected to be as follows:

- TfN will produce final draft Regulations, expected to be in July or August;
- Subject to the final draft Regulations being satisfactory to the Head of Paid Service as set out in paragraph 2.2, TfN will be notified that NECA is content to consent to the Regulations;
- It is anticipated that the Secretary of State will send a letter to each of the Constituent Authorities requesting formal consent to the making of the Regulations to be provided by early September 2017;
- It is anticipated that the first formal meeting of TfN will take place following the making of the Regulations, and that that meeting will formally approve the Constitution.
- Chief Executives, working with Economic Director and Transport Officers, will develop a draft set of priorities that NECA may wish to achieve through its membership of TfN, along with internal protocols for the governance of NECA's involvement in Transport for the North, for the Leadership Board to review at a later meeting.

## **6. Potential Impact on Objectives**

- 6.1 As a member of the Sub-national Transport Body, NECA would have access to additional resources to develop strategic infrastructure projects with the purpose of facilitating economic growth in line with the Strategic Economic Plan and the Local Transport Plan. As a Statutory Partner in the Department's investment processes, TfN will be able to provide advice on the North's priorities and influence

## **Leadership Board**

the investment plans of Highways England and Network Rail.

### **7. Financial and Other Resources Implications**

- 7.1 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.
- 7.2 At present the Transport for the North Constituent Authorities (i.e. NECA for the North East) and the Rail North Authorities (i.e. Non TfN authorities e.g. Nottingham City Council) make the Rail North Support Payment and those Authorities in receipt of Rail Administration 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. For clarity, Nexus currently receives Rail Administration Grant and an element of this is used to cover both payments to Rail North, although it should be noted that Rail Administration Grant is only confirmed on an annual basis and the use of this funding will be subject to ongoing review.
- 7.3 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.
- 7.4 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. In this regard, it should be noted there is no budget provision to cover any costs associated with NECA's membership of TfN if there was unanimous agreement to such a proposal

### **8. Legal Implications**

- 8.1 This report outlines the legal procedures and implications if NECA wish to play its part as a full member of Transport for the North as it become a Sub-national Transport Body.
- 8.2 The Regulations to enable TfN to become a statutory Sub-national Transport Body, through Parliamentary processes are being drafted jointly by DfT and TfN officials. NECA legal representatives have had initial discussions with those drafting the Regulations and the Head of Paid Service in consultation with the Monitoring Officer will approve or otherwise the final drafting, if Leaders are minded to delegate that authority as recommended in this report.

### **9. Key Risks**

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- 9.1 When the Northern Powerhouse was being championed by the government and particularly the Chancellor of the day, George Osborne, there was significant impetus behind the development of the concept and the drive to form TfN. With the uncertainty following the general election, it may become less of a political priority and thus the benefits may not materialise as envisaged.
- 9.2 In a national context the less populated areas often receive less investment than more populated (congested) areas. One of the risks of joining TfN is that this situation is repeated but in a northern context, with Manchester, the M62 corridor and the North West rail network benefitting the most. That said, it is unlikely that this risk would be mitigated by deciding not to join TfN – on the assumption that most, or all, other authorities do indeed join then the NECA would have no ability at all to press its case for TfN to prioritise investment. The voting metrics do give some mitigation against the concentration of funding as does the corridor and network approach being taken through the development of the Strategic Transport Plan.
- 9.3 Currently there is no direct funding contribution from NECA to TfN, although significant officer and member time is invested in it. TfN funding from DfT is only guaranteed until 2020, thus the financial future of TfN is uncertain. There could be a risk that in the future TfN seek local financial contributions to enable it to continue. It should be noted however that under the proposed governance model, this would require unanimous consent from all member authorities. In addition, TfN will not have the ability to raise precepts or levies from constituent authorities.

## **10. Equality and Diversity**

- 10.1 The development and delivery of the emerging schemes aim to improve road and rail connectivity for all and as such do not negatively impact on Equality and Diversity.

## **11. Crime and Disorder**

- 11.1 Safety and Security are fundamental consideration in the design of new services and facilities and thus impacts will be assessed for individual projects at the appropriate stage of development.

## **12. Consultation/Engagement**

- 12.1 Legal Officers have been consulted and involved in the governance process and will review the regulations once they are drafted. The NECA lead legal officer has also assisted with the drafting of this report. Prior to the drafting of this report the Chief Executive officer were briefed on Transport for the North and the outline governance proposals

There will be no public consultation on the Regulations as this is a parliamentary

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12.2 process led by the Secretary of State, who will formally ask each constituent authority to sign up to the Regulations to make TfN a Statutory Transport Body

### 13. Other Impact of the Proposals

13.1 As each of the projects and plans of TfN become more defined, environmental and economic impacts and analysis will form key considerations when options are being considered.

