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**Meeting:** Transport for the North Board

**Subject:** Governance Report

**Author:** Manjit Dhillon, Julie Openshaw, Gary Rich

**Sponsor:** Director of Business Capabilities

**Meeting Date:** Wednesday 29 September 2021

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**1. Purpose of the Report:**

- 1.1 For Transport for the North Board to appoint a Chair and two Vice Chairs for the forthcoming year.
- 1.2 For Members to approve the appointment of a new Independent Member of the Audit and Governance Committee.
- 1.3 For the Board to appoint two Members to the vacancies for Board Members on the Audit and Governance Committee and to approve the membership of the Board and of Committees for the forthcoming year.
- 1.4 For Transport for the North Board to approve the Constitution for the coming year subject to approval of the following amendments:
  - a) Amendment of the membership of the General Purposes Committee to include a representative of the LEP Co-opted Board Members
  - b) Amendment of the Procedure Rules to provide for virtual participation in meetings by both Members and Officers;
  - c) Amendment of the Terms of Reference of the Partnership Board to remove the restriction on elected Members of Local Authorities within the TfN area being appointed as the Chair of the Partnership Board;
  - d) Amendment of the Terms of Reference of the Partnership Board to remove until further notice the requirement for the Partnership Board to be chaired by an Independent Chair appointed by Transport for the North;
  - e) Amendment of the Voting Matrix to reflect alterations in population figures since the last calculation was carried out in 2019.
  - f) Replacement of the Officer Code of Conduct in the Constitution
- 1.5 For Members to appoint a new Chair of the Partnership Board.
- 1.6 For Members to approve the Calendar of Meetings for the forthcoming year.

## **2. Recommendations:**

- 2.1 That unless further nominations are received, the nomination of Councillor Gittins as the Chair of the Board be approved, and that Councillor Gittins be elected as Chair of the Board for the forthcoming year or until such time as an Independent Chair is elected.
- 2.2 That nominations be received for the Majority Vice Chair and the Majority Vice Chair be elected.
- 2.3 That nominations be received for the Minority Vice Chair and the Minority Vice Chair be elected.
- 2.4 That the Board appoints Graham Bell as the fourth Independent Member of the Audit and Governance Committee.
- 2.5 That the Board appoints two additional Members or Co-opted Members of Board as Members of the Audit and Governance Committee to fill the current vacancies.
- 2.6 That the Board approves the membership of the Board and of Committees for the forthcoming year as set out in Appendix 2.
- 2.7 That the Board approves the Constitution for the coming year subject to the amendments set out in Appendix 3; replacement of the Voting Matrix with the version at Appendix 4; replacement of the Officer Code of Conduct with the version at Appendix 5; and amendment throughout the Constitution to reflect the newly re-named South Yorkshire Mayoral Combined Authority in place of Sheffield City Region.
- 2.8 That the requirement for an Independent Chair of the Partnership Board be waived until further notice and the person appointed as the Chair of the Transport for the North Board be appointed as the Chair of the Partnership Board.
- 2.9 That the Calendar of Meetings set out in Appendix 6 be approved noting that these may be subject to change where necessary after consultation with relevant Chairs.

## **3. Main Issues:**

### **Appointment of the Chair and Vice Chairs of the Board**

- 3.1 Under the provision of paragraph 2(1)(a) of the Transport for the North Regulations Transport for the North is required to appoint a Chair and may appoint Vice Chairs in each year. The Constitution empowers TfN to approve the appointment of one or more Vice Chairs each year. By convention one of the Vice Chairs is to be appointed from among the majority party the other is to be appointed from among the minority parties.

In the event that there is more than one nomination for an office there will be an election by a named vote in which the votes cast will be weighted calculated on the basis of population. The person elected will be the one who has the support of Members who between them hold more than 50% of the weighted votes of those present and entitled to vote.

Following the resignation of John Cridland as the Chair of both the Transport for the North Board and the Partnership Board, the Majority Vice Chair of the Board, Councillor Louise Gittins has been Acting Chair of the Board under the vacancy provisions in the Constitution and an appointment to the position of Chair of the TfN Board for the forthcoming year now needs to be made until such time as a new Independent Chair of the Board can be recruited.

At the Chief Executive's Consultation Call on the 9 June 2021 the Board indicated its unanimous support for Councillor Gittins to be nominated as Chair of the Board until such time as an Independent Chair could be recruited and appointed. Councillor Gittins is therefore nominated to be elected as Chair.

- 3.2 The Majority and Minority Vice Chairs are each appointed to serve for a year and appointments to these positions for the forthcoming year need to be made. At the consultation call on 27 July it was implicit that Councillor Louise Gittins was nominated as Majority Vice Chair. Any other nominations for Majority Vice Chair, and for Minority Vice Chair can be made at the meeting.

