

Report to the Chief Executive

Rail North Ltd – Governance Arrangements

Purpose of Report

1. This report sets out the proposed governance arrangements for Rail North Ltd and the Association of Rail North Partner Authorities and seeks the Chief Executive's approval to become members of both bodies.

Recommendations

2. The Chief Executive is asked:
 1. To note the proposed governance arrangements for Rail North Ltd (RNL) and the Association of Rail North Partner Authorities ("The Association") and to agree that City of York Council (CYC) should become a member of both bodies. In order that CYC can participate as a full member at The Association meeting on the 15th of January.
 2. To note that a further report will be produced for Member approval once the governance details of The Association are finalised, these have been consulted on over the summer of 2015 and the latest draft version is at Annex 1.

Background

3. Rail North is the name of an interim organisation that was established with the aim of promoting the devolution of rail franchising from Whitehall to the North of England. It is grouping of all 30 local transport authorities in the North of England.
4. Pursuant to a Department of Transport (DfT) consultation on Rail Decentralisation in 2012, Rail North submitted a proposal to the

Secretary of State for the devolution of services operated by the Northern and TransPennine Express franchises.

5. Rail North's vision is to create a world-class railway for the whole of the North of England. Supporting the economic aspirations of the North of England was the prime objective of Rail North's devolution proposal, with the aim of creating a railway recognised by passengers and businesses as serving their needs, and being both more effective and efficient.
6. Rail North has three over-arching objectives for rail services in the North of England:
 - to support economic growth by delivering more rail capacity and better rail connectivity;
 - to improve the quality of the railways in the North, with a better offer for passengers to encourage more use; and
 - to deliver a more efficient railway and to secure greater value for money for the support from the public purse.

Rail North Benefits

7. Authorities are establishing the proposed Rail North governance arrangements now to:-
 - Demonstrate to Government a strong commitment to long term stewardship of Rail – with the power and influence to shape the passenger benefits and economic growth – across the north of England for the benefit of all;
 - Strengthen the decision making arrangements during the development of the Joint Venture arrangements with DfT and procurement of the new Franchise;
 - Enable DfT to define the role of Rail North Ltd in the procurement in respect of the formal franchise procurement process.
8. The flexible arrangements proposed in the legal structures will enable the roles and responsibilities to develop over time as these are agreed between the 30 Authorities and DfT.
9. The Governance arrangements as proposed will also:

- Enable all authorities to have a far greater influence over the development and implementation of rail services across the north of England; and
 - Enable all authorities to have a far greater influence over other key industry stakeholders, including Network Rail, and the development and implementation of their respective enhancement programmes.
10. In the longer-term, the governance structures, including the Partnership arrangements with DfT, would ensure the following:
- Better management of the franchises by a team based in the North with local knowledge. Through the partnership, a focus on delivering the shared objectives (eg, economic growth) and the Long Term Rail Strategy. Easier and simpler route to delivering schemes/projects that involve the train operator or changes to train services and growth in patronage and revenue;
 - RNL would access to “reward” share, eg, additional revenue generated as a result of general growth translated to profit share. This would be used for investment in enhanced services/rolling stock/infrastructure; and
 - The North having complete control of services and investment in the Northern and TransPennine franchises, delivering the economic benefits as set out in the original devolution proposition.

DfT/Rail North Partnership

11. In November 2013, the Secretary of State responded that although he supported the principle of devolution, he wished to see a lower risk, more evolutionary approach with the establishment of a partnership structure between DfT and Rail North.
12. It was agreed that this approach would be based on Rail North proposals, which include the draft Long Term Rail Strategy for the North of England, the devolution proposition and business case submitted to the Secretary of State, and the structure decision-making in the North set out in that devolution proposition.
13. These principles were agreed at a meeting between the Secretary of State and Leaders on 24 January 2014.

14. The shared objectives that underpin the partnership were also agreed in January 2014 and include:
 - growing the railway to maximise the benefits of infrastructure investment and linking this to railway efficiencies;
 - having a platform for determining investment priorities within the Partnership;
 - risk and reward sharing between members of the partnership, including the potential for revenue or profit-sharing mechanism that could allow reinvestment into rail services; and
 - a partnership structure that allows the balance of risk to change over time.

15. The development of the DfT/Rail North partnership is split into two distinct phases:
 - partnership working between DfT and Rail North in advance of the award of the 2016 franchises during the design and procurement processes. During this period, Rail North and DfT will work jointly and collaboratively, although the Secretary of State is ultimately responsible for final decisions and letting the contracts; and
 - the development and creation of a formal integrated partnership structure, with substantial decision making authority, between Rail North and DfT, which it is intended, should take on responsibilities for franchise management at the point at which the new franchise contracts come into force.

16. As part of the January 2014 agreement with the Secretary of State, Rail North Leaders agreed to develop and formalise their decision making structures and in particular establish structures comprising a formal Leaders' Committee and a special purpose vehicle (probably a company limited by guarantee) called Rail North Ltd. These bodies would be the focus for overseeing local authorities input into the design of the franchises, including the specification and commercial arrangements.

