

# CHESHIRE EAST COUNCIL

## CABINET

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<b>Date of Meeting:</b>	4 March 2013
<b>Report of:</b>	Interim Strategic Director Places and Organisational Capacity
<b>Subject/Title:</b>	Establishing Cheshire and Warrington Local Transport Body
<b>Portfolio Holder:</b>	Councillor Jamie Macrae – Portfolio Holder for Prosperity & Economic Regeneration

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### 1.0 Report Summary

- 1.1 The Department for Transport (DfT) is devolving its decision making function on Local Major Transport Scheme funding from 2015/16 to 2018/19 to Sub National Local Transport Bodies (LTBs) in England based on the geography of the Local Enterprise Partnerships (LEPs). The key members of the LTBs will be the LEPs and the constituent local highway and transport authorities, which includes the Council.
- 1.2 The DfT require each LTB to submit a Local Assurance Framework (LAF) by the end of February 2013, which needs to demonstrate to the DfT how it would carry out this role and manage the devolved funding. Once the DfT have endorsed the LAF the Cheshire and Warrington Local Transport Body (CWLTB) can start formal meetings and make decisions.
- 1.3 A requirement is that one of the constituent local authorities acts as the Accountable Body for the LTB. The Cheshire and Warrington Sub Regional Leaders have agreed that Cheshire East will be the Accountable Body.
- 1.4 The aim is that the CWLTB is seen as a vanguard by the DfT and other government departments and it also forms a key part of delivering the Sub Regional growth agenda.

### 2.0 Decision Requested

- 2.1 That Cabinet approves the Local Assurance Framework as the basis upon which the Cheshire and Warrington Local Transport Body conducts its business and manages the delivery of new major transport infrastructure schemes.
- 2.2 That Cabinet approves the Council being the Accountable Body for the Cheshire and Warrington Local Transport Body.

### 3.0 Reasons for Recommendations

- 3.1 Establishing the CWLTB will enable the sub region to have direct control of an indicative budget of around £21.8m from the DfT to deliver highway and transport infrastructure. This would support our local ambition for economic growth and job creation, a key priority for this Council, the Sub Region and the Coalition Government.
- 3.2 It is anticipated that this funding will form the foundation for a much larger infrastructure investment programme as other sources of capital funding are secured to enable a step change in the number of schemes being delivered in the Sub Region. Further decisions may be necessary on this point, in due course.
- 3.3 The Cheshire and Warrington LEP (CWLEP) has recently received an offer for revenue grant funding from central government, subject to certain criteria being met to support its activities, in particular the establishment and operation of the CWLTB. The Council will seek funding from CWLEP for the resources it will expect to commit to support the CWLTB, including its accountable body role.

#### **4.0 Wards Affected**

- 4.1 All

#### **5.0 Local Ward Members**

- 5.1 All

#### **6.0 Policy Implications including - Carbon reduction - Health**

- 6.1 Policy will be addressed in the prioritisation and implementation of schemes, which is set out in the Local Assurance Framework.

#### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 As described in the Local Assurance Framework and summarised in 10.14 below, the accountable body role features a range of duties and responsibilities, in relation to receiving, holding and distributing Government grant resources and for ensuring the proper use of funds. As noted in 9.2 below, the Framework also describes how the risks will be shared and appropriately borne by respective authorities, for example where any scheme overspends are to be met by the respective Council, rather than the accountable body.
- 7.2 It will be important for the role of the accountable body to be fully defined and understood by CWLTB partners and the functions of it to be financed by appropriate means (e.g. LEP core funding resources).

7.3 Potential forms of structure for the LTB are described in 10.8, below. Models other than the informal partnership described in the LAF will require further consideration, in terms of financial implications, if they are explored in the future.

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 The LAF needs to be approved by the DfT before the funding decision function can be transferred to the CWLTB.

8.2 Initially, it is envisaged that the CWLTB will operate through an informal partnership, but as its arrangements are intended to be regularly reviewed, a different model, such as a company limited by guarantee may be considered in the future; if so, detailed legal advice will be necessary.

8.3 Support will be required from the Borough Solicitor to establish and operate the LAF and CWLTB respectively; as current resources are unlikely to be sufficient, additional resources with the associated costs may be required. Support will also be required from other services e.g. Democratic Services since the Accountable Body bears primary responsibility for maintaining the record and documentation of CWLTB proceedings; again, current resources may be insufficient to cover this responsibility.

8.4 The fact that the required Audit arrangements are to be provided by another Council in the partnership, whilst helpful in sharing the governance responsibilities, this does raise the prospect of differing opinions arising as to the governance of the CWLTB, but given the common purpose of the CWLTB, whilst audit arrangements should be as impartial as possible, and all parties should contribute towards the good governance of the CWLTB, this should not become a major issue. If a different model is in the future preferred for the operation of the CWLTB, this can be reviewed at that time.

## **9.0 Risk Management**

9.1 If the CWLTB fails to either submit a satisfactory LAF or manage its business in accordance with an approved LAF, the government can decide to withdraw devolved funding.

