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Report to: West Yorkshire Combined Authority

Date: 3 August 2017

Subject: Transport for the North

Is this a key decision?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If relevant, state paragraph number of Schedule 12a, Local Government Act 1972, Part 1	

1 Purpose

- 1.1 To re-affirm WYCA's commitment to agreed TfN priority areas.
- 1.2 To ask for consent in principle to the making of regulations by the Secretary of State for Transport to establish Transport for the North (TfN) as a Sub-National Transport Body (STB) under section 102E of the Local Transport Act 2008.
- 1.3 Subject to TfN being established as a STB, to agree the transfer of Rail North Limited to TfN, to enter into a new Rail Franchise Management Agreement with TfN and to make payments in respect of functions currently carried out by Rail North Ltd, to TfN.

2 Information

- 2.1 In 2014, local transport authorities and Local Enterprise Partnerships across the North of England came together in partnership with the Department for Transport (DfT) and the National Transport Agencies to form TfN with purpose to transform the transport system of the North of England.

WYCA's TfN Priorities

- 2.2 In 2016, WYCA agreed a set of priorities for TfN. Since then further work has refined our transport requirements and so WYCA is asked to re-affirm its commitment to the following priority areas:
 - I. A **Northern Powerhouse Rail Network (NPR)** that radically improves journey times across the North with **stops in Leeds, Bradford and York** and **integrates effectively with HS2**. Leeds is already considered part of the NPR core network with fast connections and frequent services to Manchester Newcastle, Hull,

Sheffield, Manchester, Manchester Airport and Liverpool. WYCA would like to see Bradford and York as part of that core network. To enable NPR trains to run from Sheffield, through Leeds and then further north, three junctions between HS2 and the existing network are needed north of Sheffield, south of Leeds and east of Leeds. Leeds station itself also needs a phased plan for improvement before HS2 arrives.

- II. **Continued investment in the existing networks** including significant improvements to the **Calder Valley Line** and **East Coast Mainline**; and
 - III. Consider how to reduce congestion and improve reliability on the **M62**.
- 2.3 As part of these priorities we want to work with TfN on understanding how improving transport between Lancashire and Greater Manchester to West and North Yorkshire (including serving Leeds Bradford Airport) could support our economic objectives (known to TfN as the '**Central Pennines Corridor**'). It is also important that we work with TfN to continue to press the case for projects such as **HS2** and the **Transpennine Route Upgrade (TRU)**. With recent Government announcements about scaling back other electrification schemes, it is crucial that Government re-commits to delivering TRU by December 2022 and the improved intercity journey times originally proposed between York, Leeds and Manchester and the capacity required to cope with existing overcrowding as well as forecast growth.

Establishing TfN as a STB

- 2.4 TfN are developing 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 improvements needed to truly connect the region with fast, frequent and reliable transport links, driving economic growth and creating a Northern Powerhouse.
- 2.5 Rail North Limited, a company whose objectives include the co-management alongside the Department for Transport of the Transpennine Express and Northern Rail Franchises on behalf of the Secretary of State for Transport, will be transferred to TfN.

WYCA at its meeting in July 2016 in principle approved making a proposal to the Secretary of State that TfN should be established by regulations as a STB, and agreed to be a constituent authority of TfN. Further to this, in October 2016, a proposal was submitted on behalf of 19 constituent authorities to the Secretary of State that TfN should be established by regulations as a STB. These authorities are listed in **Appendix 1** to this report.

- 2.6 The Secretary of State has now formally responded to the proposal and has confirmed his agreement to establishing TfN as a statutory body. He has confirmed that "the key functions for TfN as the inaugural STB will be:

- The preparation of a Northern Transport Strategy;
- The provision of advice on the North's priorities, as a Statutory Partner in the Department's investment processes;
- The co-ordination 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."

2.7 Draft regulations are still to be finalised, but it is understood that they will generally reflect the proposal submitted, in so far as it was agreed by the Secretary of State. It is important to note that this report can only therefore reflect the current understanding of the provisions to be included in the regulations, which may be subject to change as discussions continue.

TfN statutory functions to be set out in the regulations

2.8 The regulations will provide for the following **general functions** to be exercised by TfN:

- to prepare a **Transport Strategy** for TfN's area (i.e. the Strategic Transport Plan currently being prepared);
- to **advise the Secretary of State** about the exercise of transport functions in the TfN area - in practice, making recommendations about future rail and road strategic investment decisions, further to TfN's Strategic Transport Plan;
- to **co-ordinate the carrying out of transport functions** exercisable by different constituent authorities - it is understood that this will be exercised in relation to major pan-Northern investment projects funded by the Secretary of State;
- to make **proposals to the Secretary of State** about transferring functions to TfN, and TfN's role and other functions.

