

**Manchester City Council
Report for Resolution**

Report to: Executive – 18 October 2017

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

Report of: City Solicitor

Purpose of the Report

The purpose of this report is to update the Council on the making of the regulations by the Secretary of State to establish Transport for the North (TfN) and to seek the consent of the Council under section 102J of the Local Transport Act 2008 as Local Highway Authority to Transport for the North as a Sub –National Transport Body having highways powers to be exercisable concurrently with the Local Highway Authorities.

Recommendations

The Executive is recommended to:

1. note the making by the Secretary of State of Regulations to establish Transport for the North as a Sub-National Transport Body;
 2. Consent to Transport for the North having certain highway functions exercisable concurrently with the local highway authority but only with the local highway authority consent as set out in this report.
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Wards Affected All

Manchester Strategy outcomes	Summary of the contribution to the strategy
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	The establishment of TfN will support the continued economic development of the city region through providing connectivity to emerging economies, sustaining a large number of jobs across the region, acting as a medium for attracting jobs and talent and in helping to retain existing companies who want to be located in places that have the maximum level of connectivity.
A highly skilled city: world class and home grown talent sustaining the city's economic success	Transformational improvements to the North's transport connectivity are critical to help achieve the vision of a globally competitive environment that can sustain economic growth, creating a more attractive and buoyant marketplace.

A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	TfN has a key role in driving connectivity, providing employment and supporting the economic growth of the city region.
A liveable and low carbon city: a destination of choice to live, visit, work	The enhancement of public transport availability, convenience, accessibility and affordability is likely to promote a low carbon city by reducing the number of cars coming into the city.
A connected city: world class infrastructure and connectivity to drive growth	Improving connectivity between important economic centres will ensure the North's people and businesses are better connected to their work and better able to do business

Financial Consequences for the Revenue Budget

None

Financial Consequences for the Capital Budget

None

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Background Documents

None

1. Background to Transport for the North

- 1.1 To address concerns about transport connectivity across the North, Local Transport Authorities and Local Enterprise Partnerships across the North of England came together in 2014 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.
- 1.2 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.
- 1.3 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 London¹. Having been on a downward trend since the early 2000s, the gap has widened since the 2008/09 recession.
- 1.4 Productivity accounts for the largest proportion of the ‘performance gap’, driven by 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.
- 1.5 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.
- 1.6 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.
- 1.7 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.

- 1.8 The ambition of TfN over time is to achieve significant devolution of transport responsibilities for the North of England and specifically to:
- a) Develop and deliver a multi-modal, integrated strategic transport plan that drives transformational economic growth in the North;
 - b) Set the strategic outcomes, outputs and priorities for the North of England's rail infrastructure and strategic road network; and
 - c) Determine specifications and contracts for future rail service franchises in the North of England.

- 1.9 In October 2016 with the agreement of the Constituent Authorities set out below 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.

- 1.10 The 19 Constituent Authorities of TfN are:

Greater Manchester Combined Authority
Liverpool City Region Combined Authority
The North East Combined Authority
Tees Valley Combined Authority
West Yorkshire Combined Authority
Cumbria County Council
Lancashire County Council
North Yorkshire County Council
Blackburn with Darwen Borough Council
Blackpool Borough Council
Cheshire East Council
Cheshire West and Chester Council
Warrington Borough Council
The Council of the City of York
The East Riding of Yorkshire Council
Kingston upon Hull City Council
North Lincolnshire Borough Council
North East Lincolnshire Council

2. The Submission Proposal

- 2.1 The Proposal submitted by the Constituent Authorities included the following key provisions.

- (a) All Constituent Authorities would be entitled to appoint an elected member to TfN who would normally be the Elected Mayor, Leader, Chair or member with delegated responsibility for transport – there would also be provision for a substitute member and provision for co-options.

- (b) Decisions would be expected to be reached by consensus, but in the absence of consensus votes would be weighted in accordance with a formula based on population
- (c) Decisions in relation to the budget, the adoption of a transport strategy and the constitution would require a super-majority
- (d) Funding would be largely provided by the Secretary of State, and there would be no requirement for financial contributions from constituent authorities, except where all agree.
- (e) There would be appropriate mechanisms for scrutiny of TfN decisions by constituent authorities.
- (f) TfN would have the general functions of an STB as set out in section 102 H of the Local Transport Act, a functional power of competence, certain local transport functions to be exercised concurrently with the local authority (including certain specified Highways functions) and would be a partner with the Department for Transport (DfT) in relation to road and rail investment and managing the North and TPE rail franchises.
- (g) There would be an operating agreement and protocols between TfN and the constituent authorities concerning the exercise of concurrent local transport functions.
- (h) TfN would become the sole owner of RNL, provided that any changes to RNL's constitutional arrangements ensure that the rights and interests of RNL member authorities (both TfN constituent authorities and non-constituent authorities) are protected.

