

**SURREY COUNTY COUNCIL****CABINET****DATE: 16 JULY 2019****REPORT OF: MR COLIN KEMP, DEPUTY LEADER****LEAD OFFICER: JASON RUSSELL EXECUTIVE DIRECTOR COMMUNITY PROTECTION, TRANSPORT AND ENVIRONMENT****SUBJECT: TRANSPORT FOR THE SOUTH EAST PROPOSAL TO GOVERNMENT****SUMMARY OF ISSUE:**

This report sets out the County Councils position and basis for agreement to a draft proposal to Government agreed by the Transport for the South East (TfSE) Shadow Partnership Board in December 2018 setting out the powers that TfSE wishes to secure should it be offered statutory status in the future.

At present the Secretary of State has subsequently written to all Sub National Transport Bodies informing them that he is not minded to grant statutory status to any shadow STBs for the foreseeable future. The Government's preference for the time being is to continue with the partnership working TfSE already has in place. The recent letter from the Secretary of State clearly states that Department for Transport will continue to take account of TfSE's views in developing national transport policy and investment decisions regardless of any formal status.

**RECOMMENDATIONS:**

It is recommended that Cabinet:

1. Agree the consultation draft of the Proposal to Government (Annex 1) including the powers and responsibilities requested by TfSE and the proposed governance arrangements with the following amendments to Annex 1 (Table 1),
  - a. Rail - The powers being sought for rail should be for strategic schemes only and the County Council must still be consulted directly on the terms of the franchises and any matters that affect us locally (including infrastructure and service enhancements)
  - b. Bus Service Provision - The powers being sought for bus service franchising. Although we agree to this it should be with the caveat that that any conversations and delivery are done in partnership and with the agreement of the County Council
2. Agree to delegate any final changes to the TfSE proposal submitted to Government to the Deputy Leader and Executive Director for Community Protection, Transport and Environment.

<b>REASON FOR RECOMMENDATIONS:</b>
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The TfSE Proposal to Government is a constructive way for Authorities in the South East Area to exercise a common voice to government through the use of the powers sought in Annex 1.

<b>DETAILS:</b>
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### Background

1. TfSE was formed as a shadow sub-national transport body (STB) in June 2017 and is planning to request statutory status later in 2019. If approved by parliament, TfSE will become the second statutory STB alongside Transport for the North (TFN), which was confirmed in April 2018.
2. Should it obtain statutory status in the future, TfSE will have powers and responsibilities that are required to support the work of its constituent authorities and partners. It will have twin purposes to facilitate the development of transport strategy for the region and to promote economic growth.
3. The statutory basis for STBs is set out in Part 5A of the Local Transport Act 2008 as amended by the Cities and Local Government Devolution Act 2016, which states that “the Secretary of State may by regulations establish a sub-national transport body for any area in England outside Greater London” (s102E(1)).
4. To achieve statutory status, TfSE is required to develop a Proposal to Government which will need to demonstrate the strategic case for the creation of a sub-national transport body and set out how TfSE will fulfil the statutory requirements for such a body as outlined in the enabling legislation.
5. The draft proposal will also need to identify the types of powers and responsibilities that the STB will be seeking, as well as identifying the proposed governance structures.
6. The legislation requires that a new sub-national transport body will be promoted by, and have the consent of, its constituent authorities, and that the proposal has been the subject of consultation within the area and with neighbouring authorities.
7. The full membership of the proposed subnational transport body is listed below:

Bracknell Forest Borough Council  
 Brighton and Hove City Council  
 East Sussex County Council  
 Hampshire County Council  
 Isle of Wight Council  
 Kent County Council  
 Medway Council  
 Portsmouth City Council  
 Reading Borough Council  
 Royal Borough of Windsor and Maidenhead Council  
 Slough Borough Council

Southampton City Council  
 Surrey County Council  
 West Berkshire Council  
 West Sussex County Council  
 Wokingham Borough Council

