

# Transport for the North Scrutiny Committee

**Subject:** Review of Scrutiny Function

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**Sponsor:** Julie Openshaw, Head of Legal Services

**Meeting Date:** Wednesday 7 July 2021

## **1. Purpose of the Report:**

- 1.1 The purpose of this report is for Members to review the operation of the Scrutiny Function since the Inaugural Meeting in April 2018.

## **2. Background:**

- 2.1 In Transport for the North's Annual Governance Statement for 2020/21 an action was included in the action plan for 2021/22 to carry out a review of the Scrutiny Function with a particular focus on the principle of Scrutiny First.

## **3 Discussion:**

- 3.1 The Sub-national Transport Body (Transport for the North) Regulations 2018 which established Transport for the North as a Sub-national Transport Body included a requirement for Transport for the North to establish a Scrutiny Committee to:
- (a) review or scrutinise decisions made, or other action taken, in connection with the discharge by TfN of its functions,
  - (b) make reports or recommendations to TfN with respect to the discharge by TfN of its functions, and
  - (c) make reports or recommendations to TfN on matters relating to transport to, from or within TfN's area.

The Regulations also require Transport for the North to make standing orders for the regulation of the proceedings and business of the Scrutiny Committee. A copy of the Scrutiny Standing Orders in the Transport for the North Constitution is attached at Appendix 1.

- 3.2 At the meeting of the Transport for the North Shadow Board held in February 2018 before Transport for the North gained statutory status it was decided that Transport for the North should adopt a policy of “Scrutiny First” meaning that proposals would be considered by the Scrutiny Committee before they were decided by the Board so that the Scrutiny Committee would have an opportunity of influencing the decision of the Board before it was taken rather than only having the opportunity of considering a decision after it had been taken, with no power to call decisions in. The Transport for the North Regulations and Constitution do not include a power for Scrutiny Committee to Call In decisions of the Board. The “Scrutiny First” principle has been included in the TfN Constitution so any alteration to this would require an amendment of the Constitution by the TfN Board.
- 3.3 It is now appropriate for the Scrutiny Committee to review the Scrutiny First policy and to consider how well it has worked and whether the Committee wishes to recommend to the Board any amendments to the policy particularly in relation to the types of decisions which are referred for Scrutiny First.
- 3.4 The Scrutiny First principle has ensured that the Scrutiny Committee has an opportunity to comment on and inform every decision being taken by the Transport for the North Board but it has meant that the Agenda of the Scrutiny Committee has been to a large extent determined by the decisions being taken to the Board rather than the Committee developing its own work programme.
- 3.5 The Scrutiny Committee has also called for special reports to be presented to it including in respect of climate change and decarbonisation, freight and the Assurance Framework.

#### **4 Scrutiny Review**

- 4.1 The Constitution makes provision for the Scrutiny Committee to set up Scrutiny Panels to explore particular issues of interest to the Committee but so far the Committee has not done so. Meetings of Scrutiny Panels could be less formal than meetings of the Scrutiny Committee and could continue to be held virtually.
- 4.2 The Constitution enables the Scrutiny Committee to invite anyone it chooses to attend its meetings. This means that if the Committee was carrying out an in depth review of a particular topic it could invite an independent expert to attend its meeting to provide evidence. It is also a forum at which members of the public are allowed to speak subject to the agreement of the Committee Chair and the giving of advance notice. Previously representatives of Environmental Groups have been invited to address the Committee particularly in relation to the preparation of the Strategic Transport Plan.

