

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

9 OCTOBER 2014

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

Regeneration & Transport – Lead Cabinet Member – Cllr Mike Smith

Rail Devolution & Rail North: Influencing the Future of Northern and TransPennine Rail Services

1. Summary

This report provides an update on rail devolution in the North of England, provides background information on Rail North, sets out the proposed governance arrangements for Rail North Ltd and the Association of Rail North Partner Authorities, and seeks the approval of Cabinet for the Council to become a member of both bodies.

2. Recommendations

Cabinet 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 in principle that the Council should become a member of both bodies. The Leader will sit as a representative on the Association.
2. To authorise the Head of Technical Services in consultation with the Leader to make the appropriate arrangements to enable the Council to be admitted to membership, by entering into the RNL Members Agreement.
3. To note that a representative of the Tees Valley Local Authorities will be appointed to the Leaders’ Committee (currently known as the Leaders’ Forum) and will become a Director of RNL.
4. To note that a further report will be presented to Cabinet when the Heads of Terms for the DFT/RNL Partnership are finalised.

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 establishment of RNL and the Association presents an opportunity to influence the provision of rail services and associated infrastructure in the future.

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)

AGENDA ITEM

REPORT TO CABINET

9 OCTOBER 2014

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

Rail Devolution & Rail North: Influencing the Future of Northern and TransPennine Rail Services

SUMMARY

This report sets out the proposed governance arrangements for Rail North Ltd and the Association of Northern Transport Authorities, and seeks the approval of Cabinet for the Council to become a member of both bodies.

RECOMMENDATIONS

Cabinet 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 in principle that the Council should become a member of both bodies. The Leader will sit as a representative on the Association.
2. To authorise the Head of Technical Services in consultation with the Leader to make the appropriate arrangements to enable the Council to be admitted to membership, by entering into the RNL Members Agreement.
3. To note that a representative of the Tees Valley Sub-group will be appointed to the Leaders' Committee (currently known as the Leaders' Forum) and will become a Director of RNL.
4. To note that a further report will be presented to Cabinet when the Heads of Terms for the DFT/RNL Partnership are finalised.

DETAIL

1. Local passenger rail services in the North East are provided by two franchised rail operators, Northern Rail and TransPennine Express.
2. Northern Rail provides services across the whole of Northern England which includes all "local" services within the Tees Valley as well as links to the wider North East.
3. TransPennine Express offers one train per hour connecting Middlesbrough and Darlington with North West via Leeds and York.
4. These franchises are due to expire in February 2016. This imminent re-franchising creates a unique opportunity for Local Transport Authorities (hereafter LTAs) to take a positive role

in shaping of the future pattern of local rail services across Northern England, in collaboration with the DfT. This would allow LTAs to influence the development of the franchises in a way that better reflects the evidenced economic needs of the North, and to secure stronger local democratic control of local rail services.

5. However, there are risks that reductions to the subsidies available for these services could present difficult issues for the region, and it will be important to secure a strong level of influence to mitigate these risks as far as possible.
6. This report provides an update on the progress made so far and highlights the next key steps to be taken to deliver greater control of these franchises to the North of England.

Rail Devolution and the Long Term Rail Strategy

7. In response to a Department for Transport (DfT) consultation on rail decentralisation in 2012, the 30 local transport authorities in the North of England, under the 'brand name' of Rail North, submitted a proposal to the Secretary of State for the full devolution of services operated by the Northern and TransPennine Express franchises, commencing from their renewal in February 2016.
8. The prime objective of the devolution proposal was to support the economic aspirations of the North of England by:
 - a. delivering more rail capacity and greater rail connectivity,
 - b. improving the quality of railways with a better offer to passengers to encourage more growth, and;
 - c. to deliver a more efficient railway to secure greater value for money from the support from the public purse.
9. To underpin the proposition, Rail North commissioned, for the first time, the development of a Long Term Rail Strategy for the North of England. Whilst devolution primarily focuses on the Northern and TransPennine passenger rail franchises, the long term strategy covers all operators and freight.
10. A copy of the draft strategy can be found at www.railnorth.org/strategy. The strategy places economic growth at its heart and has the following priorities for enhancing rail across the north:
 - a. Connectivity
 - b. Capacity
 - c. Coherence
 - d. Cost effectiveness
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 for decision-making in the North set out in that devolution proposition.
13. 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 for decision-making in the North set out in that devolution proposition.
14. These principles were agreed at a meeting between the Secretary of State and the Rail North Leaders on 24 January 2014.