2.9 The regulations will also provide for TfN to have the following functions, exercisable **concurrently** with constituent authorities:

- power to make **capital grants**;
- functions in relation to **ticketing schemes** functions (TfN is developing SMART ticketing to enable through-ticketing across the TfN area, and smart technologies to enable ticket purchases on mobile devices);
- functions of a Passenger Transport Executive (PTE) relating to **franchising** (S13 Railways Act 2005).

2.10 The regulations will not require TfN to consult before exercising these concurrent functions. However, TfN's draft constitution (see further below) provides that before exercising any concurrent function TfN will "consult any Transport Authority or Highway Authority whose area is affected by the proposal over the exercise of the powers and functions and where the nature and extent of the proposal make it appropriate, will enter into a Protocol to govern the exercise of its powers and functions in relation to that proposal."

2.11 The regulations will also provide for TfN to exercise some general local authority functions to facilitate its operation. The regulations will **not** provide for TfN to be a **highway authority** for specified purposes, as requested in the proposal (although discussions are ongoing in relation to TfN acquiring powers from the Secretary of State to construct roads to be exercised to overcome some of the administrative difficulties experienced in the past in the construction of cross-boundary strategic roads).

TfN constitutional arrangements to be set out in regulations

2.12 In relation to **TfN membership**, the regulations will provide for each of the 19 Constituent Authorities who are local transport authorities in the TfN area, (including WYCA) to appoint one of its elected members to be a voting member of TfN, and a substitute for that person. A Constituent Authority with an elected Mayor must appoint the Mayor to this position.

2.13 The regulations will also provide for each local transport authority which is a member of Rail North Ltd but not a constituent authority, to appoint one of its elected members to be a co-opted member of TfN. The Chair of the Partnership Board (see paragraph 2.15 below) is also to be appointed as a co-opted member, and TfN may agree to appoint further co-opted members. Co-opted members are non-voting subject to any resolution by voting members.

2.14 The **voting arrangements** proposed are to be set out in the regulations. These provide that in relation to most matters, each voting TfN member vote is weighted to reflect the population of the area of the appointing Constituent Authority. The exception to this is that any decision to approve TfN's annual Budget, to change TfN's constitution or to approve or change the Transport Strategy will require 75% of the weighted votes **and** a simple majority of TfN Members. The regulations will provide that in the event of a vote being tied, a question is deemed not to have been carried – that is, there is no casting vote. Different voting arrangements are proposed for matters currently carried out by Rail North Ltd – see further below.

2.15 The regulations will also provide for TfN to establish a “**Partnership Board**” to advise TfN on matters relating to transport. The membership and procedures of this Board are not going to be specified in the regulations, although TfN must appoint a Chair for the Board. Further details about this Board are, however, provided for in the draft constitution – see further below.

2.16 The regulations will also require TfN to appoint a **scrutiny committee**, and for each constituent authority to appoint **one** member (and substitute) to that committee (who cannot be the TfN Member appointed).

Rail North Ltd

2.17 One of the drivers for the creation of TfN as a STB was to create a body which could speak with one voice on all transport matters affecting the North of England. To

achieve this and further to the response of the Secretary of State confirming a anticipated role for TfN in co-managing the franchises and as a Statutory Partner to the DfT, it is now proposed that TfN take over ownership of Rail North Ltd and subsume all of its functions directly into TfN. The requirement for a separate franchising entity would cease to exist. Current Rail North members' rights and obligations would be retained and transferred through to TfN's constitution and governance arrangements, as described below.

- 2.18 It should be noted that although the regulations will provide for some franchising functions to be discharged by TfN, other bespoke mechanisms will be required to ensure that TfN can discharge all of the key functions to which the Secretary of State has referred in his response. These will be reflected in the draft constitution – see further below. The current Partnership Agreement between DfT and Rail North Ltd which governs co-management of rail franchising would be transferred to TfN, whilst reflecting the acquisition of Rail North Ltd by TfN and the extended role of TfN as a Statutory Partner.

