

Transport for the North Audit and Governance Committee Meeting – Item 8.1

Subject: Review of the Constitution – Voting Rights for LEP Co-opted Members

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Sponsor: Sasha Wayne, Head of Legal

Meeting Date: Friday 1 March 2019

1. Executive Summary:

- 1.1 This report provides further information on the Constitution Review following the update on the progress of the review of Transport for the North's Constitution and proposed draft amendments to the Constitution presented to the last meeting.
- 1.2 Following a question from a LEP Co-opted Member, the Chair of the Partnership Board has agreed that there should be further consideration and consultation on the question of whether LEP Co-opted Members should be given voting rights on the Transport for the North Board.

2. Recommendation

- 2.1 That Audit and Governance Committee consider the question of voting rights for LEP Co-opted Members of the Transport for the North's Board and provide their views to be taken into account in the Constitution Review.

3. Discussion:

- 3.1 The question of whether voting rights should be given to LEP Co-opted Members on the Transport for the North Board was first raised in a response to the Consultation Questionnaire and so was not raised as a question in the Consultation Questionnaire. The matter was again raised at the Partnership Board Meeting on 7th February 2019 and the Chair agreed to carry out further consultation on this point.
- 3.2 The voting rights on the Transport for the North Board are set out in the Transport for the North regulations and each Constituent Authority

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- Member is entitled to voting rights equivalent to 1 vote for every 200,000 head of population or part thereof. Voting rights on Rail Franchise Matters are based on the percentage of rail passenger miles on the franchised railways within the area of the Constituent Authority. These rights are set out in the Voting Matrix at Appendix 1.
- 3.3 The Transport for the North Regulations also provide that the approval or revision of the Transport Strategy, the approval of Transport for the North's annual budget and the adoption or amendment of the Constitution all require a Super Majority of 75% of the weighted votes and a simple majority of the Members voting in favour to be passed.
- 3.4 Section 102G (4) of the Local Transport Act 2008 provides that the Regulations establishing a Sub-National Transport Body must provide that Co-opted Members should be non-voting. Section 102G (5) provides that the voting Members of the STB may resolve that this provision is not to apply. This means that the voting Members of Transport for the North could resolve to grant voting rights to the Co-opted Members. Such a resolution would be a change to the Constitution and so require a Super Majority of 75% of the votes to be passed. The voting Members of Transport for the North used this provision to grant voting rights to the Rail North Authorities in relation to Rail Franchise matters but not in relation to any other matter. The Transport for the North Regulations provide for the Rail North Authorities to be Co-opted Members of Transport for the North.
- 3.5 Since the voting rights of the Transport for the North Board are set out in the Transport for the North's Regulations, if voting rights were to be awarded to the LEP Co-opted Members it is arguable that they would need to be awarded on the same basis as for the Constituent Authorities.
- 3.6 When the Transport for the North Partnership was first established as a partnership between Local Authority and business Leaders in the North to promote transport infrastructure improvements in the region it was set up as a partnership of equals with no voting rights and all decisions were taken unanimously.
- 3.7 When the Transport for the North Regulations were passed Transport for the North was established as a public body with its membership to be taken from the Constituent Authorities and with prescribed voting rights for those Members. Transport for the North has the right to appoint Co-opted Members if the voting members all agree to do so. At its inaugural meeting, the Constituent Authority Members agreed to appoint the LEP representatives and the representatives of Network Rail, Highways England and HS2 as co-opted members of the Transport for the North Board but without voting rights.
- 3.8 Since its inaugural meeting, decisions have continued to be made on a consensual, unanimous basis and in the 5 Transport for the North Board meetings held since April 2018, a vote has only been held once

and that was in relation to the appointment of a Vice-Chair of the Board.

- 3.9 In considering whether Transport for the North should award voting rights to the LEP Co-opted Members, Transport for the North needs to consider to what extent it is important that the Transport for the North Board has democratic accountability and whether granting voting rights to non-elected Members would affect that democratic accountability.

4.0 Appendix:

- 4.1 Appendix 1 – Transport for the North’s Voting Matrix

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 been carried out because it is not relevant to this report.	Deborah Dimock	Sasha Wayne

Environment and Sustainability

	No
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Consideration	Comment	Responsible Officer	Director
Sustainability / Environment	A full impact assessment has not been carried out	Deborah Dimock	Sasha Wayne

	because it is not relevant to this report.		
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Legal

	No
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Consideration	Comment	Responsible Officer	Director
Legal	there are no legal implications other than those included in the report	Deborah Dimock	Sasha Wayne

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	Sasha Wayne

Resource

	No
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Consideration	Comment	Responsible Officer	Director
Resource	Transport for the North HR Team has confirmed there are no new	Deborah Dimock	Sasha Wayne

	resource implications as a result of this report.		
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Risk

	No
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Consideration	Comment	Responsible Officer	Director
Risk	There are no new risks associated with this report	Deborah Dimock	Sasha Wayne

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. There has been full consultation of Transport for the North's Members and Constituent Authorities	Deborah Dimock	Sasha Wayne

Appendix 1 – THE VOTING MATRIX (Amended 2018)

Constituent Authorities	Population 2015	Population 2017	200,000 Or part	RN Votes
Greater Manchester CA	2,756,162	2,798,799	14	223
West Yorkshire CA	2,281,718	2,307,035	12	209
North East CA (now South of Tyne)	1,957,152	1,152,885	6	14
North of Tyne		819,345	5	51
Liverpool CR CA	1,524,558	1,544,420	8	59
Sheffield CR CA	1,374,655	1,393,445	7	78
Lancashire CC	1,191,691	1,201,855	7	55
Tees Valley CA	667,469	672,497	4	33
North Yorkshire CC	602,277	611,633	4	32
Cumbria CC	497,996	498,375	3	40
Cheshire East	375,392	378,846	2	21
East Riding of Yorkshire	336,685	338,061	2	9
Cheshire W. and Chester	333,917	337,986	2	11
Hull City	258,995	260,673	2	13
Warrington	207,695	209,704	2	12
City of York	206,856	208,163	2	54

North Lincolnshire	169,820	171,294	1	4
NE Lincolnshire	159,570	159,826	1	6
Blackburn with Darwen	146,846	148,772	1	6
Blackpool	139,578	139,870	1	15
Total Votes			86	

Rail North Authorities				
Staffordshire	(862,562)			1
Nottinghamshire	(805,848)			3
Derbyshire	(782,365)			14
Lincolnshire	(736,665)			7
Nottingham	(318,901)			15
Stoke-on-Trent	(251,648)			8
Total Votes			86	993

A resolution which requires a vote would need **44** votes to be carried. A matter requiring a super-majority would need **64** votes **and 11** constituent authorities voting in favour. "Rail North matters" would be determined on the basis of the Rail North voting metrics.

Notes

- 1) Column 1 authorities are CAs/LTAs on their existing boundaries.
- 2) Column 2 population figures are ONS 2015 mid-year estimates based on current CA/LTA boundaries.
- 3) **Column 3 population figures are ONS mid-year 2017**
- 4) Column 4 awards one vote to each CA/LTA for each 200,000 or part thereof of resident population.
- 5) Column 5 shows the number of votes each CA/LTA has as a member of RNL, based on one vote for each 0.1% of passenger miles on the Northern/TPE franchises relating to their area.