

Transport for the North Scrutiny Committee Meeting – Item 5

Subject: Review of the Constitution - Membership and Procedure of the Partnership Board

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Meeting Date: 18 December 2019

1 Purpose of the Report

1.1 The purpose of this report is for Scrutiny Committee to consider and, if it wishes, make recommendations to the Transport for the North Board on proposals being considered by the Transport for the North Board in relation to:

- (a) The role of the Partnership Board;
- (b) Proposals for widening the membership of the Partnership Board;
- (c) Confidentiality provisions.

2. Executive Summary:

2.1 This report considers the role, membership and operating of the Partnership Board as a result of the Constitution review, and following the decision of the Board on 12 September 2019 to defer the proposal submitted by Mayor Rotherham to invite representation from the TUC, when a report to the next Board was requested, to consider the wider issues.

2.2 This report also considers the question of the Partnership Board meetings being held in private, this being another issue which was raised through the Constitution Review.

2.3 As a first stage of the Constitution Review, a questionnaire was sent out to all Members of the Transport for the North Board (including substitutes), the Scrutiny Committee (including Substitutes), the Audit and Governance Committee, and legal officers of the Constituent Authorities.

One of the questions related to meetings of the Partnership Board and the consideration in this report has been prompted by the responses to that question.

- 2.4 Any proposed changes to the Partnership Board can affect its role and purpose and should, therefore, be considered in the round.
- 2.5 The current role of the Partnership Board is to provide advice to the TfN Board on matters of transport strategy. It holds discussions similar to 'second reading' debates in Parliament, providing early consideration of issues in order that decisions on those issues can be reached during what might be considered analogous to 'third reading' debates at the TfN Board. In order to fulfil this role, both Board and Partnership Board have had the same membership and Partnership Board meetings have been held in private to facilitate frank and confidential discussion, prior to decision making sessions of the TfN Board held in public.
- 2.6 Given the proposals from members, the Transport for the North Board will now consider whether the Partnership Board should formulate its advice including a wider range of stakeholders than are currently represented. The proposal from Mayor Rotherham is that the membership of the Partnership Board be increased to include three Trade Union representatives. At the meeting in September other Members suggested that other interests should also be considered and so the Board may also be invited to consider widening membership to include representatives of other interests such as transport users, people with disabilities, other equality interests and environmental interests.

3. Discussion

- 3.1 In accordance with Regulation 4 of the Sub-national Transport Body (Transport for the North) Regulations 2018 (referred to in this report as "the TfN Regulations"), TfN established a Partnership Board to advise on matters relating to transport. It is a partnership of Local Transport Authorities, Local Enterprise Partnerships and national representatives.
- 3.2 The Partnership Board continued the public/private partnership of civic and business leaders which preceded the granting of statutory status to TfN. In the same spirit of partnership, the statutory members of the

TfN Board co-opted the same additional members onto the TfN Board, ensuring that both boards have, to date, had the same membership.

- 3.3 The Partnership Board holds 'second reading' debates, providing early consideration of issues in order that decisions on those issues can be reached during 'third reading' debates at the TfN Board. Partnership Board meetings have been held in private, as allowed under the regulations. This has facilitated frank, confidential discussion prior to decision making sessions of the TfN Board held in public.

4. Membership of the Partnership Board

4.1

The Regulations require Transport for the North to establish a Partnership Board. The membership of the Partnership Board is however not stipulated and is accordingly a matter which has been left to Transport for the North's discretion.

Membership of the Partnership Board is a matter to be determined by the Transport for the North Board, and since Partnership Board membership forms part of the Constitution of Transport for the North, any decision as to the membership of the Partnership Board is one which must be decided on a weighted vote and by a "super majority"; as well as a simple majority.

To be passed a proposal must receive 75% of the weighted votes of the Members *present who are entitled to vote* as well as the votes of a simple majority of those members *present and entitled to vote*. This means that in a vote the weighted votes of Members who abstain are included in the calculation of the figure required to achieve a 75% majority and so effectively count as a vote against the motion. The Members who abstain are also included in the calculation of the number of Members present when calculating whether there is a simple majority of Members in favour of a proposal.

Although the membership of the Partnership Board is currently the same as that of the Transport for the North Board there is no legal requirement for this to be so and it would be possible for the Partnership Board to have a membership which is different from that of the Transport for the North Board.

The Partnership Board is established under the TfN Regulations with a role to advise the Transport for the North Board. If the membership of the two Boards diverges it will be important for the views of the Partnership Board to be formally reported to the Transport for the North Board before it takes a decision.

- 4.2 At the Board Meeting on 12 September 2019 Mayor Steve Rotheram proposed that the three Northern representatives of the Trades Union

Congress (TUC) should be co-opted onto the Transport for the North Board. For members to be co-opted onto the Transport for the North Board the TfN Regulations require that all the voting Members of Transport for the North must agree. Since this proposal did not have unanimous consent the proposal could not be carried.

