

Subject: Transport for the North Sub-national Transport Body Proposal – Covering Report

Contacts: Andrew Lewis – TfN Executive Board Sponsor - 0191 2778900
David Brown – TfN CEO - 0161 244 1270
Rodney Lund – TfN Legislation Lead – 0161 234 3766
Eamon Hanlon – TfN Programme Management Office – 07887 942561

Purpose:

This report summarises:

1. The strategic vision and economic goals upon which Transport for the North (TfN) has evolved;
2. The Sub-national Transport Body (STB) powers that are envisaged as necessary to achieve the above; and
3. The key elements of the Constitutional Arrangements upon which the Sub-national Transport Body would be founded, namely;
 - Voting arrangements
 - Integration of Rail North
 - Local accountability and operating model
 - Funding

The report reflects TfN Partnership Board’s consideration of the above issues at its meeting on 9th June 2016. It is anticipated that the report is now used by officers from each of the 19 Local Transport Authorities within the proposed STB area to secure consent to submit the proposal to the DfT. Appended to the report are a) the STB proposal b) diagrammatic representation of STB Order – Constitutional Arrangements – Member Agreements c) note on concurrent powers.

1. Strategic Vision for the North

1.1 Investment in connecting the North into a single economic unit is essential to creating a transformed integrated Northern economy greater than the sum of its parts. This requires investment in the North's transport networks to better connect the major urban centres and economic assets of the North to market opportunities, including talented staff, suppliers, collaborators and customers, at home and abroad.

1.2 It is recognised that the North has recently achieved better transport outcomes when acting as a cohesive unit and could continue to achieve better long term investment, through presentation to government of a unified approach. The aim now is to put in place appropriate governance to enable the economy of the North to grow through provision of better strategic transport connectivity. TfN's work will continue to be about adding value at a northern level and influencing national decision-making, not about duplicating local work.

1.3 The prize for the North is a better performing, more unified economy that could add more than £37 billion in real terms to the North's existing output of £289 billion per year if the vision of the North as a super-productive network of modern city regions is achieved. To do so will require long term planning and investment periods, robust and stable governance, supported by funding commitment from HM Treasury and City Regions.

1.4 Previous reports¹ have highlighted how TfN's exists to further these economic ambitions and provide a coherent and integrated approach to strategic transport planning that supports local area economic growth. With the support of local authorities and businesses from across the North of England, TfN has developed as a strong and inclusive partnership, committed to drive forward the economy of the North through transformational investment in our transport infrastructure. In response to this commitment from the North, the Government has undertaken to establish Transport for the North on a statutory basis, with new powers drawn down from central government to support this role. The primary legislation to implement this commitment was set out in the Cities and Local Government Devolution Act 2016, with new proposals to create "sub-national transport bodies" of which Transport for the North would be the first.

2. Proposals for Powers and Functions of the STB

2.1 The Cities and Local Government Devolution Act 2016, enables the Secretary of State for Transport to establish statutory sub-national transport bodies following receipt of a proposal from authorities in that area, provided that two conditions are met:

1. The sub national transport body would **facilitate development and implementation of transport strategies** for the area; and
2. **Economic growth would be furthered by development and implementation of such strategies.**

¹ <http://www.transportfornorth.com/background.html>

2.2 The Act does not create the powers for an STB to operate; rather it enables the functions of the STB to be derived from a limited number of sources including:

- General functions provided for in section 102H of the Local Transport Act 2008, including the preparation of a transport strategy and powers to advise, co-ordinate and make proposals.
- Other public authority functions (i.e. including functions of the Secretary of State) to be exercisable either instead of by, or jointly (but not concurrently) with the public authority.
- Local transport functions (i.e. functions of CAs, LTAs or PTEs) exercisable instead of by, or concurrent with, the CA, LTA or PTE.

2.3 In summary, it is currently envisaged TfN would seek the following powers to:

- Facilitate the development and implementation of the Northern Transport Strategy where this will further economic growth for The North;
- Coordinate and deliver a new north-wide system of smart and integrated ticketing; and
- Initially, jointly with central government to commission delivery agencies, Network Rail and Highways England, to ensure their investment programmes are driven by the North's economic and connectivity priorities and overtime assume sole responsibility for this client role.