8. In July 2018, the Shadow Partnership Board agreed that a small Member subgroup should be formed to lead the development of the Proposal to Government. The Member sub-group has met regularly since September 2018 and has guided the process for identifying possible powers and responsibilities, as well as informing the development of governance proposals, such as voting mechanisms. The Members of the sub-group are as follow:
- Cllr Tony Page – Berkshire Local Transport Body
  - Cllr Rob Humby - Hampshire County Council
  - Cllr Michael Payne – Kent County Council
  - Cllr Gill Mitchell – Brighton & Hove City Council
  - Cllr Ian Ward – Isle of Wight Council
  - Ross McNally – Enterprise M3 LEP
9. The Members of the sub-group have considered the feedback from the informal engagement and have used it to shape the draft proposal presented as Annex 1.
10. Since the launch of the formal consultation the Secretary of State has subsequently written to all Sub National Transport Bodies informing them that he is not minded to grant statutory status to any shadow STBs for the foreseeable future. The Government's preference for the time being is to continue with the partnership working arrangements TfSE already has in place. The recent letter from the Secretary of State clearly states that the Department for Transport will continue to take account of TfSE's views in developing national transport policy and investment decisions regardless of any formal status. In June 2019, the TfSE Shadow Partnership Board agreed to continue with the formal consultation process so that its proposal can be ready for submission to government should these circumstances change.

#### **CONSULTATION:**

11. The TfSE Shadow Partnership Board, the Chairman of TfSE and the secretariat have undertaken an informal engagement exercise with Elected Members and officers from the constituent authorities, LEPs, district and boroughs and protected landscapes. The purpose of the informal engagement was to offer Members and Officers an opportunity to fully understand the implications of specific powers and responsibilities and the circumstances in which they may be applied.
12. It was also important to engage representatives from the Department for Transport in this informal exercise and to ensure that their views were considered prior to the formal consultation on the draft proposal. Initial feedback has been received from the DfT and has highlighted where additional detail is needed to make the case for the powers that TfSE is likely to request. This feedback is set out in a paragraph below titled 'Feedback

from the Department for Transport'. The following meetings were held during the informal engagement period including the Meeting Title and date:

- Berkshire Chief Executives Thursday 13 December 2018
- Kent Joint Chief Executives Tuesday 08 January 2019
- Kent District & Borough Leaders Meeting Thursday 17 January 2019
- Brighton & Hove City Council Leaders Monday 21 January 2019
- West Sussex Joint Chief Executives Wednesday 23 January 2019
- East Sussex District & Borough Leaders & Chief Executives Meeting Friday 25 January 2019
- Kent and Medway Economic Partnership (SELEP) Monday 28 January 2019
- Team East Sussex (SELEP) Monday 28 January 2019
- Berkshire Local Transport Board Thursday 31 January 2019
- Enterprise M3 LEP Board Thursday 31 January 2019
- Surrey District & Borough Leaders Meeting Wednesday 06 February 2019
- Brighton and Hove City Council Executive Leadership Team Wednesday 06 February 2019
- Slough Informal Briefing Monday 11 February 2019
- Isle of Wight informal briefing Thursday 14 February 2019
- West Berkshire Transport Advisory Group Meeting Friday 15 February 2019
- Solent LEP Informal briefing Monday 25 February 2019
- West Sussex Cabinet Board Tuesday 26 February 2019
- Wokingham Informal Briefing Wednesday 27 February 2019
- Hampshire County Council Departmental Management Team Wednesday 27 February 2019
- Hampshire & Isle of Wight District & Borough Leaders Meeting Friday 01 March 2019
- Portsmouth Deputy Leader Friday 01 March 2019
- Surrey Joint Chief Executives Friday 15 March 2019

13. Feedback from the informal consultation is as follows:-

**Support for the creation of TfSE as a statutory body;**

Throughout the informal engagement exercise, it has been clear that there is considerable support for TfSE and recognition that statutory status should be sought.

**Powers and responsibilities**

- The constituent authorities feel that the powers and responsibilities set out in Annex 1: Proposal to Government (Table 1) are broadly in the right territory.
- It needs to be clearly communicated that powers and responsibilities whilst concurrent can only be delivered following due consultation and with the consent of constituent authorities.

## **Governance**

- It is recognised that the proposed governance arrangements reflect the requirements of DfT. Some comments were received in relation to the voting mechanism, but overall there was broad agreement that it was a sensible approach.

## **Setting the right level of ambition**

- Although there was broad agreement to the powers and responsibilities, some partners expressed views that the proposal was not sufficiently ambitious and that timescales should be accelerated.
- There is a need to balance this feedback with the views of the DfT.
- TfSE is seeking powers and responsibilities that are tailored to the needs of the region and can be effectively delivered.