- 4..3 It is appropriate for the Committee to consider as part of this review whether there are particular issues which it wishes to explore in more depth in order to make detailed recommendations to the Board. Unlike most Local Authorities, Transport for the North does not have any dedicated Scrutiny Officers but the Committee has been assisted at its meetings by senior officers from relevant programme teams and it is anticipated that this will continue to be the case.
- 4.4 As a first stage of the review process a consultation exercise has been carried out to gather Members detailed views of how the Scrutiny function should be developed going forward. A schedule of consultation responses is attached at Appendix 2.
- 4.5 The responses indicate that of those who responded to the questionnaire the majority agreed with the Scrutiny First principle and with the procedure whereby the Scrutiny Committee receives reports on all items before they are considered by the Board as far as possible.
- 4.6 There was also support for the proposal that the Scrutiny Committee should develop a work programme and for that work programme to be carried out by the full Committee with little support for the suggestion of small Scrutiny Panels to carry out discrete items of work.
- 4.7 The consultation asked questions about the level of officer support provided to the Scrutiny Committee. Although there is no dedicated officer support for the Committee most consultees were satisfied with the level of officer support at Scrutiny Committee Meetings.
- 4.8 The consultation questionnaire also called for general comments and recommendations for improvements. In response to this one Member responded that they would like to hear more about actual achievements on the ground with a regularly updated critical path programme that clearly shows planned and funded programmes of work, key milestones, and therefore progress & slippage.
- 4.9 At the last meeting it was suggested that a Scrutiny Members Working Group should be set up to take the review forward. Unfortunately the timing of the request for nomination for membership coincided with the May elections and no nominations for membership of a Working Group were received.

## **6. Recommendation:**

- 6.1 That the report be received and that Members of the Committee consider how they wish to take the review forward.

**Appendices:**

1. Terms of Reference of the Scrutiny Committee
2. Schedule of Consultation Responses

### List of Background Documents:

Constitution

### Required Considerations

#### Equalities:

Age	No
Disability	No
Gender Reassignment	No
Pregnancy and Maternity	No
Race	No
Religion or Belief	No
Marriage and Civil Partnership	No
Sex	No
Sexual Orientation	No

<b>Consideration</b>	<b>Comment</b>	<b>Responsible Officer</b>	<b>Director</b>
Equalities	A full Impact assessment has not been carried out because the report does not propose any new strategy or service provision	Deborah Dimock	Julie Openshaw

#### Environment and Sustainability

Yes	No
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<b>Consideration</b>	<b>Comment</b>	<b>Responsible Officer</b>	<b>Director</b>
Sustainability / Environment – including	A full impact assessment has not been carried out because the report does	Deborah Dimock	Julie Openshaw

considerations regarding Active Travel and Wellbeing	not propose any new strategy or service provision		
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### Legal

Yes
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<b>Consideration</b>	<b>Comment</b>	<b>Responsible Officer</b>	<b>Director</b>
Legal	The legal implications have been considered and are included in the report.	Deborah Dimock	Julie Openshaw

### Finance

No
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<b>Consideration</b>	<b>Comment</b>	<b>Responsible Officer</b>	<b>Director</b>
Finance	TfN Finance Team has confirmed there are no new financial implications.	Paul Kelly	Iain Craven

### Resource

No
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<b>Consideration</b>	<b>Comment</b>	<b>Responsible Officer</b>	<b>Director</b>
Resource	TfN HR Team has confirmed there are no new resource implications.	Stephen Hipwell	Dawn Maden

### Risk

No

<b>Consideration</b>	<b>Comment</b>	<b>Responsible Officer</b>	<b>Director</b>
Risk	There are no new risks identified as a result of this report.	Haddy Njie	Iain Craven

### **Consultation**

Yes

<b>Consideration</b>	<b>Comment</b>	<b>Responsible Officer</b>	<b>Director</b>
Consultation	No consultation has been carried since no new policies are being proposed.	Deborah Dimock	Julie Openshaw

## **Appendix 1**

### **20 Scrutiny Committee**

- 20.1 The Order of the Secretary of State made on the 22<sup>nd</sup> January 2018 contains provisions relating to Scrutiny of the decisions of Transport for the North. These Arrangements reflect those provisions.
- 20.2 The Scrutiny Arrangements will be reviewed annually to ensure that they remain effective.
- 20.3 References in these Arrangements to major and strategic decisions of Transport for the North taken in accordance with the delegations set out in Part 3 of this Constitution include major and strategic decisions taken by Committees and sub-committees of Transport for the North in accordance with such delegations.