2.4 The drawdown of powers described in 2.5 – 2.10 below is considered essential to achieving economic growth in the North as envisaged in section 1 above and is reflective of Government's challenge to the North to be ambitious in its plans. The approach set out in the proposal will establish TfN on a permissive statutory framework that will allow it to build capability and capacity overtime, where this has the explicit agreement and consensus its members.

Powers drawn down from central government

2.5 An effective TfN, in its final form, will have the responsibility to set the strategic pan-northern transport objectives for Highways England and Network Rail, in addition to fully devolved responsibility for specifying franchised rail services, in effect to transfer the client role from DfT to the North. This model follows similar principles of devolution in Scotland and Wales where transport investment priorities are determined locally and according to economic priorities.

2.6 The above will require powers that are currently exercised by central government to be exercised by TfN instead and include:

- Setting the objectives and priorities for the Rail Investment Programme;
- Determining the franchise rail service specification; and
- Setting and varying the objectives and priorities for the Road Investment Programme.

2.7 The journey to fully devolved status will by necessity transition through an interim 'co-decision' making role with government to fully devolved responsibilities as the capacity and capability of TfN matures. This is similar in the way that Rail North and government's relationship has evolved.

Powers exercised concurrently with LTAs and PTEs

2.8 To facilitate the development and implementation of its Transport Strategy, TfN will likely require the ability to exercise 7 powers of the CAs, LTAs or PTEs. These are included in Appendix C. These powers could only be exercised concurrently **and with the explicit agreement of the Local Transport Authority in question**. The use of concurrent powers by TfN will not reduce the powers available to local areas but will enable TfN to be a real vehicle for transport devolution rather than an advisory body to government.

2.9 TfN will continue to work with LTA officers over the summer to develop the TfN operating model including key principles and heads of terms for the working arrangements, operating agreements and protocols that would need to be put in place. These will be available for consideration when government issues the draft STB regulations after which TfN member areas will be asked to formally consent to the regulations and membership of the STB. Diagrammatic representation of the relationship between the TfN STB Order, constitutional arrangements, and members' agreements is shown in Appendix B.

2.10 The development and implementation of the STB's strategy will also fully involve the northern Local Transport Authorities and be agreed by the elected members of its 19 constituent authority areas. This together with the arrangements described above will ensure that where the exercise of concurrent powers is required, consensus and workable solutions will be achieved.

3. Proposals for Constitutional Arrangements of the STB

3.1 The constitutional arrangements upon which TfN will be established include the following key principles:

- Voting arrangements;
- Integration of Rail North;
- Local accountability and operating model; and
- Funding.

3.2 The STB proposal aims to replicate as far as possible the arrangements already established for TfN's non-statutory role, which has gained support from authorities and business leaders from across the North. These arrangements were considered by TfN's Partnership Board on the 9th June and further refinement will continue as government draft the regulations and member authorities will again have an opportunity to formally consent to the arrangements within the regulations in the autumn.

Key Principles – Voting Arrangements

3.3 TfN will continue to endeavour to reach consensus on all its decisions. Nevertheless, as a statutory body, it will need to specify arrangements whereby it reaches decisions, where unanimity is not possible.

3.4 A number of options for voting structures have been considered by officers and discussed by TfN's Partnership Board on the 9th June. As northern transport authorities differ so much in size, it is proposed to introduce a weighted system of voting based on population bands. The Partnership Board has tasked officers with working up appropriate checks and balances to ensure voting arrangements are balanced and embracing of all of the North's authorities and any bias between urban and rural authorities is avoided.

3.5 It is proposed that most of TfN's general business issues will be determined on a simple majority of votes in line with the arrangements described above. However, certain decisions such as agreeing the TfN transport strategy and budget will require an enhanced majority vote, for example two-thirds or three-quarters of the weighted vote.

3.6 The ability to seek statutory contributions will be an item requiring unanimous agreement from TfN's member authorities.

3.7 Rail North currently operates on a model of voting weighted by the share of each authority in the overall rail patronage of those services. It is proposed that, for Rail North matters, this voting mechanism is retained. Further consultation will take place with the directors of Rail North, to ensure the final proposal for statutory functions and governance secures their support.

Key Principles – Integration of Rail North

3.8 There is a strong case for Rail North to be included within the new statutory arrangements for TfN. This will allow Rail North to benefit from new statutory powers, to strengthen its role and, over time, support a further shift of responsibility from central government to the North, allowing rail services to be managed more directly from the North, on behalf of the North.