9.2 To mitigate the risk to the Council in its role as Accountable Body, it is sought to design the LAF in such a way as to ensure the risks associated with the funding, procurement and delivery of major infrastructure projects remain as far as possible with the individual local authority promoting a scheme. However, given the responsibilities resting with the Accountable Body role, it is not possible to completely mitigate all risk, which is always likely to be greater than those resting with the other partners to the CWLTB.

## **10.0 Background and Options**

10.1 The Coalition Government have an agenda through the establishment of LEPs to promote investment and growth to sub regions in England. In line

with this, the DfT have developed plans to devolve its local major transport scheme budget and decision making to sub regional LTBs.

- 10.2 The DfT wrote to LEPs and Local Transport Authorities in August 2012 outlining their intention to produce detailed guidance about the setting up of LTBs and our requirements for LAFs. The main proposals for taking forward major scheme devolution was issued in September 2012 with the detailed guidance document on assurance frameworks published in December 2012.
- 10.3 There was overwhelming support for the principle of devolution and this was endorsed by the CWLEP and the Council. However, one of the DfT's most important issues emerging from the consultation and subsequent discussions with local partners was the need for greater clarity on how the DfT could be assured LTBs are fit for purpose and have the necessary arrangements in place to ensure value for money and good decision making. This guidance sets out our key requirements and principles, including a set of minimum requirements.
- 10.4 The main tasks for the CWLTB is to develop and submit a LAF that conforms with the requirement of the DfT's detailed guidance, which will enable it to be formally recognised, and to establish and submit to the DfT a prioritised programme of schemes for the sub region. The LAF is required for submission by the end of February 2013 and the programme by the end of July 2013.
- 10.5 The guidance document states the DfT are happy to adopt a practical approach to LAFs that have the essential matters covered by the deadlines but may require more detail to be fleshed out later. A Shadow CWLTB has met on a few occasions to develop the LAF and has engaged closely with the DfT as the draft proposal has been developed.
- 10.6 The DfT are still providing advice in the form of written material and have workshops planned later this year on aspects such as proportionality in appraisal and producing value for money statements.
- 10.7 The DfT's intention was not to make this process overly burdensome; however they believe putting in place the robust arrangements now will benefit LTBs and the DfT in the longer term. What the CWLTB and the LAF needs to demonstrate is a system that provides good governance, effective processes for identifying priorities along with high standards of programme management and investment decisions.
- 10.8 The CWLTB and the proposed LAF is believed to achieve all the requirements of the DfT. Having said this, once it has been submitted, it may require some minor modifications as stated in 10.4 above. If any of these proved to be substantive, a revised version would be presented to a future Cabinet meeting. Further, the Portfolio Holder will be informed of any minor changes suggested by the DfT.

- 10.9 One of the main decisions has been selecting the appropriate Governance model for the CWLTB. Each model has potential strengths and weaknesses given the level of current sub regional working in Cheshire. The options are:
- An Informal Partnership
  - A Joint Committee
  - A company limited by guarantee as a sub group of the CWLEP
- 10.10 The Informal Partnership appears to be the preferred choice of sub regions such as ours where we don't have formal governance structures already in place. The benefits are that it can be established quickly and that it gives a strong voice to all the partners, including the CWLEP. This is the option included in the LAF.
- 10.11 The Joint Committee option would take longer to constitute and would limit the CWLEP's role as they would not have a vote in the decision making process.
- 10.12 The CWLEP isn't currently formed as a company limited by guarantee and as such this isn't currently an option.
- 10.13 The view is that as the role of sub regional working develops the CWLTB and the CWLEP may wish to reconsider the governance arrangement for our LTB. This would form part of any future dialogue and discussion with the DfT over the LAF and may require a further decision to be taken.
- 10.14 A further requirement in establishing an LTB is the need to nominate one of the constituent Council's as an Accountable Body. The Council was approved at the Accountable Body for the CWLTB at a recent meeting of the Sub Regional Leaders meeting.
- 10.15 The key roles the Council will have to perform as Accountable Body are:
- Ensuring that the decisions and activities of this LTB conform with legal requirements with regard to equalities, environmental, EU issues etc;
  - Ensuring (through their Section 151 Officer) that the funds are used appropriately;
  - Ensuring that this LTB assurance framework, as approved by DfT, is being adhered to;
  - Maintaining the official record the LTB's proceedings and holding all this LTB's documents; and
  - The decisions of this LTB in approving schemes (for example, if subjected to legal challenge).
- 10.16 The Council will have to make available the appropriate resources from its various corporate services to perform these roles. If CWLEP revenue funding becomes available through central government support, the Council will be able to claim any costs incurred from this funding.

## **11.0 Access to Information**

- 11.1 The background papers relating to this report can be inspected by contacting the report writer:

DfT guidance papers on devolving local major transport scheme funding can be found on the DfT web site.

The Cheshire and Warrington Local Transport Body Local Assurance Framework is attached to this report.

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