

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

7 MARCH 2013

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

Regeneration & Transport - Lead Cabinet Member – Councillor Mike Smith

RAIL DEVOLUTION IN THE NORTH OF ENGLAND

1. Summary

In March 2012 the Government published a consultation document on potential options for devolving decision-making on passenger rail services in England. This followed the review of value for money within the rail industry that had been undertaken by Sir Roy McNulty in 2011 and was in line with the Government's wider localism agenda. In response to the consultation, the concept of devolution was broadly welcomed by the Tees Valley authorities, and their partners across the North East, who recognised the potential benefits it could deliver. The Northern Rail and Transpennine franchises, both of particular interest to the Tees Valley, have been identified as two of the franchises that the Government may look to devolve.

The development of a North East Business Unit within a wider franchise, to give the authorities the required input to the specification and operation of local rail services, has emerged as the preferred option. The business case for such a unit is now being worked up by the NE local authorities to ensure that all the costs and benefits of this option are fully quantified. A consortium of Integrated Transport Authorities in Manchester, West and South Yorkshire, collectively known as the Rail in the North Executive (RiNE) has been actively pursuing the devolution of Northern and Transpennine services into their control for some time and the NE has recognised the importance of working with RiNE to ensure that NE priorities are fully incorporated into a new franchise.

2. Recommendations

Cabinet are requested to note:

1. The progress of the long term rail strategy for the North of England.
2. The current proposal of governance proposed by the rail in the north of England body.
3. That the north east local authorities under the ANEC umbrella continue to develop a proposal for a north east rail business unit within the proposed greater northern franchise.
4. The Head of Technical Services, in consultation with the Leader of the Council and the Cabinet Member for Regeneration & Transport, will continue to work with other north east authorities through the LEP and ANEC structures to ensure that the north

east interests are adequately considered within any proposed devolution mechanism.

3. Reasons for the Recommendations/Decision(s)

The programme of rail devolution affects all Local Authorities across the north of England and engagement in the North East is under the ANEC architecture. The purpose of the recommendations is to provide awareness to Cabinet of the likely decision making process that will be required through the LEP leadership Board.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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SUMMARY

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RECOMMENDATIONS

Cabinet are requested to note:

1. The progress of the long term rail strategy for the North of England.
2. The current proposal of governance proposed by the rail in the north of England body.
3. That the north east local authorities under the ANEC umbrella continue to develop a proposal for a north east rail business unit within the proposed greater northern franchise.
4. The Head of Technical Services, in consultation with the Leader of the Council and the Cabinet Member for Regeneration & Transport, will continue to work with other north east authorities through the LEP and ANEC structures to ensure that the north east interests are adequately considered within any proposed devolution mechanism.

BACKGROUND

1. Northern Rail and Transpennine are two of the key rail franchises that serve the Tees Valley, both of which are due for renewal in the next two years. Northern Rail provides the majority of local services in the Tees Valley operating on the Darlington to Saltburn, Middlesbrough to Newcastle (via Stockton and Hartlepool), Middlesbrough to Whitby and

Darlington to Bishop Auckland lines. Transpennine serves a more strategic, long distance market providing hourly services from both Middlesbrough and Darlington to key destinations such as Leeds, Manchester and Manchester Airport.

2. Both franchises are subsidised by the Government meaning that they cost more to operate, than is taken in revenue. According to the latest available DfT figures, in 2010/11 the revenue/subsidy split for Transpennine was 43%/57%, while for Northern Rail the split was even greater at 22%/78%. For the same year, actual subsidy levels were £197million for Transpennine and £429million for Northern.
3. Following the McNulty Review into value for money within the rail industry in May 2011 and in line with the coalition Government's wider localism agenda, the DfT began engagement on the potential to devolve certain rail responsibilities to a more 'local' level in mid-late 2011. This culminated in the publication of a consultation document in March 2012 which outlined a number of potential options to discharge such responsibilities. Although not specifically referenced in the consultation document, it has been increasingly suggested through on-going informal discussions on devolution, that the DfT would consider merging the Northern and Transpennine franchises due to the potential cost savings this could deliver. The timescales for the replacement of these franchises were then aligned to allow for this possibility.
4. It has now become apparent that from the very outset, a consortium of Integrated Transport Authorities (formerly PTEs) in the North of England has been working on a proposition to Government to take control of all Northern Rail and Transpennine services. This consortium known as the Rail in the North Executive (RiNE), is led by Greater Manchester Combined Authority and West Yorkshire ITA and initially included South Yorkshire ITA, MerseyRail and Nexus (covering Tyne and Wear).
5. For the best part of a year RiNE developed these proposals in isolation, not involving authorities outside their areas in any discussions. It has since become clear that the driving forces behind RiNE were the Manchester, West and South Yorkshire areas to the extent that Merseyside and Tyne and Wear are not now formally involved in the partnership. In order to facilitate all the work involved in developing its proposals, RiNE set up the following 8 workstreams reportedly covering: Stakeholder engagement, Communications, Financial, Commercial, Programme Management, Strategy, Economic and Franchise Specification. Although RiNE proposed to take control of rail services well beyond the boundaries of its constituent ITAs, the lack of consultation with or involvement of the authorities concerned throughout these important early stages was very disappointing.
6. During the consultation process local authorities across the North East engaged with DfT on the various options and through resultant joint working, initial thoughts began to emerge as to what might work or be acceptable for the region in future if rail devolution was to happen. However there were no formal workstreams along the lines of those created by RiNE, mainly due to the lack of any detailed information provided by Government in relation to the Northern and Transpennine franchises and the lack of resources within the NE region to undertake the required technical work.
7. A joint North East response to the consultation was agreed and submitted through ANEC and this was informed by and largely mirrored a response submitted separately by TVU on behalf of the Tees Valley authorities. This outlined in principle support for the opportunities that devolution can offer in allowing local authorities and LEPs more of a say in the specification and operation of local rail services in their areas. It was widely recognised that there had been a notable lack of any such meaningful opportunities in previous franchise rounds. All responses from the region favoured the option whereby an autonomous business unit for the NE is created, within a wider franchise. This could give the necessary control over franchise specification whilst ensuring that the authorities are not left open to significant risks. The responses also outlined the importance of retaining all

