

Cheshire East Council

Cabinet

Date of Meeting:	22 August 2017
Report of:	Frank Jordan, Executive Director for Place
Subject/Title:	Transport for the North – Membership Of Cheshire East Council
Portfolio Holder:	Cllr David Brown, Highways and Infrastructure Portfolio

1. Report Summary

- 1.1. This report sets out the process and governance arrangements for TfN to become a statutory body, and seeks Cabinet approval for Cheshire East Council to confirm its membership of TfN.
- 1.2. Transport for the North (TfN) is the proposed sub-national transport body (STB) serving the north of England; comprising all the northern city regions, local transport authorities and Local Enterprise Partnerships. Members were briefed at Informal Cabinet on 30th August 2016 (Appendix 1) and a letter of support (Appendix 2) from Cheshire East Council was provided to TfN to progress to this stage. The Secretary of State for Transport has now responded to TfN with a proposed timescale for making statutory regulations (Appendix 3) and Cheshire East Council are being asked to consent to the making of statutory regulations that will underpin the creation of the sub-national transport body.
- 1.3. The TfN Partnership Board has adopted a vision for economic transformation, with transport as a key enabler for growth. Transport for the North's spring report sets out this vision as follows:

“Our shared vision is for a vibrant and growing economy across the north of England which builds on its unique economic strengths, attracts and retains the brightest and best talent, and plays globally in terms of its research, development, and business activities. The North will be one of the world's most competitive regions, playing host to successful and innovative global and local companies, offering its skilled workforce to businesses, and using its advanced transport connectivity to link clusters of thriving businesses – across the North, across the United Kingdom, and globally”

- 1.3 Since the Cabinet Briefing in 2016, TfN has made significant progress in putting in place preparatory work that will enable it to fulfil the role of a sub-national transport body, including:

- Production of a draft set of statutory regulations for consideration by the Secretary of State;
 - Preparation of an evidence base to support a new Pan-northern Transport Strategy covering the strategic road and rail networks across the north
 - Developing the business case for enhanced investment in the north's strategic transport infrastructure, a major roads network and Northern Powerhouse Rail.
 - Development of proposals for a pan-northern Smart Ticketing architecture for public transport
 - Mobilisation of new rail franchises for both Northern and Trans-Pennine (under the auspices of Rail North).
- 1.4 It is considered that Transport for the North and Rail North have both demonstrated what benefits can be derived from all parts of the North of England working together to achieve transformational improvement in both transport infrastructure and services across the North of England and beyond to neighbouring regions. It is considered vital that Cheshire East Council takes up membership of Transport for the North to ensure that the Borough continues to secure improvements to its transport infrastructure and services.

2. Recommendation

2.1 Cabinet is recommended to:

- i. Note progress made by Transport for the North in securing Government approval to become a statutory Sub-National Transport Body.
- ii. To agree that the scope of the powers which are being sought by Transport for the North is acceptable to Cheshire East Council, these being:
 - a) The preparation of a Northern Transport Strategy;
 - b) The provision of advice on the North's transport priorities, as a Statutory Partner in the Department's investment processes; and
 - 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..
- iii. To note and consent to Rail North (which the Council is already a member of as agreed by Cabinet at its meeting held on 2nd September 2014) being subsumed into Transport for the North and that its powers to specify and let rail franchises for the North of England are proposed to be unaffected by it being subsumed into Transport for the North.
- iv. To note that the transfer of Rail North Limited to TfN so that it can be subsumed within TfN will require the signing of a new Rail Franchise

Management Agreement with TfN. This agreement will replicate as far as possible the current Rail North Limited Members Agreement.

- v. To agree that Cheshire East Council should continue its payment of the current funding for Rail North Limited to TfN after its inauguration.
- vi. To agree that Cheshire East Council should become a member of Transport for the North – this will require 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.
- vii. To note that the taking up of this membership is subject to the making of regulations to be put before Parliament in the Autumn of 2017.
- viii. To delegate the final decision to accept the regulations and confirm the Council's membership of Transport for the North to the Chief Executive in consultation with the Leader of the Council, the Portfolio Holder for Transport, the Executive Director for Place and the Director of Legal Services, once the final version of the regulations is available – this is anticipated to be in September 2017.
- ix. To agree that Cheshire East Council will appoint a Council Member to represent the authority on the TfN Board and that this representative will seek prior Cabinet or Council consent to any decision which is to be made by voting of TfN's Constituent Members, where this decision:
 - a) requires the unanimous decision of TfN members,
 - b) affects the transfer or sharing of functions,
 - c) makes any financial commitment for Cheshire East Council or is a matter affecting the land ownership or land interests of Cheshire East Council.

