

Transport for the North Board Meeting – Item 12

Subject: Rail North Limited

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Meeting Date: Thursday 5 April 2018

1. Executive Summary:

- 1.1 Members are advised that on the 22 January 2018 the Sub-National Transport Body (Transport for the North) Regulations 2018 were signed establishing TfN as a corporate body able to transact its own affairs with effect from the 01 April 2018.
- 1.2 In the Submission Proposal for TfN, one of the guiding principles was that TfN and Rail North would be more closely aligned and that TfN would take over the business of Rail North Limited. This principle was endorsed by the Secretary of State when he accepted the Proposal and provisions to enable this are contained in the Regulations. TfN has continued to develop this proposal and intends to fully incorporate the business of Rail North within the management structure of TfN and the Constitution of TfN reflects this.
- 1.3 The Shadow Board, at its meeting on the 08 February 2018, endorsed the following documents:
 - a) The Rail North Business Transfer Agreement;
 - b) The Rail North Partnership Novation and Variation Agreement;
 - c) The Rail North Franchise Management Agreement.
- 1.4 Shadow Board also approved in principle the future winding up of Rail North Limited.

2. Recommendation:

It is now recommended that:

- a) That Members receive the information;

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- b) That Members approve the transfer to TfN of the business, assets and liabilities of Rail North Limited and the execution of the following Agreements:
- (i) The Rail North Business Transfer Agreement;
 - (ii) The Rail North Partnership and Novation Agreement.
 - (iii) The Rail North Franchise Management Agreement.

3. Information:

3.1 At the Shadow Board meeting on Thursday 8 February 2018, Members received a report setting out the steps TfN and Rail North Limited would need to take to achieve the transfer to TfN of the business of Rail North and its incorporation within TfN. Members are now asked to approve the following Agreements:

- a) The Rail North Business Transfer Agreement;
- b) The Rail North Partnership and Novation Agreement;
- c) The Rail North Franchise Management Agreement.

3.2 These Agreements have been the subject of consultation with all the individual Member Authorities and the results of the consultation exercise were reported back to Rail North Directors Board Meeting on Thursday 7 December 2017. The effect of these Agreements taken together is to protect the existing rights and obligations of the Member Authorities while transferring to TfN the rights and obligations of Rail North Limited.

3.3 The completion of the Agreements will affect the transfer to TfN from Rail North Limited of the Partnership Agreement with the Secretary of State and the business of managing the Northern and TransPennine Express Rail franchises.

3.4 The Rail North Business Transfer Agreement

This Agreement transfers to TfN all the property and assets of Rail North Limited including any physical property owned by Rail North Limited and any cash held in its bank accounts as well as its property in the Partnership Agreement with the Secretary of State. It will transfer to TfN the Hosting Agreement whereby WYCA employs staff on behalf of TfN until such time as these members of staff can be transferred to TfN under a TUPE transfer. The Agreement will also transfer to TfN all the liabilities of Rail North such as its obligations under the Partnership and Members Agreements and any outstanding VAT liability.

3.5 The Rail North Partnership and Novation Agreement

This Agreement, which will also be signed by the Secretary of State, transfers the original Rail North Partnership Agreement with the Secretary of State from Rail North Limited to TfN and releases Rail North Limited from any further obligations under the original Partnership Agreement. The Agreement also contains the agreement of the parties to enter into this new Rail North Partnership, the terms of which are varied to reflect the new role and status of TfN as a statutory partner of the Secretary of State.

3.6 The Rail North Franchise Management Agreement

This Agreement replaces the current Members Agreement which sets out the relationship between Rail North Limited and the individual Transport Authorities who are each Members of Rail North Limited. The Franchise Management Agreement restates, as far as possible, the terms of the Members Agreement and retains the existing rights and obligations of the parties under that Agreement but replaces Rail North Limited by TfN and releases Rail North Limited from any further obligations under the original Agreement.

3.7 TfN's Constitution

The following arrangements in relation to Rail North business operations have been included in TfN's Constitution:

- a) Part 1 Articles - Sets out the identity of the 'TfN Rail North Authorities' and their right to appoint a co-opted Member to TfN with a right to speak and vote on rail franchise matters;
- b) Part 1 Articles – There can be no requirement for increased contributions without the agreement of all the members of TfN and without their prior written agreement;
- c) Part 4 Committees - TfN's Governance structure - the Rail North Committee will as far as possible carry out the role previously carried out by Rail North Limited and its Board of Directors. Its Members will be drawn from the same Authority groupings as the membership of Rail North Limited's Board of Directors;
- d) Part 4 Committees - Arrangements described in 3.13 above, in particular the weighted voting rights base on passenger miles will be retained for Rail Franchise matters and a 75% majority will be required for the Reserved Matters.

3.8 Winding Up of Rail North Limited

Once the Agreements have come into effect, and the business, assets and liabilities of Rail North Limited have all been transferred to TfN,

there will be no need for the continued existence of the company and it is expected that at this stage it should be wound up although this will be a matter for the members of Rail North Limited. In the Business Transfer Agreement, TfN accepts responsibility for any outstanding liabilities of Rail North Limited to enable the orderly winding up of the company.

4. Purpose:

4.1 Members are asked to approve:

The transfer to TfN of the business, assets and liabilities of Rail North Limited and the execution of the following Agreements:

- a) The Rail North Business Transfer Agreement;
- b) The Rail North Partnership Novation and Variation Agreement;
- c) The Rail North Franchise Management Agreement.