direct rail links from the NE to Leeds, Manchester and Manchester Airport, as currently provided by Transpennine. The NE position was (and still is) caveated by the need to ascertain all costs and risks associated with this option before any final decision is made. The authorities will need to be certain that a sufficient financial dowry will accompany any devolved franchise, otherwise it simply will not be worth their while.

8. The NE has now formalised its arrangements to work together to develop its preferred option. A Regional Chief Executive Strategic Group has been formed along with a Rail Officers Working Group. Both have strong representation from the Tees Valley and are now engaging with RiNE to ensure that the concept of a NE business unit is properly reflected in any wider RiNE thinking.

CURRENT SITUATION

9. Over the last few months the Government has undertaken a major review of its rail franchising processes as a result of the recent high profile collapse of the West Coast franchise renewal. During the review period all existing franchise renewals were put on hold. The main review was undertaken by Richard Brown, Chairman of Eurostar, whose key conclusions were that although significant staff and resource strengthening was needed within the DfT to cope with all the impending franchise renewals, the franchise bidding process was not itself fundamentally flawed, as had been suggested. Brown made certain recommendations about how and where refinements can be made but the general conclusion was to restart the process as soon as possible and the devolution of further franchises into local control was also strongly advocated.
10. During this review, the NE local authorities, RiNE and the other various organisations with an interest in rail devolution in the North of England, have continued to develop their ideas, but the likely consequence now is that the Northern Rail and Transpennine franchises will be re-let in spring 2015, a year later than the initial anticipated date of spring 2014.
11. RiNE continues to move forward apace with the development of its proposals and the formal organisation is now very much tripartite, led by Manchester, West and South Yorkshire. The NE authorities through the Chief Executives and Rail Officer Working Groups now have a more active and useful dialogue with their RiNE equivalents and, albeit belatedly, have now been invited to partake in the two active workstreams currently in operation, covering Strategy and Franchise Specification.
12. The two key outputs from RiNE that have emerged in the last month are a draft long term rail strategy and a draft prospectus for the involvement of all local authorities across the North in the future RiNE governance arrangements. Earlier drafts of the strategy document have been shared with the NE Rail Officers Group who have had the opportunity to comment and the general consensus is that it serves a useful strategic purpose and conveys all the high level messages for rail in the North that the NE would want it to. RiNE is now expected to lead a more formal consultation on this strategy.
13. The draft prospectus is a much shorter document and is RiNE's first attempt at highlighting how future governance and decision making mechanisms could work. An annual Leaders Committee is proposed which would provide a high level steer and is made up of 33 members - the Leader from each local transport authority in the North plus one member covering each ITA. For example, this would mean each Tees Valley authority being represented but only one representative from Tyne and Wear. RiNE proposes that more day to day management issues are dealt with by an Executive Board made up of and independent chair, one representative from Manchester, West Yorkshire, South Yorkshire, the North West (S), the North West (N), E Yorks and Humberside and the North East. Voting metrics are yet to be agreed but early ideas unsurprisingly are heavily weighted in favour of the 3 RiNE leads who assume will be the areas taking all the financial risk.