### **Appointment of an Independent Member of the Audit and Governance Committee**

- 3.3 At its meeting on 24 March 2021 the Board decided to increase the number of Independent Members and to recruit a fourth Independent Member to serve on the Audit and Governance Committee. Following a public advertisement a recruitment exercise has been carried out in accordance with TfN's adopted recruitment policies and procedures and a suitable candidate has been selected and is now recommended for appointment.

Graham Bell, the selected candidate has proven experience and expertise in relevant business areas, particularly risk management. His CV is attached at Appendix 1. Graham will bring new skills and experience to the Audit and Governance Committee and is therefore recommended for appointment to the Committee.

### **Membership of the Board and Committees**

- 3.4 Following local elections in May 2021 and the Annual Meetings of the Constituent Authorities there have been a number of changes to the membership of the Transport for the North Board and its Committees. The current membership of Transport for the North's Board, the Rail North Committee, the General Purposes Committee, the Audit and

Governance Committee and the Scrutiny Committee as notified to Transport for the North is set out in Appendix 2 and is recommended for approval.

- 3.5 There are currently two vacancies for Board Members (which can include Co-opted members) on the Audit and Governance Committee. At the time of preparation of this report, no nominations have yet been received; nominations are therefore invited for appointment to the two vacancies on the Audit and Governance Committee.

### **Amendments to the Constitution**

- 3.6 **Increase in the Number of Independent Members of the Audit and Governance Committee**

At its meeting on 24 March 2021 the Transport for the North Board approved an increase in the number of Independent Members of the Audit and Governance Committee from 3 to 4. The Constitution needs to be amended to reflect this decision. The proposed amendment is set out in Appendix 3.

- 3.7 **LEP Membership of the General Purposes Committee**

The General Purposes Members Working Group (MWG) has now carried out a review of the appropriateness of the General Purposes Committee and has concluded that the Committee has a role to play in the governance of Transport for the North and should now be established. The MWG also concluded that the arrangements set out in the Constitution for membership of the Committee to be determined on the basis of Regional Groups is the most appropriate basis for membership and the best way to ensure representation of all geographical areas of Transport for the North on the Committee. However, the MWG considered that the membership of the Committee should be amended to include a representative of the LEP Members on the Board. The MWG considered that the terms of reference of the Committee should be reconsidered by the Committee once it meets but that its remit should not include the appointment, performance and discipline of statutory officer which should be the remit of a separate committee.

- 3.8 It is therefore proposed that the membership of the General Purposes Committee should be enlarged to include a representative of the LEP Board Members, and that the Constitution should be amended accordingly. The wording of the proposed Amendment is set out in Appendix 3.

- 3.9 **Virtual Participation in Meetings**

Now that the legislative provisions which enabled virtual attendance at Board and Committee Meetings have come to an end as from 7 May, the requirement for Members to attend meetings in person has been re-instated. The Constitution mirrors the legal requirements and

states that attendance as a Transport for the North Board or Committee Meetings shall be in person.

- 3.10 The holding of virtual meetings has reduced the time commitment required by both Members and officers in physically attending meetings due to the lack of travelling time. It is likely that some Members will wish to continue to attend virtually. However, the decision of the High Court has ruled out remote attendance and there is no provision in the Constitution which would allow Members not present in person at a meeting to take part virtually. At present the Transport for the North Constitution requires Members to be present in person at meetings and does not allow for anyone not present in person in the meeting to join the meeting virtually or to speak at meetings.
- 3.11 The MWG was asked to consider amendments to the Constitution which will allow Members to join formal meetings virtually and to contribute to the debate although it is important to note that they would not legally be entitled to vote or be counted as present for quorum purposes. At the Consultation Call on the 9 June 2021 it was also requested that Members should be able to put forward representations in respect of items on the Agenda when they were unable to be present in person at the meeting. The MWG has recommended that remote participation should be allowed with the agreement of the Chair and proposed the amendments to the Procedure Rules set out in Appendix 3. Reports on virtual participation in meetings were presented to the Scrutiny Committee, Rail North Committee and the Audit and Governance Committee. Generally, Members were in agreement for some meetings to be held as virtual Consultation Calls and noted the delegated powers in the Constitution granted to the Chief Executive, the Director of Rail North and the Finance Director to take urgent decisions following consultation with Members in instances where meetings are held as a Consultation Call. The Members also considered the proposed amendments to the Procedure Rules for their respective committee terms of reference and decided to consider further how many meetings they would like to have face to face. The Scrutiny Committee asked for additional information and resolved to consider a further report at a future meeting. Generally there was acceptance from the three committees that officers should further explore the availability and use of technology at meeting venues to allow virtual participation in meetings.
- 3.12 **Removal of the Restriction Preventing Locally Elected Members being Chair of the Partnership Board**
- As is reported elsewhere on today's Agenda including a separate set of recommendations, the MWG also considered proposals for the recruitment of a new Chair of the Board and of the Partnership Board. They considered that it was important that the recruitment should be open to the widest possible field of talent and that the current