15. The shared objectives that underpin the partnership were also agreed in January and include:
 - a. growing the railway to maximise the benefits of infrastructure investment and linking this to railway efficiencies;
 - b. having a platform for determining investment priorities within the Partnership;
 - c. risk and reward sharing between members of the partnership, including the potential for revenue or profit-sharing mechanisms that could allow reinvestment into rail services; and,
 - d. a partnership structure that allows the balance of risk to change over time.
16. The development of the DfT / Rail North partnership agreement is split into two distinct phases:
 - a. 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
 - b. 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.
17. As part of the January 2014 agreement with the Secretary of State, the 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 authority input into the design of the franchises, including the specification and commercial arrangements.
18. It was further agreed that the DfT and Rail North would jointly develop proposals for a single integrated partnership structure with substantial decision-making authority to manage the franchises.
19. In addition, the Leaders agreed to form a small sub-grouping, the 'Leaders Sub-Forum', to progress devolution work until the formal structures described above were established. It was agreed that this sub-forum should be constructed on a geographical basis, with a Leader representing Tees Valley being joined by ten other Leaders from the other Northern sub-regions.

Rail North Governance Proposition and Arrangements

20. Following the January 2014 agreement, governance structures have been developed for two bodies:
 - a. 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 Leaders' Committee consisting of one member from each of the 11 sub-regional groups.
 - b. 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.
21. Rail North Limited was officially incorporated on Monday 22nd September 2014 with 3 members; Transport for Greater Manchester, West Yorkshire CA and Merseytravel. The first board meeting was held on Tuesday 23rd September.
22. The proposed arrangements were endorsed by a Rail North Leaders' Sub-Forum at the end of April 2014. Articles of Association have been circulated to legal officers.

23. The Council is being invited to enter into these arrangements and agree to become a member of both the Association and RNL. Subject to such agreement, the Tees Valley Sub-region will be represented at the Leaders Committee by an elected member. This is currently provided by Darlington Borough Council
24. It is expected that the majority of Rail North's decisions would be reached by consensus by the Board of RNL on a one member-one vote basis (i.e. the Tees Valley would hold 1/11th of the vote). However, in the event of any matter being put to a vote, likely for example to include matters of constitution, member authorities' voting rights would be weighted according to passenger mileage (as a proportion) within their authority, with a 75% share required for approval. The full breakdown of these weightings is shown in Appendix 1. Under these values, the Tees Valley would receive 3.3% of the voting share, comparable to other authorities with similar rail geography.
25. It is desirable to ensure that all of the 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.
26. However, mechanisms will be written into the member's agreement that would allow any authority to exit both RNL and the Association prior to 2016 should the on-going requirements of membership become unacceptable.

Development of a Partnership with the Department for Transport

27. In parallel, and in accordance with the agreements, Rail North Officers and DfT have been engaged in detailed discussions in relation to the governance arrangements for the DfT/RNL partnership. The partnership arrangements will cover two distinct roles:-
 - a. Management of the 2016 Northern and Transpennine franchises with day to day management delegated to a joint executive team
 - b. Wider decision-making in relation to implementation of the principles and objectives of the partnership, particularly in respect of strategic planning and investment.
28. The arrangements have now been detailed in a Memorandum of Understanding (MOU) which the Leaders' Committee agreed and have now signed with DfT. There are, however, still some details to be confirmed particularly around staffing and current arrangements with PTE's on consultations (co-signatory status).

Franchise Specification

29. Whilst the procurement of both the Northern and TransPennine Express franchises will be led by the DfT with ultimate responsibility resting with the Secretary of State, Rail North is working closely with DfT on the specification and procurement of the new franchises, with key Rail North aspirations including:
 - a. Delivering a more customer facing service;
 - b. Improving performance including a more consistent delivery of peak capacity;
 - c. Supporting the delivery of new services;
 - d. Improving the quality and quantity of rolling stock; and
 - e. Improving station facilities.
30. Both DfT and Rail North have a shared objective to support economic growth. However, the DfT is placing significant emphasis on the affordability of the relatively high levels of subsidy for Northern and TransPennine (across both franchises, public subsidy amounts to

around 50% of the costs). They are of the view that significant efficiencies will be needed if the growth is to be affordable and have suggested that, where there are aspirations for improved quality and extra services, these would need to be offset by “trade-offs”, which might comprise increased fares, reduced frequencies at low-footfall stations and reductions in the hours of opening at station ticket offices (although no outright line or station closures are contemplated).