#### **Objectives of Scrutiny**

- 20.4 These arrangements have been established to act as a focus for the scrutiny and challenge of Transport for the North, and for investigating matters of strategic importance to residents, those travelling within the combined administrative area covered by the Constituent Authorities and other stakeholders. The role of these arrangements will include:
- a) reviewing the decisions of the Transport for the North Board;
  - b) reviewing the decisions of Transport for the North which are taken in accordance with the delegations set out in Parts 3 and 4 of this Constitution;
  - c) making reports or recommendations to the Transport for the North Board with respect to the discharge of its functions;
  - d) making reports and recommendations to the Transport for the North Board on matters relating to transport to, from or within Transport for the North's area;
  - e) making recommendations to the Transport for the North Board in advance of any decisions that Transport for the North Board proposes to take.

#### **Operation of Scrutiny Arrangements**

- 20.5 Each of the Constituent Authorities shall be entitled to appoint one Member and one Substitute Member to the Scrutiny Committee. Appointees to the Scrutiny Committee must be a member of the appointing Constituent Authority or in the case of a Combined Authority, one of the Constituent Authorities of the Combined Authority but may not be Members of the Transport for the North Board or the Rail North Committee (including substitute and co-opted members). The term of office for members of the Scrutiny Committee will be one year from the date of the annual council meeting of the Constituent Authority that appoints them to the Scrutiny Committee unless:
- a) They cease to be an elected member of the Constituent Authority that appointed them;
  - b) They wish to no longer participate in these arrangements; or
  - c) The Monitoring Officer to Transport for the North is advised by any of the Constituent Authorities that it wishes to change one or more of its appointees to

the Scrutiny Committee.

- 20.6 Any person may be co-opted as a Co-opted Scrutiny Member to participate in these arrangements from all or any of the associated authorities or from such other organisations as Transport for the North may decide. Unless Transport for the North decides otherwise, such Co-opted Scrutiny Members shall be non-voting members.

#### **Meetings of Scrutiny Committee**

- 20.7 The members appointed to the Scrutiny Committee under Clause 20.5 above will hold at least one annual meeting and may convene additional joint meetings in accordance with these arrangements.
- 20.8 At the annual meeting, the Scrutiny Committee members will:
- a) Appoint a Chair and two Vice Chairs;
  - b) Determine the areas of review and scrutiny that they wish to pursue during the ensuing 12 months;
  - c) Agree to establish Scrutiny Panels from amongst their number in order to carry out reviews;
  - d) Agree to carry out agreed areas of review and scrutiny.
- 20.9 The quorum for the annual meeting and any other meetings held under Clause 20.7 will be five and must include representatives of at least five of the Constituent Authorities.
- 20.10 The principle of decision making at any such joint meeting shall be that, wherever possible decisions will be made by agreement, without the need for a vote. If a vote is necessary, it will be decided by a simple majority of those present. The provisions relating to weighted votes set out in Clause 6 and appendix 2 shall not apply to the Scrutiny Committee or to Scrutiny Panels.
- 20.11 The venue for each annual meeting and any other Scrutiny Committee meetings held under this Clause 4 will be decided by Transport for the North as part of the approved Calendar of Meetings and shall be notified to Constituent Authorities for inclusion on their Council web sites.
- 20.12 Notice of the annual meeting and any other Scrutiny Committee meetings held under Clause 20.7 will be sent to each Scrutiny Committee member in accordance with the requirements of the Local Government Act 1972. For Members who are Members of one of the Constituent Authorities Notice will be sent to the principal place of business of that Authority. Members agree to receive notice of all meetings by e-mail.
- 20.13 The Chair will approve the agenda for each annual meeting and any other Scrutiny Committee meetings held under Clause 20.7; however, any member of the Scrutiny Committee will be entitled to require an item to be placed on the agenda for the meeting.
- 20.14 Different approaches to scrutiny reviews may be taken in each case but members will seek to act in an inclusive manner and will take evidence from a wide range of opinion. In particular, the Chair will consider requests from members of the public to speak at meetings of the Committee provided the request has been made in writing to the

Monitoring Officer not less than 48 hours before the date of the meeting. Members of the public, if allowed to speak, shall be allowed up to 3 minutes to address the Committee.