3.9 Of the authorities that currently constitute Rail North, it is proposed that of these, 19 will have full membership of TfN given their geographical and statutory responsibilities for all modes of transport within the TfN area. Of the current Rail North membership, it is proposed that the 6 Midland authorities will have co-opted member status given the inclusion of TPE/RN rail services within their boundaries, and would retain the same governance and working arrangements over these services as the current Rail North membership agreements allow.

3.10 With regards powers, it is envisaged that the Secretary of State's current responsibility to award franchise contracts will be devolved to TfN.

Key Principles – Local Accountabilities

3.10 TfN is seeking to establish its powers through devolution from central government, not through any loss of powers, responsibilities or funding from local level. TfN will work on the basis of 'subsidiarity', with local responsibilities exercised at local level, and cross-northern collaboration focused where it adds value and becomes greater than the sum of its parts.

3.11 TfN will continue to work with local transport authority officers during the legislation drafting period to clearly define the roles and boundaries between TfN and LTAs. However, there are already some key principles established through the emergence of TfN:

- The STB transport strategy will focus on enabling economic growth across the North.
- TfN allows the North's transport authorities to adopt a coherent and integrated approach to strategic transport infrastructure planning across the North that enables local areas to grow their economies; and
- TfN exists to present a coherent and clear position to Government and to national delivery agencies in respect of setting the strategic transport objectives for the area upon which subsequent interventions can be developed, appraised and implemented.

Key Principles - Funding and Finance

3.13 TfN does not expect any future funding allocations towards STBs to detract from those funds made available for LTAs.

3.14 The STB proposal includes an ability to draw down statutory contributions from the STB's constituent authority members. This would be subject to unanimous agreement of the members.

4. Next Stages to Submission of Proposal to DfT & Timeline beyond July

4.1 The timeline for submission of the proposal and subsequent regulation drafting and parliamentary stages is summarised below:

	Activity	When
Stage 1	Engagement on principles of draft Proposal	Apr-June 2016
	TfN Partnership Board endorse principles of draft Proposal	9 th June 2016
Stage 2	LTA consents to submit TfN STB Proposal	Summer2016
	Submission of Proposal to DfT	Summer 2016
	Development of TfN operating model, constitutional arrangements, members' agreements and protocols	Summer 2016
	Secretary of State issues draft regulations and consults TfN	Late Summer 2016
Stage 3	TfN constituent members' final approvals for membership and draft regulations	Autumn 2016
	Statutory Instrument Drafting & Parliamentary Stages	Late Autumn '16 - Spring 2017
	Order signed creating Transport for the North Sub-National Transport Body	2017

4.2 It is intended to submit the STB proposal to government during the summer parliamentary recess. The Chair of TfN, on behalf of its Partnership Board, now invites each of the 19 transport authorities within the proposed STB area to consent to submit the appended proposal to the Secretary of State.

4.3 Subsequent to the Secretary of State's review of the proposal and decision to proceed, it is anticipated DfT lawyers will then draft the regulations over the summer. The Subsequent to the Secretary of State will then consult on the draft regulations and we expect a further update to be brought to the TfN Partnership Board and Association of Rail North Partner Authorities in September.

4.4 Constituent Authorities will then have a further final opportunity in the autumn to review the regulations and ratify their consent to the same and to being a member of TfN. Once all of the necessary consents are in place DfT will institute parliamentary proceedings to establish TfN as a statutory body.