31. These “trade-offs”, and questions around other areas of the specification, were posed in a public consultation which opened in July and closed on 18th August. A joint Tees Valley response to these proposals, produced by Tees Valley Unlimited, was submitted. The response included an expression of the Tees Valley’s aspirations for rail, as set out in the North East Rail Statement.
32. The consultation document recognises the distinct and largely self-contained rail network in the North East, and suggests that this may represent an opportunity to deliver real and meaningful local influence over rail services delivered in the area. The consultation suggests that DfT may ask bidders to set out plans for the establishment of a ‘North East Business Unit’ within the franchise.
33. Proposals for the establishment of a North East Business Unit continue to be developed working through ANEC and with partners in North Yorkshire and Cumbria. Officers will continue to work closely with DfT and Rail North to seek the inclusion of the North East Business Unit within the specification for the new Northern franchise.
34. Given the priority placed on improving the standards of rolling stock across the north, Rail North has commissioned a detailed package of work on alternative options for rolling stock financing and procurement. DfT have been supportive of this work as an alternative option for bidders to consider alongside the more traditional Rolling Stock Company model. Early indications are that the access to cheaper finance would considerably narrow the gap between the cost of older rolling stock and the cost of new or significantly refurbished stock.
35. There is, however, a risk to our aspirations for the new franchise. Building upon the previous McNulty Report (May 2011), which identified a 40% “efficiency gap” in the UK rail sector (benchmarked against European comparators) and sought a 30% reduction in unit costs by 2018-19, the Department for Transport is seeking efficiency savings in the cost of running the new franchises, especially with regard to Northern Rail, which has the highest subsidy per passenger mile of any franchise managed by the Rail Executive.
36. It is a significant possibility, therefore, that the DfT’s affordability objectives for the franchise and the North East’s aspirations do not align and that service enhancements may not be achieved – indeed, that even the current level of service, particularly for the Northern franchise, will not be maintained (although it is clearly stated in the consultation document that station closures are not being considered at this time). The Tees Valley response to the public consultation emphasised that both franchises play an important role in supporting economic growth throughout the area (together with the rest of the north of England). Increasing fares would worsen social exclusion and damage aspirations for passenger growth (whilst adding more cars to our roads), whilst staffing levels at Northern Rail stations in this area are already low and we do not wish to see them reduced further as part of curtailment of station ticket office opening hours.
37. The influence of a united Rail North may decrease these risks, and it will be important that the Tees Valley continues to be strongly represented to provide balance to the expression of the North’s aspirations. By providing local knowledge during the development of the specification, greater alignment with the economic development aspirations of the North of England can be sought. However, despite the ultimate responsibility for procurement resting with the Secretary of State, there is a risk that Rail North partner authorities may be perceived to be jointly answerable should the specification not be aligned to aspirations.

38. Should the Council not formally join Rail North, it would still be able to lobby DfT directly during the procurement phase in an attempt to secure its aspirations. However, it would be further-removed from the process and may lose influence as a result. It would also not become party to any partnership established in accordance with paragraph 20 above, and may therefore lose the ability to influence the delivery and strategic direction of the franchises.
39. A shortlist of pre-qualified bidders was announced by DfT on 19th August. Abellio, Arriva and Govia have been shortlisted to bid for the Northern franchise, whereas First, Stagecoach and Keolis/Go-Ahead have been shortlisted for the TransPennine Express franchise. Each bidding organisation will be contacted at the appropriate time to discuss the Tees Valley's aspirations for the franchises.

Next Steps

40. If Cabinet agrees to the Council becoming a member of the RNL and the Association of Rail North Partner Authorities and authorises Officers to take the necessary steps when appropriate for the Council to become a member of these bodies then appropriate steps will be taken to ensure that this happens as quickly as possible. Tees Valley representation will also be finalised.