### 14. Appendices

Appendix 1: Background information regarding TfN's proposals

### 15. Background Papers

Report to the Leadership Board on 19<sup>th</sup> July 2016

### 16. Contact Officers

16.1 Tobyn Hughes, Managing Director (Transport Operations),  
[Tobyn.hughes@nexus.org.uk](mailto:Tobyn.hughes@nexus.org.uk)  
Tel: 0191 203 3203

16.2 John Softly, Assistant Director Legal Services, Resources Directorate, Newcastle City Council  
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Tel: 0191 277 7047

### 17. Sign off

- Head of Paid Service: ✓
- Monitoring Officer: ✓
- Chief Finance Officer: ✓

### 18. Glossary

TfN – Transport for the North  
STB – Sub-national Transport Body  
NECA – North East Combined Authority  
DfT – Department for Transport  
NERMU – North East Rail Management Unit  
NPR – Northern Powerhouse Rail  
LEP – Local Enterprise Partnership

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# Transport for the North – Incorporation as a Sub-National Transport Body

## 1. Purpose of the Report

- 1.1 The purpose of this report is for Members to consent to the making of Regulations by the Secretary of State to establish Transport for the North 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.
- 1.2 Members are 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. Background

- 2.1 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 thereby rebalancing the UK economy.
- 2.2 There has been long term underperformance 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 economy – a difference in income of £4,800 per person in 2014, compared with the national average, and £22,500 compared with London. Having been on a downward trend since the early 2000s, the gap has widened since the 2008/09 recession.
- 2.3 Productivity accounts for the largest proportion of the 'performance gap', driven by an underdeveloped skills base, under-investment by the private sector and low enterprise rates. This has worsened since the recession, in part due to out-migration of skilled workers to the southern regions where employment prospects are better.
- 2.4 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. A series of studies have shown how investing in transport infrastructure can unlock the economic potential of the North.

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- 2.5 The Independent Economic Review of the Northern Powerhouse shows the scale of the benefits to the UK of closing the productivity gap. Advances in productivity, driven by key sectors of digital technologies, health innovation energy and advanced manufacturing have the potential to transform the North of England's economy adding £97 billion and 850,000 jobs by 2050.
- 2.6 The North has had no way of agreeing strategic priorities, with the responsibility for transport divided over many organisations at different geographical levels. This has made it hard to properly consider and prioritise the right strategic transport interventions to transform economic growth at the 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 or rail and road investment plans.
- 2.7 To address these concerns 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 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.
- 2.8 The ambition of TfN over time is to achieve significant devolution of transport responsibilities for the North of England and specifically to:
- Develop and deliver a multi-modal, integrated strategic transport plan that drives transformational economic growth in the North;
  - Set the strategic outcomes, outputs and priorities for the North of England's rail infrastructure and strategic road network; and
  - Determine specifications and contracts for future rail service franchises in the North of England.
- 2.9 As part of this programme of improvements and devolution of transport strategy to a more local level the 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.
- 2.10 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.
- 2.11 The 19 Constituent Authorities of TfN are:
- Greater Manchester Combined Authority

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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

### **3. The Submission Proposal**

- 3.1 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, 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;
  - e) There will be appropriate mechanisms for Scrutiny of TfN's decisions;
  - f) Rail North Limited will be wholly owned by TfN;
  - g) A wider Partnership Board including representatives of government bodies and the LEPs will be set up to inform TfN's decision making.

### **4. The Secretary of State's Response**

- 4.1 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;

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- 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.

## 5. The Draft Regulations

- 5.1 TfN are positively engaging with the Department for Transport to ensure that the draft regulations 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 necessary to carry out these functions. Engagement thus far has provided TfN with confidence that the regulations will do this, however TfN will continue to work closely with the Department as this work progresses, and will of course update Constituent Authorities as soon as possible with any further information.

## 6. The Draft Constitution

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

### 6.2 Articles

- 6.2.1 The Articles sets out the statutory basis for TfN and its membership. TfN is 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 decisions in relation to the Constitution, the Budget and the statutory Transport Strategy and any other matters which are specifically reserved to TfN by statute.
- 6.2.2 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 (Highways North Board) and rail investment and its role in managing the TransPennine Express and Northern Rail Franchises.
- 6.2.3 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 11 LEPs 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.
- 6.2.4 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.
- 6.2.5 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.