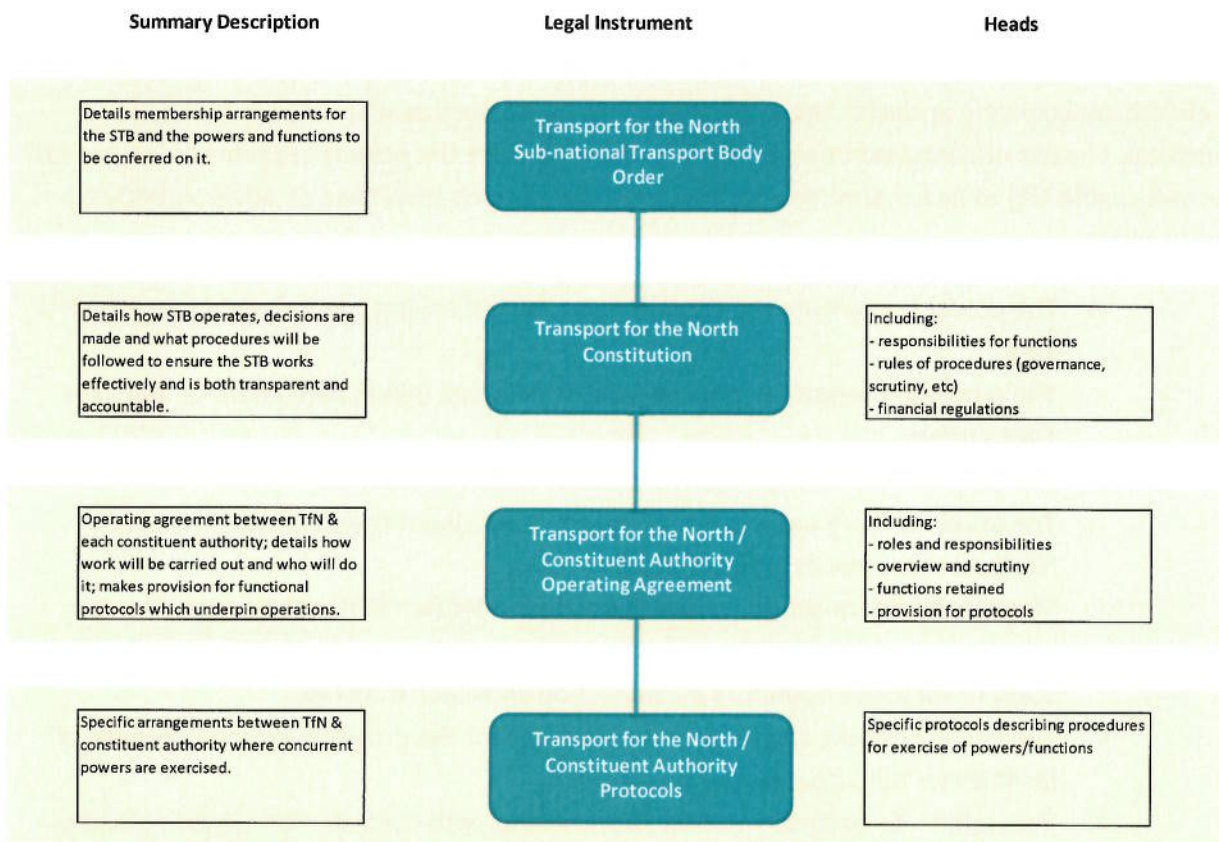
4.5 The timetable for laying an Order before Parliament will be dependent on clearing a number of policy and legislative processes and discussions will continue with DfT to mitigate potential delays to securing an Order in spring 2017.

Appendix A – Transport for the North Sub-national Transport Body Proposal v7

Attached as separate note.

Note: Appendix A is now v9 and is included in Annex 1 of the CTC Executive report.

Appendix B - Diagrammatic representation of STB Order – Constitution – Operating Agreements



Appendix C – Summary of STB / LTA / PTE Concurrent Powers

To facilitate the development and implementation of its Transport Strategy, TfN will likely require the ability to exercise 7 powers of the CAs, LTAs or PTEs. These powers could only be exercised concurrently **and with the explicit agreement of the Local Transport Authority in question**. The use of concurrent powers by TfN will not reduce the powers available to local areas but will enable TfN to be a real vehicle for transport devolution rather than an advisory body to government. :

- The power to promote the economic, social and environmental well-being in TfN's area.
- The power to promote or oppose local or personal Bills in parliament or apply for TWA Orders.
- The power to make a pan-northern smart ticketing scheme.
- The power to carry passengers by railway throughout the North and from the North to other places in Great Britain.
- The right to be consulted on invitations to tender for rail franchise agreements affecting the North and the power to enter into agreements with the Secretary of State or franchise operators in connection with such franchises
- The power to make capital grants to persons for the provision or improvement of facilities for public passenger transport.
- The right to be party to voluntary agreements with the SoS, Highways England or local highway authorities in relation to the construction or improvement of highways.
- The power to acquire land.