2.2 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

3. Regulations

3.1 Regulations have now been drafted which once they are passed will confer on TfN the majority of the functions and powers requested in the Proposal. Before the Secretary of State can make the Regulations he must obtain consent to the making of the Regulations from each of the 19 Constituent Authorities and also obtain consent to the granting of concurrent highway powers from each of the Highway Authorities within TfN's area. The Authorities which are County Councils or Unitary Authorities are Highway Authorities but the Combined Authorities are not and in these areas the individual Highway Authorities are being asked to give their consent to the granting of highway powers within the Regulations.

4. Highway Functions

- 4.1 TfN is not to be a highways authority. However the proposal submitted by the constituent authorities proposed that TfN should have certain highway functions exercisable concurrently with the local highway authority but only with their consent.
- 4.2 The highway powers which are contained in the Regulations relate to the construction of highways, acquisition of land for highway purposes and entering into agreements with local highway authorities and Highways England. These are set out below in more detail:
- 4.3 Firstly the following powers of the Secretary of State in relation to the construction of trunk roads which may be delegated down to TfN:
- a) Section 6(5) Highways Act 1980 (power to enter into agreements for works relating to trunk roads)
 - b) Sections 105A – 105C Highways Act 1980 (functions relating to environmental impact assessments)
 - c) Sections 239 to 240 and 246 Highways Act 1980 (powers to acquire land in connection with highways)
 - d) section 250 Highways Act 1980 (powers relating to the acquisition of powers over land)
- 4.4 Secondly the following powers under the Highways Act 1980 are conferred on TfN concurrently with the local Highway Authority.
- a) Section 8(1) (power to enter agreements with local highways authorities etc for doing certain works)
 - b) section 24(2) (power of local highway authority to construct new highways)
 - c) section 25(i) (powers to enter into agreement for creation of footpath etc)
 - d) section 26 (i) (compulsory powers for creation of footpaths etc)
 - e) various functions in sections 239, 240, 246 and 250 relating to the acquisition of land for highway purposes
- 4.5 Importantly Regulations 14 and 15 taken together provide that TfN will not be able to exercise any of the highway powers which they hold concurrently with the Local Highway Authorities unless the manner in which it proposes to exercise the function has been approved by each of the Highway Authorities through whose area the highway will pass.
- 4.6 There is no intention that TfN will itself become a Highway Authority and as set out above the Regulations make it clear that before these powers may be exercised TfN will need to obtain the express consent of all the relevant Highway Authorities to the manner in which the powers would be exercised. These powers would therefore only be exercised in circumstances where all the relevant local Highway Authorities consider that there would be a benefit in TfN carrying out the work.

5 The Highways North Board

- 5.1 TfN will participate in the Highways North Board which will consist of the Members of TN 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 Consent to the Regulations

- 6.1 Before the Secretary of State may make these Regulations each of the Highway Authorities within the areas of the Combined Authorities which are Constituent Authorities must consent to TfN having certain concurrent highways powers. It is anticipated that the Secretary of State will send a letter to each of these Highway Authorities requesting formal consent to the making of the Regulations. It is understood that the letter will request a response before the 20th October 2017.

7 Recommendations

Recommendations are set out on the front page of this report.

8. Contributing to the Manchester Strategy

(a) A thriving and sustainable city -

The establishment of TfN will support the continued economic development of the city region through providing connectivity to emerging economies, sustaining a large number of jobs across the region, acting as a medium for attracting jobs and talent and in helping to retain existing companies who want to be located in places that have the maximum level of connectivity.

(b) A highly skilled city –

Transformational improvements to the North's transport connectivity are critical to help achieve the vision of a globally competitive environment that can sustain economic growth, creating a more attractive and buoyant marketplace.

(c) A progressive and equitable city –

TfN has a key role in driving connectivity, providing employment and supporting the economic growth of the city region.

(d) A liveable and low carbon city –

The enhancement of public transport availability, convenience, accessibility and affordability is likely to promote a low carbon city by reducing the number of cars coming into the city.

(e) A connected city –

Improving connectivity between important economic centres will ensure the North's people and businesses are better connected to their work and better able to do business

Key Policies and Considerations

(a) Equal Opportunities - None directly.

(b) Risk Management –.None directly

(c) Legal Considerations - The legal considerations are contained within the body of the report.