### 6.3 Voting

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- 6.3.1 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.
- 6.3.2 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.
- 6.3.3 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.
- 6.4 Financial Contributions**
- 6.4.1 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.
- 6.4.2 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.
- 6.4.3 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.
- 6.4.4 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.
- 6.4.5 TfN would be entitled to accept voluntary contributions towards its costs from any of the Constituent Authorities.
- 6.5 Powers and Functions**
- 6.5.1 This section sets out the powers and functions which will be given to TfN.
- 6.5.2 These are as follows:
- a) To prepare a Transport Strategy for the Combined Area in accordance with section 102l 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;
- m) To exercise powers to acquire land and to construct highways under sections Section 24.

6.5.3 In carrying out these functions, TfN will be a statutory partner of the Department for Transport, devolving responsibilities from the Secretary of State and speaking to the Department with a strong, single voice for the North. It is not intended that TfN should take responsibilities away from the Constituent Authorities, instead exercising a coordinating role in relation to specified transport functions and continuing to work in partnership with members. It is not the intention that TfN becomes a Highway Authority.

## 6.6 Concurrent Functions

6.6.1 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.

## 6.7 Responsibility for Functions

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

6.7.2 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.

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

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## 6.8 **Audit and Governance Committee**

6.8.1 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.

## 6.9 **Scrutiny Committee**

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

6.9.2 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.

## 6.10 **The Rail North Committee**

6.10.1 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. This will replace the Association of Rail North Authorities and 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 which replicate the voting provisions of Rail North Limited.

## 6.11 **The Rail North Sub-Committee**

6.11.1 TfN will also establish a Rail North Sub-Committee that will be appointed according to provisions which replicate the provisions for appointing the Rail North Limited Board.

6.11.2 Rail North Area Sub-Committees - Where requested TfN will also establish Rail North Area Sub-Committees to take the place of the Regional Business Units permitted under the provisions of the Rail North Members Agreement.

## 6.12 **Officers**

6.12.1 TfN will appoint its 3 Statutory Officers, the Chief Executive as the Head of Paid Service, the Monitoring Officer and the Finance Director as its Chief Officers to whom it will delegate day to day operations of TfN.

6.12.2 Chief Officers will have due regard to the recommendations of the Partnership Board, the Rail Partnership Board and Highways North Board in carrying out their functions.

## 6.13 **Procedure Rules**

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- 6.13.1 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.
- 6.14 Scrutiny Procedure Rules**
- 6.14.1 These set out the role of Scrutiny within TfN.
- 6.14.2 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.
- 6.15 Financial Procedures**
- 6.15.1 This section sets out the financial rules and controls which will govern all expenditure by TfN. It also contains the Contract Procurement Rules which will govern how TfN tenders and awards contracts.
- 6.15.2 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.
- 6.16 Codes and Protocols**
- 6.16.1 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.
- 6.16.2 The section includes the Codes of Conduct for Officers of TfN, the Protocol on Member/Officer Relations, the Code of Corporate Governance, the Anti-Fraud and Corruption Policy and the Whistleblowing Policy.
- 6.16.3 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.
- 6.16.4 The Code of Conduct for Officers sets out the standards of behaviour expected from TfN's officers.
- 6.16.5 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.
- 6.16.6 The Code of Corporate Governance sets out the core principles and values which will govern the way in which TfN operates.
- 6.16.7 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.

6.16.8 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.

#### 6.17 **Role of the Partnership Board**

6.17.1 TfN has evolved over the years from the inception of Transport for the North 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-National 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 LEPs 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.

6.17.2 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.

#### 6.18 **Rail North Limited**

6.18.1 One of the drivers for the creation of TfN as a Sub-National Transport Body was to create a body which 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.

6.18.2 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.

6.18.3 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

6.18.4 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 will replicate as far as possible the provisions of the Members Agreement.

#### 6.19 **The Rail Partnership Board**

6.19.1 A Rail Partnership Board will be set up which will replicate the existing Rail North Board and will include Members of TfN along with representatives of the Department for Transport. This Board will make recommendations in relation to strategic priorities for rail investment and in relation to existing and future rail franchises.

#### 6.20 **The Highways North Board**

6.20.1 TfN will participate in the Highways North Board which will consist of the Members of TfN along 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.

6.21 **The Chief Executives Meeting**

6.21.1 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.

6.22 **Consent to the Regulations**

6.22.1 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 requesting formal consent to the making of the Regulations to be provided by early September 2017.

7. **Recommendation**

It is recommended that you formally consent to:

- a) 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.
- b) The transfer of Rail North Limited to TfN so that it can be subsumed within TfN
- c) The signing of a new Rail Franchise Management Agreement with TfN replicating as far as possible the current Rail North Limited Members Agreement
- d) Continuation of the payment of the current funding for Rail North Limited to TfN after its inauguration.