- 4.3 Mayor Rotherham therefore proposed that these representatives should be appointed as members of the Partnership Board. It was agreed on 12 September that no decision should be made on that occasion but rather that this matter should be further considered as part of a wider review of the Partnership Board.
- 4.4 During the discussion of the proposal on 12 September, some Members supported the proposal whilst others opposed it. A variety of suggestions were made as to possible other additional members of the Partnership Board there was support for the view that a wider review of the membership of the Partnership Board should be undertaken, to consider how best the views of the travelling public might be taken into account in decision making, and also to make the Board more representative by improving the gender balance and increasing ethnic diversity. Members also asked that the review should consider how the views of disability groups could be represented.
- 4.5 Both the Blake/Jones Review and the Williams Review have emphasised the importance of putting the travelling public at the centre of any decision about transport. Widening the membership of the Partnership Board to include representatives of bodies that represent transport users could ensure that the voices of the travelling public can be heard.
- 4.6 In preparing the Strategic Transport Plan, TfN carried out a wide public consultation including relevant interest groups and stakeholder organisations. In addition to stakeholders already mentioned, environmental groups were particularly active in contributing to the public consultation.
- 4.7 Scrutiny Committee may wish to consider whether, and if so to what extent, there may be a case for embracing a wider range of stakeholder on the Partnership Board, so that their views can be considered in preparing advice for the TfN Board and to consider the views of northern citizens. Such a move would increase the size of an already large board so a balance would need to be struck between representativeness and practicality of operation.

5. Constitution Review:

- 5.1 The legislation which established Sub-national Transport Bodies provided that they should be Local Authorities for the purposes of the provisions of Part 5A of the Local Government Act 1972, which requires meetings of Local Authorities to be held in public and for the Agenda, reports and minutes of such meetings to be published.
- 5.2 The Partnership Board has continued to meet in private whereas the Transport for the North Board as a public body is required to meet in public. A concern raised by the responses to the Consultation Questionnaire from a number of Constituent Authorities, was about the Partnership Board meeting in private and questioning the rationale for disapplying the Local Government Act 1972 rules on holding meetings in public.
- 5.3 Transport for the North considers the Partnership Board to be a separate entity and not a Committee of Transport for the North to which the provisions of the Local Government Act 1972 apply. In particular the voting provisions set out in the Regulations which award weighted voted rights to the Constituent Authorities do not apply to the Partnership Board and all members of the Partnership Board have an equal voice and in the event of a vote would have an equal vote.
- 5.4 The Partnership Board is an advisory body not a decision making body and its role is to provide advice to the TfN Board, not to make decisions as to future TfN policy. The establishment of the Partnership Board as a consultative body by the TfN Regulations is sufficient justification legally for it not to be a committee, and that therefore it is not subject to the legislation which requires committee meetings to be held in public, and their agendas and papers published, unless there are reasons for exemption.
- 5.5 The fact that the Partnership Board is not treated as a Committee of Transport for the North has meant that the Partnership Board has been able to operate as a private space in which options can be discussed confidentially before being taken to a public Board meeting of Transport for the North where the decisions are made.
- 5.6 There is however no legal reason why Partnership Board should not hold its meetings in public subject to the duty to maintain confidentiality where a duty of confidentiality applies. Agendas, reports and minutes of the Partnership Board are, like all information TfN holds, susceptible to disclosure in response to a Freedom of Information request, subject to the application of the usual exemptions.

6. Recommendation:

6.1 That the Scrutiny Committee considers this report, and, if it wishes, makes recommendations to the Transport for the North Board on the following:

- (a) Membership of the Partnership Board;
- (b) The role of Partnership Board;
- (c) Whether or not the Partnership Board meetings should meet in public.

Appendices:

List of Background Documents

Transport for the North's Constitution

Required Considerations

Equalities:

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

Consideration	Comment	Responsible Officer	Director
Equalities	A full Impact assessment has not	Deborah Dimock	Julie Openshaw

	been carried out because it is not relevant to this report.		
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Environment and Sustainability

	No
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Consideration	Comment	Responsible Officer	Director
Sustainability / Environment including considerations regarding Active Travel and Wellbeing	A full impact assessment has not been carried out because it is not relevant to this report.	Deborah Dimock	Julie Openshaw

Legal

	No
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Consideration	Comment	Responsible Officer	Director
Legal	Legal implications are included in the report.	Deborah Dimock	Julie Openshaw

Finance

Yes	
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Consideration	Comment	Responsible Officer	Director
Finance	There are no new financial implications as a result of this report.	Deborah Dimock	Julie Openshaw

Resource

	No
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Consideration	Comment	Responsible Officer	Director
Resource	Transport for the North HR Team has confirmed there are no new resource implications as a result of this report.	Deborah Dimock	Julie Openshaw

Risk

	No
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Consideration	Comment	Responsible Officer	Director
Risk	There are no new risks associated with this report.	Deborah Dimock	Julie Openshaw

Consultation

	No
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Consideration	Comment	Responsible Officer	Director
Consultation	A public consultation has not been carried out because it is not relevant to this report.	Deborah Dimock	Julie Openshaw