3. Other Options Considered

- 3.1. The option of not joining Transport for the North has been considered. This option has been discounted as not joining TfN would be likely to reduce the Council's influence over major strategy and investment decisions affecting the North's transport networks. Being outwith TfN is expected to reduce the chances of Cheshire East receiving its fair share of funding awarded for major transport improvements across the North of England.

4. Reasons for Recommendation

- 4.1. 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.

- 4.2. There has been long-term under-performance 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.
- 4.3. 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.
- 4.4. 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.
- 4.5. 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.
- 4.6. Without Transport for the North, the North has 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.
- 4.7. 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.
- 4.8. 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.
- 4.9 As part of this programme of improvements and devolution of transport strategy to a more local level these Local Transport Authorities came together to form Rail North Limited a company whose objectives include the management of the TransPennine Express and Northern Rail Franchises on behalf of the Secretary of State for Transport.

5. Background/Chronology

- 5.1. Cheshire East Council has played a full role in both TfN and Rail North and has worked closely alongside the Cheshire and Warrington Local Enterprise Partnership and Cheshire West and Warrington Councils to best represent Cheshire and Warrington's interests. To date, the Council has been represented at TfN's Partnership Board by Cllr Terry O'Neill (Warrington Council) and Christine Gaskell (Cheshire & Warrington LEP) under arrangements agreed by the Cheshire & Warrington Local Transport Body. Cllr David Brown, Deputy Leader of Cheshire East Council has provided Cheshire & Potteries representation on the Rail North Board. Subject to confirmation of the statutory regulations that will establish TfN as a sub-national body, the Council will need to agree to an updated constitution which is expected to review arrangements for Member authorities representation.
- 5.2. 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.

The 19 Constituent Authorities of TfN are:

- 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

5.3. The Secretary of State has now formally responded to the Proposal (Appendix 3) and has indicated that he is minded to make Regulations creating TfN as the first Sub-national Transport Body with the following functions:

- 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 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.

5.4. Regulations are currently being drafted which will 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.

5.5. It will be these regulations which then form the basis of secondary legislation to be taken through the Parliamentary approval process. These regulations are current only available in draft form (unpublished) at the time this report is submitted for approval. It is proposed that the decision as to whether to accept the final regulations should be delegated to the Chief Executive and Council Leader, in consultation with the Portfolio Holder for Transport, the Executive Director of Place, and the Director of Legal Services.

5.6. Before the Secretary of State may make these Regulations by putting them before Parliament, 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 in September 2017, requesting formal consent to the making of the Regulations. The letter will request a response within 14 days.

6. Wards Affected and Local Ward Members

6.1. All Wards in Cheshire East.

7. Implications of Recommendation

7.1. Policy Implications

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

Articles

7.1.2. 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 those specifically reserved to TfN.

7.1.3. 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 and rail investment and its role in managing the TransPennine Express and Northern Rail Franchises.

7.1.4. 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.

7.1.5. 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.

7.1.6. 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.

7.1.7. The TfN Constitution will require the unanimous agreement in the exercise of voting rights to be adopted by TfN once the Regulations are made through the parliamentary process becoming Secondary Legislation.

Voting

7.1.8. 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.

7.1.9. 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.

7.1.10. 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.

7.1.11. Further information on the proposed governance arrangements for TfN is provided in Appendix 4 and Appendix 5 of this report.

7.2. Legal Implications

7.2.1 The Cities and Local Government Devolution Act 2016 provided for the establishment by secondary legislation of sub-national transport bodies. A Sub-National Transport Body is a Body Corporate and consists of two or more combined authorities and/or local authorities.

7.2.2 The process for establishing a Sub-National Transport Body is that the constituent authorities (the combined authorities and/or relevant local authorities) are required to make a joint proposal to establish a Sub-National Transport Body and all constituent authorities are required to consent.

7.2.3 The Transport for the North proposal can only be submitted with the agreement of the authorities which, if the Sub-National Transport Body is established, will be its constituent authorities. The Transport for the North proposal sets out the powers and functions that are being requested by Transport for the North. These include general functions, functions to be exercised concurrently with local authorities, and powers devolved from Government.

7.2.4 The proposal does not include a mechanism for any local authority functions to be carried out by Transport for the North instead of a local authority.

7.2.5 The proposal includes a requirement for constituent authorities to make statutory contributions towards the costs of Transport for the North apportioned on the basis of resident population. The proposal also sets out the decision-making and voting arrangements that Transport for the North will adopt.