17. It was further agreed that DfT and Rail North would jointly develop proposals for a single integrated partnership structure with substantial decision-making authority to manage the franchises.

Governance Proposition and Arrangements

18. Pursuant to the January 2014 agreement, governance structures have been developed for two bodies:
 - An association of local transport authorities (LTAs) to be known as the Association of Rail North Partner Authorities (“the Association”) to be governed by a Leader’s Committee consisting of one member from each of the 30 LTAs in the North.
 - Rail North Limited (RNL), a company limited by guarantee, whose membership is open to all members of the Association and whose Directors will be appointed by geographic sub-groups determined by the Association.
19. A detailed description of the proposed governance arrangements is provided in Annex 1.
20. CYC is being asked to enter into these draft arrangements and agree to become a member of both the Association and RNL. Subject to such agreement it is proposed that Staffing Matters and Urgency Committee be asked to agree to appoint an interim member to the association to represent CYC.
21. At this point in time it is desirable to ensure that all 30 LTAs are involved in the governance arrangements as they evolve. The arrangements will need to be flexible as circumstances change and the precise nature of the partnership with DfT is agreed. At the commencement of these arrangements there will be minimal direct risk and cost associated with membership and any changes to that position would need to be agreed in accordance with the governance rules.

DfT/Rail North Partnership

22. It is expected that Agreement for the Partnership at Annex 1 will be able to be considered by Members in February 2016.

Consultation

23. Discussions have taken place with the relevant officers and other authorities.

Options

24. The options available are:- Option 1 To Join the emerging collaborative transport structures of which Rail for the North is a key part. Rail for the North and the sister organisation Transport for the North are rapidly starting to progress the priorities for strategic transport investment in the North of England and City of York Council as a City with a key part of the Rail infrastructure within its boundaries has the potential to play a significant role..

Option 2 To defer until February by which time a finalised version of the Governance arrangements is likely to be available. As City of York Council is the last Authority in the North of England to join Rail for the North exclusion from the rapidly developing Rail and Transport agenda for 2 months at this time will be detrimental to the interests of the Authority and we are informed by the Director for the rail for the North that key meetings are scheduled to take place in January.

Council Plan

25. The potential benefits for the priorities in the Council Plan are:-

- **A Prosperous City For All.**

Implications

26. **Financial** –Annual Membership for Rail for the North will be £2000 and can be met from existing budgets.

Human Resources – None.

Equalities – None.

Legal – None.

Crime and Disorder – None.

Information Technology – None.

Land – None.

Risk Management

26. There is an acceptable level of risk associated with the recommendation option.

Contact Details

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Specialist Implications Officer(s)

There are no specialist implications.

Wards Affected:

All

For further information please contact the author of the report.

Annex 1 - *Proposed Rail North Governance Arrangements*

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1. THE LEADERS' COMMITTEE ("LC")

1.1 **Establishment**

The LTAs covered by the Northern and TPE franchises will establish a local authority association formed under section 143 of the LGA 1972 ("LGA 1972"). It is expected that all relevant LTAs (currently 30) would be party to these arrangements. The Association (provisionally known as the Association of Rail North Partner Authorities) will be governed by a Leaders' Committee (LC).

Each LTA will appoint one elected member to the LC. This member would normally be its Leader/Mayor/Chair or its Lead Member for Transport. There will be provision for LTAs also to appoint a substitute member. The LC will elect a Chair and one of more Vice-Chairs.

1.2 **Voting Arrangements**

It is expected that most major decisions would be reached by consensus. However, where votes are taken, a system of weighted voting would apply based on metrics relating to rail usage on Northern and TE services to and from each LTA's area. The rationale for this is that it reflects the respective stake of each LTA area in the franchising. The apportionment of votes will be reviewed probably every 5 years to take account of changes in rail usage. Provisional weighted voting shares are set out in the Annex to this report. These were based on passenger revenue in 2011/12 and are currently being updated.

1.3 **Frequency of Meeting and Urgency**

The LC will meet twice a year, although there would be provision for additional meetings to be called if demanded by a specified (significant) number of members LTAs.

1.4 **Functions**

The Association through the LC will have the following functions:

- to promote and improve rail services in the Rail North area
- to campaign for devolution of responsibility for the Northern and TPE franchises
- to develop and approve, and oversee the implementation of, a long-term Rail Strategy
- to establish geographical sub-groups as proved for below, whose functions would include the appointment of representatives on the RNL Board.
- to provide political leadership and oversight of RNL

1.5 **Sub Groups**

The LC will establish a number of geographical sub-groups of LTAs whose composition will be decided by the LC and whose function would be to appoint a person to serve as a director of the Board of RNL. In determining the composition of the sub-groups, account will be taken of factors such as:

- local authority, LEP and LTB linkages;
- the geography of the rail network; and
- the need to ensure inclusivity and representation across the North.