TfN Constitution

- 2.19 TfN will approve its constitution at its first meeting after it has been established as a STB. The constitution must reflect the regulations establishing TfN, for example, in relation to TfN's statutory functions and membership. Provisions enshrined in the regulations can only be amended by the Secretary of State. Provisions in the constitution which do not directly stem from the regulations may be changed by TfN, subject to the increased majority set out above.
- 2.20 The draft constitution contains an overview of TfN's functions and the major partnerships through which it will exercise its functions, including as Statutory Partner in relation to determining priorities for road (through Highways North Board) and rail investment, and its role in managing the TransPennine Express and Northern Rail Franchises.
- 2.21 The draft constitution provides that the **Partnership Board** (which the regulations will require TfN to appoint), will be responsible for considering the strategic agenda for transport in the North of England. Although TfN as a STB will consist of the representatives of the 19 constituent authorities, it is anticipated that it will continue to operate through the Partnership Board, 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.
- 2.22 The draft constitution also provides for a **Rail North Committee** to advise on TfN's Statutory Partner role in relation to rail investment and with oversight of the management of the TransPennine Express and Northern Rail Franchises. This will replace the Association of Rail North Authorities and include representatives of the six non-TfN Rail North authorities as co-opted Members. Voting in relation to rail franchise matters shall be weighted in accordance with a voting matrix which reflects the current voting arrangements for Rail North Ltd.

- 2.23 TfN will also appoint a **Rail North Sub-Committee** on terms similar to the current Rail North Ltd Board. Where requested, TfN will also establish **Rail North Area Sub-Committees** instead of the Regional Business Units under the current Rail North Members' Agreement.
- 2.24 The **Rail North Partnership Strategic Board** will be replicated in the new structure and will include representatives of TfN along with representatives of the DfT. The Board will continue to be the forum through which TfN would jointly work with DfT to co-manage the current rail franchises. It is anticipated that its remit however would be broadened to reflect TfN's enhanced role as Statutory Partner to DfT for strategic rail infrastructure investment planning.
- 2.25 TfN will also participate in the **Highways North Board**, together with the DfT and Highways England. The Board will make recommendations in respect of the future Roads Investment Strategy and competitive major roads funding programmes.

Timetable

- 2.26 It is now anticipated that TfN will be established as a statutory body with effect from **1 April 2018**. A revised timetable is set out below:

Activity	Date
TfN continuing engagement with DfT on draft regulations	Ongoing
TfN constituent authorities consent to the regulations	By early September 2017
Regulations laid before Parliament	By the end of September 2017
Regulations made by Secretary of State	By December 2017
Shadow STB Board created	When regulations have been made
TfN established as a statutory body	1 April 2018 (provisional)

3 Financial Implications

- 3.1 TfN is currently funded through government grant. Although future funding decisions will remain the responsibility of the government at the time, establishing TfN as a statutory body ensures it has the stability and permanence to be confident of long term central Government support.
- 3.2 At present constituent authorities and the other 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 Ltd. These payments will be made to TfN when it assumes the functions of Rail North Ltd.
- 3.3 The regulations will provide that the constituent authorities must make a contribution in respect of reasonably incurred costs of TfN, if they **all** agree on the need for a contribution and the amount required. Unless unanimously agreed

otherwise, any financial contributions would be apportioned between the constituent authorities on the basis of population. The regulations also provide that each constituent authority may contribute to the costs of TfN, if it chooses to do so.

4 Legal Implications

- 4.1 Before the Secretary of State makes the Regulations to establish TfN as a STB, each Constituent Authority must consent to the making of the Regulations.

5 Staffing Implications

- 5.1 None.

6 External Consultees

- 6.1 Before the proposal was submitted to the Secretary of State, the proposal was subject to discussion between constituent authorities, neighbouring authorities, relevant Local Enterprise Partnerships, the Welsh Assembly and Transport Scotland.

7 Recommendations

- 7.1 It is recommended that WYCA:
- (i) re-affirms WYCA's commitment to those priority areas set out in paragraph 2 above.
 - (ii) consents in principle to the Secretary of State making regulations under section 102E of the Local Transport Act 2008 to establish Transport for the North as a STB, and delegates authority to the Managing Director, in consultation with the Chair of WYCA and with WYCA's representatives on the Transport for the North Partnership Board, to consent to the regulations once they have been finalised;
 - (iii) agrees in principle to the transfer of Rail North Ltd to TfN once TfN has been established as a STB, and delegates authority to the Managing Director to take any necessary steps on behalf of WYCA to effect this transfer;
 - (iv) agrees to enter a new Rail Franchise Management Agreement with TfN, once it has been established as a STB, on terms consistent with the Rail North Ltd Members' Agreement; and
 - (v) agrees to fund TfN to carry out functions relating to supporting rail franchise management which are currently carried out by Rail North Ltd, on the existing basis, once TfN is established as a STB, and has assumed those functions.

8 Background Documents

- 8.1 None.