- 20.15 Each Scrutiny Panel established under paragraph 20.25 shall determine its own calendar of meetings and the venue for each meeting.
- 20.16 Subject to paragraphs 20.8 – 20.14, meetings will proceed in accordance with the Rules of Procedure set out at Part 5 of the Constitution.

#### **Powers of the Scrutiny Committee**

- 20.17 The Scrutiny Committee has the power to:
- a) To review and scrutinise decisions made, or other action taken by Transport for the North;
  - b) To make reports or recommendations with respect to the discharge of the functions of Transport for the North;
  - c) To make reports or recommendations on transport matters that affect the area of Transport for the North or inhabitants of the area or other stakeholders;
  - d) To require members or officers of Transport for the North to attend meetings of the Committee to answer questions;
  - e) To invite other persons to attend meetings of the Committee.

#### **Key principles for the operation of the scrutiny arrangements**

- 20.18 Transport for the North and the Constituent Authorities will work together to maximise the exchange of information and views, to minimize bureaucracy and make best use of the time of members and officers of other bodies or agencies.
- 20.19 Members of the Scrutiny Committee will, when considering reviews, determine whether the issue is more appropriately dealt with by one of the Constituent Authorities or elsewhere and will not duplicate the work of existing bodies or agencies.
- 20.20 Subject to prior consultation, Transport for the North will respond positively to requests for information, or for the attendance of a member or officer at any meetings set up under these arrangements.
- 20.21 While it is ultimately for Transport for the North to decide who it considers the most appropriate person(s) to speak on its behalf at any meetings set up under these arrangements, consideration will be given to meeting specific requests.
- 20.22 Dates and times for officer and member attendance at any meetings set up under these arrangements should be by agreement.
- 20.23 Members appointed under these arrangements may require the attendance of officers employed by Transport for the North to answer questions and give evidence at any meetings set up under these arrangements. All such requests must be made via the Monitoring Officer of Transport for the North. If any request is declined by the Monitoring Officer, he/she must state the reasons for so doing.

- 20.24 When considering any matter in respect of which a Scrutiny Committee member appointed under these arrangements is subject to a party whip the member must declare the existence of the whip and the nature of it before the commencement of any deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### **Scrutiny Panels**

- 20.25 The annual meeting of members of the Scrutiny Committee will establish Scrutiny Panels to undertake agreed scrutiny reviews.
- 20.26 Membership of the Scrutiny Panels will be determined at the annual meeting.
- 20.27 Scrutiny Panels established by Clause 20.25 shall include representatives from at least 5 of the Constituent Authorities. Each Scrutiny Panel shall appoint a Chair and Vice Chair from amongst its members.
- 20.28 Scrutiny Panels established under Clause 20.25 must be appointed to carry out specific scrutiny tasks and be time limited. Their continuation will be subject to confirmation at each annual meeting of the Scrutiny Committee.
- 20.29 Transport for the North may also, if it chooses, request that a Scrutiny Panel drawn from amongst members appointed to the Scrutiny Committee be appointed to examine a specific issue in more detail and report back its findings to Transport for the North.