FINANCIAL IMPLICATIONS

41. Financial contributions are yet to be finalised but it is likely that the Council's contribution in the first year of membership (2015-16) will be £1,800.

LEGAL IMPLICATIONS

Association of Rail North Partner Authorities

42. If the Council is to become a member of the Association of Rail North Partner Authorities then it will be entitled to appoint the Thematic Lead for Transport to the Leaders' Committee of the Association. The Leader's Committee governs the Association. It will also be permitted to appoint a substitute member to the Leaders' Committee. It has been agreed that this membership will be on a Tees Valley basis with current representation provided by Darlington Borough Council.
43. The purpose and objects of the Association are:-
- a. To promote and improve rail services in the Rail North Area
 - b. To campaign for devolution of responsibility for passenger rail services currently operating as part of the Northern and TransPennine Express (TPE) Franchises from the Department for Transport to LTAs in the Rail North Area
 - c. To improve political leadership and oversight of Rail North Limited (RNL).
44. The functions of the Association are:-
- a. To develop, approve and oversee the implementation of a long-term rail strategy; and
 - b. To establish geographical sub-groups for the purpose of appointing Directors to the RNL's Board.
45. One of the proposed geographical sub-groups is the "Tees Valley" which covers the Borough.
46. The Leaders' Committee will meet at least twice a year. Decisions of the Leaders' Committee will if possible be reached by consensus. Where such agreement cannot be

obtained there will be a simple show of hands unless a card vote is called for by the Chair of the Committee or at least 2 members of the Committee.

47. The Association will appoint a Secretary who will be responsible for providing administrative support to the Association and will be responsible for preparing a budget to cover the expenditure of the Association. The expenditure of the Association will be met by the Member Authorities.
48. The Council could terminate its membership of the Association by giving at least 12 months written notice. Only at the expiry of that period would the Council cease to be a member.

Rail North Limited (RNL)

49. By becoming a member of the Association of Rail North Partner Authorities the Council will be entitled to membership of RNL.
50. RNL will be a private company limited by guarantee. Its objects will be to:-
 - a. Promote and improve rail services in the Rail North Area;
 - b. Arrange for the carriage of passengers by railway between places in Great Britain;
 - c. Manage the performance of obligations under franchise agreements let by the Secretary of State in respect of carriage of passengers by railway; and
 - d. Support the delivery of the long term rail strategy of the Members.
51. RNL will have the powers set out in its Articles of Association that include the ability to buy, lease or otherwise acquire and deal with property, borrow and raise money, lend and advance money, enter into contracts and open and operate bank accounts.
52. Decisions taken by the Directors will be by way of a simple majority vote unless it relates to a matter that requires a unanimous vote.
53. The Council can terminate membership of RNL by giving 7 days written notice to the Company.
54. There are no legal impediments to the Council becoming a member of the Association and in turn a member of the RNL if Cabinet considers it to be appropriate to do so.

RISK ASSESSMENT

Paragraphs 37-39 articulate the risks of both approving the recommendations of this report, and of not doing so. The risk of becoming a member is mitigated to a certain extent by the exit mechanisms described in paragraph 26.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

Economic Regeneration and Transport

Membership of RNL will contribute to providing a sustainable transport network throughout the Borough

EQUALITIES IMPACT ASSESSMENT

This report is not subject to an Equality Impact Assessment because the Council and its partners in Rail North share common objectives. The Rail North Long Term Rail Strategy, if delivered, would improve connectivity and capacity on the North's railways, providing communities with improved access to employment, education, healthcare and leisure facilities. It would also improve the accessibility of the rail network, building a more inclusive public transport network.

CONSULTATION INCLUDING WARD/COUNCILLORS

To date consultation has been restricted to the Leader, Deputy Leader and Cabinet Member.

Name of Contact Officer: Richard McGuckin
Post Title: Head of Technical Services
Telephone No. 01642 527028
Email Address: richard.mcguckin@stockton.gov.uk

Education related?

No

Background Paper

Report to Cabinet 24 April 2014: RAIL DEVOLUTION AND LOCAL RAIL UPDATE

Ward(s) and Ward Councillors:

All

Property

N/A