The shadow LC has agreed initially to establish the following eleven sub groups

- GMCA
- West Yorkshire (plus York)
- South Yorkshire
- Merseyside (including Halton)
- North East (Tyne and Wear, Durham and Northumberland)
- Lancashire and Cumbria (including Blackpool and Blackburn and Darwen)

- Tees Valley (Darlington, Hartlepool, Middlesbrough, Redcar and Cleveland and Stockton-on-Tees)
- North Yorkshire
- Humberside (East Riding, Hull, North Lincs, North East Lincs)
- Cheshire and the Potteries (Cheshire East, Cheshire West and Chester, Warrington, Stoke, Staffordshire)
- East Midlands (Derby, Derbyshire, Nottingham, Nottinghamshire, and Lincolnshire).

It is expected that decisions on appointments by geographical sub-groups would be reached by consensus. However where votes are taken the same system of weighted voting would apply as on the Leaders' Committee.

1.6 **Administrative support and Funding**

The LC will appoint the Chief Executive of one of the LTAs as Secretary to be responsible for providing administrative support.

The minimal costs of the joint body will be apportioned between the partner LTAs as agreed by them, probably on the basis of voting rights.

2. **THE SPECIAL PURPOSE VEHICLE – RAIL NORTH LTD (RAIL)**

2.1 **Establishment**

Members of the Association will establish the SPV as a company limited by guarantee called Rail North Ltd (RNL). The SPV will be established pursuant to the well-being power under sections 99 and 102A of the Local Transport Act 2008 and the functional power of competence under sections 11 and 13 of the Localism Act 2011 in the case of CAs/ITAs and the general power of the competence under section 1 of the Localism Act in the case of county and unitary councils.

2.2 **Board of Directors**

Each of the geographical sub-groups established by the Leaders' Committee will appoint one member to the Board of RNL. Each sub-group will have the power also to appoint an alternative

director. Voting on the board would be on the basis of one director, one vote although it is expected that most decisions would be taken by consensus. However, given the substantial variations in the proportions of rail usage between the various sub-groups approval of certain key matters (mainly relating to finance) would be reserved to the members of the company.

The Board would be supported in managing RNL by a dedicated Executive Team of officers of the Rail North partner authorities and the PTEs.

2.3 **Members of RNL and Reserved Matters**

All the members of the Association are eligible to become members of RNL. The voting entitlement of each member will be based on the voting power each member based on rail usage as set out in the Annex. Decision on the reserved matters will require the approval of members holding collectively at least 75% of the weighted voting entitlement. The reserved matters will include:

- Any change to the articles of the company
- Any partnership/shareholders' agreement between RNL and the DfT and other major commercial agreements
- Approval of RNL's annual and medium-term business plan
- Expenditure above certain limits
- Borrowing and the giving of financial guarantees

2.4 **Funding**

Members would make an annual payment to cover the running costs of the Company to be apportioned in accordance with voting rights. Prior the commencement of the franchises in February 2016, this is likely to be a relatively nominal amount.

Arrangements may need to be reviewed when the level of risk/expenditure to be borne by RNL under the partnership arrangement with DfT is established. However, in these circumstances, LTAs would have the opportunity to withdraw (or alter their status with RNL) before the franchise agreements are operative, if unwilling to accept risk or make increased payments.

2.5 **Function of RNL**

The principal initial functions of RNL will include:

- To oversee local authority input into the design of the franchises including the specification and commercial arrangements
- To develop proposals with DfT for a single integrated partnership structure to assume responsibility for managing the franchises

Provisional Weighted Voting on Leaders' Committee and RNL members' meeting (based on percentage share of passenger revenue)

	No. of Votes	%
Blackburn with Darwen Borough Council	6	0.6
Blackpool Borough Council	15	1.5
Cheshire East Council	21	2.1
Cheshire West and Chester Council	11	1.1
City of York Council	54	5.4
Cumbria County Council	40	4.0
Darlington Borough Council	15	1.5
Derbyshire County Council	14	1.4
East Riding of Yorkshire Council	9	0.9
Greater Manchester Combined Authority	233	23.2
Hartlepool Borough Council	3	0.3
Hull City Council	13	1.3
Lancaster County Council	55	5.5
Lincolnshire County Council	7	0.7
Liverpool City Region Combined Authority	59	5.9
Middlesbrough Council	7	0.7
North East Combined Authority	65	6.5
North East Lincolnshire Council	6	0.6
North Lincolnshire Council	4	0.4
North Yorkshire County Council	32	3.2
Nottingham City Council	15	1.5
Nottingham County Council	3	0.3
Redcar and Cleveland Borough Council	3	0.3
Sheffield City Region Combined Authority	78	7.8
Staffordshire County Council	1	0.1
Stockton-on-Tees Borough Council	5	0.5
Stoke-on-Trent City Council	8	0.8
Warrington Borough Council	12	1.2
West Yorkshire Combined Authority	209	20.8
Total Votes	1003	