14. RiNE led an event on 4 February at which the Chief Executives from Manchester, West and South Yorkshire presented their initial views, as outlined in the draft prospectus. This event was attended by representatives from each of the Tees Valley authorities as well as from colleagues from other NE authorities. The opportunity was used to challenge some of RiNE's proposals on membership and voting rights for the Leaders Committee and Executive Board to ensure a more acceptable representation for the NE. RiNE were also reminded of the desire for the creation of a NE business unit and the need to build this into any future governance model and also of the importance to the NE of the retention of existing, direct Transpennine rail links. It is anticipated that RiNE will now incorporate all comments into a revised draft and that further consultation will follow.
15. The main priority for the NE is now to more formally develop its proposals for a separate business unit. It is important that this happens quickly over the next few months to ensure that the NE position is fully and accurately reflected in the on-going RiNE work but also that the NE authorities obtain a complete picture of all the costs and benefits before making a final decision on whether this is the right option for them to pursue. An important parallel task is an active involvement in the on-going RiNE franchise specification workstream. Without a detailed input to this process it is possible that RiNE may progress with a service specification for the area that would not be acceptable to the NE authorities.
16. The Rail Officers Working Group is steering this critical work but the level of technical expertise and the staff time that is required both to lead the business unit development and input to the RiNE franchise specification workstream does not currently exist within the NE at present. As a result a technical advisor has been appointed to initially take this work on, reporting to both the Chief Executives Group and the Rail Officers Working Group. This post will be expected to identify all the costs and risks associated with a new business unit, evaluate how it would interact with the wider Northern (and other) franchises and how it would operate to the benefit of the NE authorities. The business unit is still very much a conceptual 'nice to have' and it is vital that the true costs and benefits are now properly quantified.
17. As well as leading on the two key priority tasks, an important part of the technical advisory role is to identify if and when further specialist support may be required. It will be a significant task to build up a business case for the NE unit, particularly as much of the required information seems in-grained within the rail industry and hence is very difficult to obtain. The necessary funding to provide this technical support has been committed by the regional Chief Executives Group.

NEXT STEPS

18. It is anticipated that RiNE will now consult more widely on its long term rail strategy and it will be important for them to get the necessary strategic 'buy in' across the North of England. As suggested it is likely that the NE view will be that the strategy provides an adequate overview of the key rail issues from their perspective. Further consultation on the RiNE governance prospectus is also anticipated, following the recent Leaders' event in Leeds, and it is important that the key challenges from the NE to some of the assumptions made by RiNE in this document are addressed in future drafts.
19. It is important for the NE authorities to maintain an active dialogue with RiNE, have the necessary input to on-going RiNE workstreams and generally keep apace with all the work that RiNE are leading. However, as a result of the Brown Review, it is anticipated that there will be an inevitable delay in the progression of some of the key franchises. For example, prior to the review, new East Coast franchise was due to start in December 2013 meaning that the bidding and consultation process should have been well under way by now. The Northern and Transpennine franchises were due to follow shortly after in spring 2014 but again the review has dictated that this will not now be achievable given the lead in times for the bidding process. It has been suggested that each franchise could be delayed

by a year but the Brown Review recommends that the Government confirms revised franchise timescales and sequencing by March 2013. It should be noted that a delay in the renewal of the Northern and Transpennine franchises could actually be advantageous to the NE as it will give sufficient time to develop the required business case for a separate business unit.

20. The development of this business case to fully evaluate all the costs, risks and benefits associated with a separate operational unit for the NE is now the key short-term priority. Until this work is complete, the NE lacks the necessary evidence to make an informed decision on whether such a business unit is a feasible option that will be in the best future interests of both the local authorities and crucially rail passengers across the area. Along side the business unit work, it is critical that the NE develops a detailed future rail specification for the area and ensure that this is fully reflected in the on-going specification work that RiNE is leading.

FINANCIAL IMPLICATIONS

21. The principle of devolution would not have any direct financial implication on the Council however, if the concept of a north east rail business unit was developed then there would be a risk and opportunity associated with this. Detailed work is yet to conclude on the concept of the business unit but due diligence will be put in place prior to any decision making around exposure to financial risk.

LEGAL IMPLICATIONS

22. The Borough Council may become a shareholding entity in a devolved northern rail governance structure which will require certain legal processes to be undertaken that are not yet fully understood.

RISK ASSESSMENT

23. Rail devolution is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.”

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

Economic Regeneration and Transport

24. Devolution of rail services may provide the opportunity to influence enhancements to station facilities and services throughout the Borough.

EQUALITIES IMPACT ASSESSMENT

25. This report is not subject to an Equality Impact Assessment because the report considers principles about changes to procurement of franchises only.

CONSULTATION INCLUDING WARD/COUNCILLORS

All Wards are affected as rail passengers from across the community. To date consultation has been restricted to the Leader, Deputy Leader and Cabinet Member.

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Education related?

No.

Background Papers

None.

Ward(s) and Ward Councillors:

All

Property

N/A