## **Ensuring the proposal is future proofed**

Although there are some powers that TfSE is not seeking in the current proposal, partners were keen that it is clear to Government that we may seek to request additional powers in the future, for example delivering rail franchises.

## **Engaging with district and borough partners**

- District and borough authorities will be key during the development of the proposal given their role in delivering housing and employment space to facilitate economic growth. It is clear that TfSE needs to continue to engage with these authorities through the following channels:
  - i. County representatives on the Shadow Partnership Board and Senior Officer Group to share regular TfSE updates with district and borough colleagues
  - ii. The district and borough representatives on the Transport Forum should disseminate information to other council Leaders; and
  - iii. Ongoing engagement with officers through the development of the Transport Strategy.

## **Presentation**

- Although the document is mainly a technical submission to Government, there is a need to ensure that the strategic economic case is engaging and sets out how the proposal will help to achieve the TfSE vision.

## **Surrey County Council position**

The County Council agrees with the broad direction set out above by TfSE but also supports decision making, and appropriate powers, being devolved to the most immediate level consistent with their resolution.

On that basis we respond as follows in response to Annex 1:-

- **General Functions**
  - Agreed
- **Rail**
  - The powers being sought for rail should be for strategic schemes only and the County Council must still be consulted directly on the terms of the franchises and any matters that affect us locally (including infrastructure and service enhancements)
- **Highways**
  - Agreed
- **Make Capital Grants for public transport facilities**
  - Agreed
- **Bus Service Provision**
  - The powers being sought for bus service franchising in partnership and with the agreement of the County Council. Same as recommendation.
- **Introducing Integrated Ticketing Schemes**
  - Agreed
- **Air Quality**
  - Agreed
- **Other powers**
  - Agreed
- **Incidental Amendments**
  - Agreed

#### **RISK MANAGEMENT AND IMPLICATIONS:**

14. No risks are envisaged as part of this proposal.

#### **Financial and Value for Money Implications**

15. Surrey County Council currently contributes £58,000 per annum towards the staffing costs to run TfSE. It is expected that any additional costs to set up and administer TfSE with the powers it is seeking will be provided by Government. In the Secretary of State most recent letter he has indicated that he is aware of TfSE engaging with his officials in the DfT to secure multi-year core funding via the forthcoming spending review. Core funding was

secured by Transport for the North (TfN) which recently received statutory status. However, if funding is not provided then the constituent Authorities that make up the TfSE area may be required to contribute additional funding to enable TfSE to operate as intended by this proposal.

#### **Section 151 Officer Commentary**

16. There are no additional financial implications associated with approving the Transport for the South East proposal for Government report which is being prepared from within existing resources. At this stage it is assumed that the implementation and delivery of the proposals will be funded by Central Government. Should this position change then a further report will be produced for consideration of any financial implications that may arise. The establishment of TfSE as a statutory body would be expected to improve the region's ability to influence major transport improvements that are strategically important across the area and to access additional funding

#### **Legal Implications – Monitoring Officer**

17. The Local Transport Act 2008, as amended, permits the establishment of sub-national transport bodies (STBs) for any area in England outside Greater London. The legislation requires that a new sub-national transport body will be promoted by, and have the consent of, its constituent authorities, and that the proposal has been the subject of consultation within the area and with neighbouring authorities.

#### **Equalities and Diversity**

18. There are no direct implications for equality and diversity arising from the decisions made on this report.

#### **WHAT HAPPENS NEXT**

##### **Consultation**

19. TfSE requires a formal response by Cabinet to the consultation by the end of July 2019

##### **Formal consent**

20. Following the conclusion of the consultation in July 2019, TfSE will revise the draft proposal to reflect the feedback received. The final proposal will be issued to all constituent authorities for them to offer formal consent for the submission of the proposal to Government in November 2019. Cabinet in July 2019 will be asked to delegate the final approval of the proposal to the Deputy Leader and Executive Director for Community Protection, Transport and Environment.

##### **Contact Officer:**

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##### **Consulted:**

Colin Kemp, Deputy Leader  
Jason Russell, Executive Director for Community Protection, Transport and Environment  
Lucy Monie, Head of Highways and Transport  
Paul Millin, Strategic Transport Group Manager

**Annexes:**

Annex 1: TfSE Draft Proposal to Government