provision contained in the Terms of Reference of the Partnership Board (Appendix 5 of the Constitution) which prohibits anyone who has been an elected member of a local authority within the TfN area within the last five years from being appointed Chair of the Partnership Board, to be an impediment to this. They also felt it was illogical and discriminatory since elected members from outside the TfN area would be eligible for appointment. They therefore recommended that the Constitution should be amended to remove this restriction before the recruitment of the new Chair of Transport for the North is commenced. It should be noted that for the avoidance of doubt, this recommendation is also referred to in the separate report on today's Agenda.

3.13 The proposed amendment to the Terms of Reference of the Partnership Board is set out in Appendix 3.

3.14 **Amendment of the Voting Matrix of Population Weighted Votes**

Any decision of Transport for the North other than Rail Franchise/contract Matters which are not agreed unanimously are determined on the basis of population weighted votes. These are set out in the Voting Matrix and are calculated on the basis of the population of each Constituent Authority as at the relevant date as set out in paragraph 3(6) of the Schedule to the Sub-national Transport Body (Transport for the North) Regulations 2018. The last calculation of the weighted votes was in July 2019 and a new calculation of the population weighted votes has been carried out for 2021/22. This shows that there has been a change in population that necessitates an amendment to the weighted votes of Greater Manchester and South Yorkshire Mayoral Combined Authority (formerly Sheffield City Region) which each have an additional vote. The votes of all the other Constituent Authorities remain the same.

3.15 The amended Voting Matrix is set out in Appendix 4 with the amendments shown in red.

3.16 **Replacement of the Officers Code of Conduct**

It has become apparent that there are discrepancies between the wording of the Officers' Code of Conduct as included in the Constitution and the Officers' Code of Conduct on the HR site on the intranet. The most significant difference is the omission of the obligation of confidence from the Constitution. Since the Code of Conduct on the HR site has been the subject of consultation with the unions it is recommended that the Officers' Code of Conduct in the Constitution is replaced with the one which has been approved by the unions. The replacement Code of Conduct is set out in Appendix 5.

3.17 **Appointment of a Chair of the Partnership Board.**

Following the resignation of John Cridland as the Chair of both the Board and the Partnership Board there is a need for Transport for the North to appoint a new Chair of the Partnership Board.

- 3.18 Although the MWG considered that it was important for the Chair of the Board and the Partnership Board to be an Independent Chair, this is not possible for the period during which a new Chair is being recruited and it is recommended that the requirement for an Independent Chair of the Partnership Board included in the Terms of Reference of the Partnership Board is waived until a new Independent Chair can be appointed.

The MWG, when it considered the recruitment of a new Chair of the Board, recommended that the new Chair of the Transport for the North Board is also appointed as the Chair of the Partnership Board.

3.19 **Calendar of Meetings**

Members are asked to approve the draft Calendar of Meetings for the forthcoming year. The draft Calendar of Meetings is set out at Appendix 6, noting that these may be subject to change where necessary after consultation with relevant Chairs.

**4. Corporate Considerations:**

***Financial and Resource Implications***

- 4.1 There are no financial implications.

The resource implications have been considered and are included in the report.

The financial implications are included within the 2021/22 forecast. Financial implications for 2022/23 will be captured as part of the budget process for that year.

***Legal Implications***

- 4.2 The legal implications have been considered and are included in the report.

***Risk Management and Key Issues***

- 4.3 There are no risks associated with the content of this report.

***Environmental Implications***

- 4.4 A full impact assessment has not been carried out because it is not required for this report.

***Equality and Diversity***

- 4.5 A full Impact assessment has not been carried out because it is not required for this report.

### ***Consultations***

- 4.6 A consultation has not been carried out because it is not necessary for this report.

## **5. Background Papers**

- 5.1 The Constitution.

## **6. Appendices**

- 6.1
1. CV of Graham Bell
  2. Schedule of Members of the Board and Committees
  3. Proposed Amendments to the Constitution
  4. Amended Voting Matrix
  5. Replacement Officers' Code of Conduct
  6. Draft Calendar of Meetings

<b>Glossary of terms, abbreviations and acronyms used (<i>if applicable</i>)</b>
<i>MWG – Members' Working Group</i> <i>TfN - Transport for the North</i>