- 7.2.6 TfN is funded by the DfT until 2020 and there are currently no provisions for funding thereafter and it is envisaged that they will bid for renewed central funding or seek funding from constituent members.
- 7.2.7 For Cheshire East, any funding contribution would be limited under the current proposals to a maximum of 2.4 % of the costs, proportionate to the weighted voting rights of CEC. A decision to invoke such statutory funding rights would require a unanimous decision of the TfN membership. It is recommended therefore that any representation appointed to the TFN Board has restricted voting in respect of any matter requiring a unanimous decision or involving any financial commitment and or an transfer or discharge of rights, interests, functions or responsibilities of this Council (see paragraph 2.1 (ix) above).
- 7.2.8 The submission of a proposal by the authorities seeking to form a Sub-National Transport Body is required before the Secretary of State can make regulations to form such a body. If the Secretary of State accepts the proposals, the Council would then be asked to consider and provide consent to the regulations that would establish Transport for the North as a Sub-National Transport Body.

Consent to the Regulations

- 7.2.9 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 at the beginning of September 2017 requesting formal consent to the making of the Regulations. The letter will request a response within 14 days.
- 7.2.10 TfN have prepared a Frequently Asked Questions briefing which provides a summary of the powers it is seeking – this is attached for information as Appendix 5.

7.3 Financial Implications

- 7.3.1 There is currently a contribution payable by Cheshire East to Rail North Limited, for 2017/18 this amounts to some £772.58 per annum – this figure is determined on Cheshire East's share of rail passenger numbers travelling on the Northern and TransPennine rail franchises across the North of England (2.1%). This is unaffected by the securing of Sub National Transport Body status by TfN.
- 7.3.2 There is no requirement for financial contributions to be paid to become a member of TfN. Any contributions made would be on a voluntary basis – it is not anticipated that these will be required in the foreseeable future.

- 7.3.3 One of the main objectives of TfN is to look for the North of England to secure a greater proportion of available funding to deliver improvements in transport provision across the whole of this area. This may lead to opportunities for the Council to look to secure funding for schemes, potentially in partnership with TfN – where this is anticipated to have any financial implications this would be subject to a separate approval process.
- 7.3.4 TfN is funded through government grant until 2020 and future funding beyond that has not been established. However, whilst decisions will remain the responsibility of the government at the time, establishing TfN in statute enhances the case to Government for long term financial support to TfN.
- 7.3.5 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.
- 7.3.6 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.
- 7.3.7 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.
- 7.3.8 TfN would be entitled to accept voluntary contributions towards its costs from any of the Constituent Authorities. Typically, these contributions may take the form of in-kind support from member organisations, such as where particular staffing skills and knowledge may be offered to assist TfN in delivering its services.

7.4 Equality Implications

- 7.4.1 Should Transport for the North be successful in leveraging greater investment into the North of England's transport networks, this is expected to have beneficial implications for the opportunities arising from enhanced connectivity across the North. The strategy to promote economic growth will be expected to contribute to reducing the impacts of economic and social inequality, including with reference to opportunities available in other regions of the UK.
- 7.4.2 At this stage, no specific equalities issues have been identified relating to TfN's future investment programmes. As would be expected, TfN's

intended programmes will be accompanied by a full Equalities Assessment in due course.

7.5 Rural Community Implications

7.5.1 Transport for the North is expected to have beneficial implications for the opportunities arising in Rural Communities from enhanced connectivity across the North. The strategy to promote economic growth will be expected to contribute to reducing the impacts of economic and social isolation, including with reference to opportunities available in other regions of the UK.

7.5.2 At this stage, no specific rural issues have been identified relating to TfN's future investment programmes. As would be expected, TfN's intended programmes will be required to take account of the Social and Distribution Impacts that arise, and relevant assessments will be completed at the appropriate time.

7.6 Human Resources Implications

7.6.1 There are no human resource implications identified.

7.7 Public Health Implications

7.7.1 There are no public health implications identified.

7.8 Implications for Children and Young People

7.8.1 There are no Children and Young People implications identified at this stage.

7.9 Other Implications (Please Specify)

7.9.1 None at this stage.

8 Risk Management

8.1 TfN maintains a detailed Risk Register where all identified risks are monitored and actions taken as agreed to mitigate these risks. This is unaffected by the securing of Sub National Transport Body status by TfN.

8.2 The risks to Cheshire East Council of not joining TfN would be likely to include a reduction in the Council's chances of being able to receive its fair share of funding awarded for major transport improvements across the North of England.

8.3 Additionally, were any Local Transport Authority not to consent to the making of these regulations, this is likely potential prevent TfN securing

statutory status owing to constraints of Parliamentary time. The impact would significantly reduce TfN's ability to influence Government on future funding support for the North of England. It would also put at risk the future of Rail North and the opportunity to secure further improvements to rail services via the Northern and TransPennine franchises.

- 8.4 Consenting to the making of these Regulations will ensure that Cheshire East Council is able to influence the content and delivery of strategically important transport improvements, through the TfN constitution and governance. This will assist the Council in seeking resources to address the need for transport improvements within the Borough.

9 Access to Information/Bibliography

- 9.1 Documents are held on file at:

\\ourcheshire.cccusers.com\East\LTPEast\TfN\MembersAgreement

10 Contact Information

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