### **Reviews and Recommendations**

- 20.30 The process of scrutiny will be an open and transparent process designed to engage the Constituent Authorities, their residents and other stakeholders.
- 20.31 Meetings will be held in public unless the meeting decides to convene in private to discuss confidential or exempt information, in accordance with the relevant provisions of the Local Government Act 1972.
- 20.32 The terms of reference, timescale and outline of any review will be agreed by the Scrutiny Committee at their annual meeting.
- 20.33 Different approaches to scrutiny reviews may be taken in each case but members will seek to act in an inclusive manner and will take evidence from a wide range of opinion.
- 20.34 The primary objective of any Scrutiny Panel established under these arrangements will be to reach consensus on its recommendations, but where a minimum number of two members express an alternative to the majority view, they will be permitted to produce a minority report.
- 20.35 Voting if needed will be by a show of hands and a simple majority will be required to approve any recommendation.
- 20.36 A completed Scrutiny Review shall be forwarded to Transport for the North for

consideration. Transport for the North shall consider the findings of a Scrutiny Review at the next available meeting and the decision of Transport for the North on the findings of a Scrutiny Review will be reported back to the next available meeting of the Scrutiny Committee.

#### **Budget and Administration**

- 20.37 The Scrutiny Budget will be agreed as part of Transport for the North's annual budgetary processes.
- 20.38 The budget will be required to meet all officer support to the scrutiny arrangements, including research support.
- 20.39 The decisions and recommendations of any Scrutiny Panels set up under these arrangements will be communicated to the Transport for the North Board, and other Scrutiny Committee members as soon as possible after resolution by those appointed to any such Scrutiny Panel.
- 20.40 Any external expenditure shall be procured and managed through and in accordance with Transport for the North's adopted financial processes.

#### **Support and advice to scrutiny arrangements**

- 20.41 Members appointed to any Scrutiny Panel under these arrangements may ask individuals or groups to assist it on a review by review basis and may ask independent professionals for advice during the course of reviews. Such individuals or groups will not be members of the Scrutiny Panel and will not be able to vote.
- 20.42 Members appointed to any Scrutiny Panel under these arrangements may invite any other person to attend their meetings to answer questions or give evidence; however, attendance by such persons cannot be mandatory.

## Appendix 2

### Scrutiny Consultation Schedule of Responses.

	<b>Question</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
	Indicate how well you agree with the following statements 1 not at all – 5 strongly Agree					
1	I am happy with the Scrutiny First principle?	2	1	1	0	5
2	I think Scrutiny Committee should in general review all reports before they are considered by the Board?	1	1	5	0	2
3	I think the Scrutiny Committee should restrict its review to reports relating to transport strategy and investment decisions?	4	0	3	2	0
4	I think the Scrutiny Committee reviews Board reports well?	1	1	4	2	1
5	I think the Scrutiny Committee has an appropriate level of officer support at its meetings?	1	0	4	1	2
6	<b>Comment</b> If not, what changes would you like to see?					
7	I think the comments made	0	1	4	1	1

	by the Scrutiny Committee are acted upon by officers?					
8	I think the comments of the Scrutiny Committee have been adequately reported to the Board?	0	1	4	0	1
9	<b>Comment</b> If not, what changes would you like to see?					
10	I think the Scrutiny Committee has influenced Board decisions	0	2	4	1	0
11	<b>Comment</b> What improvements would you like to see to the way the Scrutiny Committee operates	It shouldn't have too much power - that's the point!				
12	I would like Scrutiny Committee to identify topics for review in a Scrutiny Work Programme	1	0	2	4	2
13	I think the work programme should be carried out through the Scrutiny Committee ?	0	2	2	0	4
14	I think the work programme should be carried out through a small Scrutiny Panel	2	3	2	1	0
15	<b>Comment</b>	I can't objectively comment on the effectiveness of the committee as I'm not exposed sufficiently enough to its operation.				

	<p>Is there any other comment you would like to make?</p>	<p>Not sufficient evidence available to answer these questions in an informed way</p> <p>I thoroughly enjoy &amp; value the work of TfN scrutiny I participate in.</p> <p>I would like to more about actual achievements on the ground with a regularly updated critical path programme that clearly shows planned and funded programmes of work, key milestones, and therefore progress &amp; slippage.</p>
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