



Committee report

Committee	CABINET
Date	13 JUNE 2019
Title	TRANSPORT FOR SOUTH EAST (TfSE)
Report of	THE CABINET MEMBER FOR INFRASTRUCTURE AND TRANSPORT

EXECUTIVE SUMMARY

1. The purpose of this report is to set out the context and outline the progress on Transport for the South East (TfSE) becoming a Sub National Transport Body.
2. It is also to request the Cabinet adopt the Isle of Wight Council response to the Draft TfSE proposal to Government as outlined in paragraphs 28 – 40.

BACKGROUND

3. On the 18th March 2019, the TfSE Shadow Board approved a draft Proposal on its operating model to Government for formal consultation, which is attached at Appendix 1 to this report. Consultation will focus on key stakeholders, including government agencies and transport providers.
4. The formal consultation period will close on 31 July 2019, and a final proposal will be recommended to the Shadow Partnership Board meeting on the 19th September 2019. Further to this Board meeting, a report will be taken to Cabinet to seek consent for the submission of the proposal to Government by TfSE.
5. The subject of the consultation is the exact terms of a proposal to Government requesting statutory status for TfSE as a Sub-National Transport Body, which will require approval by Parliament. Transport for the North was the first Sub National Transport Body (STB) to achieve statutory status in April 2018.
6. The statutory basis for an 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 says that “the Secretary of State may by regulations establish a sub-national transport body for any area in England outside Greater London” (s102E(1)) and it goes on to set the conditions and limits for such arrangements.
7. The twin purposes for creating an STB are to facilitate the development of transport strategies and so promote economic growth for the area.

8. The legislation requires a new STB to be promoted by, and have the consent of, its constituent authorities, and that its Proposal to Government has been the subject of consultation within the area and with neighbouring authorities. TfSE is planning that the formal consultation from 3 May – 31 July 2019 will be carried out in a way that meets this condition.
9. TfSE was established in shadow form in June 2017. It brings together 16 Local Transport Authorities, five Local Enterprise Partnerships and other key stakeholders, including environmental groups, transport operators, district and borough authorities and national agencies, to develop an ambitious Transport Strategy for the South East region.
10. TfSE will support the growth of the South East economy, ensuring the delivery of high quality, sustainable, and integrated transport systems. In brief, this will:
 - i) support increased productivity to grow the South East and UK economy and compete in the global marketplace;
 - ii) help to improve safety, quality of life and access to opportunities for all; and
 - iii) protect and enhance the South East's unique natural and historic environment.
11. An STB is a body corporate, which may only be established by the Secretary of State if it is considered that:
 - i) its establishment would facilitate the development and implementation of transport strategies for the area; and
 - ii) the objective of economic growth in the area would be furthered by the development and implementation of such strategies.
12. Sixteen upper tier authorities in the South East have been working together since 2016 to develop a proposal for an STB. They are:

Isle of Wight; Kent; Bracknell Forest; Brighton and Hove; East Sussex; Hampshire; Medway; Portsmouth; Reading; Slough; Southampton; Surrey; West Berkshire; West Sussex; Windsor and Maidenhead; and Wokingham.
13. The existing Shadow Partnership Board also includes arrangements for involving the five Local Enterprise Partnerships (Coast to Capital, Enterprise M3, Solent, South East, Thames Valley Berkshire); two National Park Authorities (South Downs and New Forest); 44 Boroughs and Districts in East Sussex, Hampshire, Kent, Surrey and West Sussex; and the transport industry and end user voice in its governance.
14. These efforts have been acknowledged by the Department for Transport, and a grant of £1million was awarded to TfSE to fund the development of the emerging Transport Strategy for the South East.

15. 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.
16. 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.
17. 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.
18. The consultation is a full twelve-week public consultation, which will be made available on the TfSE website and circulated to relevant stakeholders. Constituent authorities and other TfSE partner organisations are encouraged to circulate the consultation document to their own stakeholders.

The Draft Proposal to Government

19. At its meeting on 18 March 2019, the TfSE Shadow Partnership Board approved a draft Proposal to Government for formal consultation, which is attached at Appendix 1.
20. The consultation period will close on 31 July 2019. During this time there will be ongoing dialogue with key partners and stakeholders about the content of the proposal. All constituent authorities will be expected to provide a formal response to the consultation.
21. A final proposal will be recommended to the Shadow Partnership Board meeting in September 2019 and will be submitted to Government in November 2019. At this point formal consent will be required from all constituent authorities to signal their support for the creation of TfSE as a statutory body.
22. Once the Government has received the proposal from TfSE, there will be a period of three to six months while the Secretary of State considers the request from TfSE. The Secretary of State will then formally respond to the TfSE proposal setting out the powers and responsibilities that have been granted to TfSE. Work will then begin on drafting the Statutory Instrument which will be laid before Parliament. It is anticipated that this will happen in late 2020. All constituent authorities will be required to give their consent to the creation of the statutory body following the formal response from the Secretary of State.
23. The draft proposal has the following headings:
 - (a) Executive Summary
 - (b) The Ambition
 - (c) Strategic and Economic Case
 - (d) Constitutional Arrangements
 - (e) Functions

Constitutional arrangements

24. Each constituent authority will appoint one of their elected members or their elected mayor as a member of TfSE on the Partnership Board. It is intended that the regulations should provide for the appointment of persons who are not elected members of the constituent authorities to be co-opted members of the TfSE Partnership Board. Currently two LEPs, a representative from the Boroughs and Districts, the Chair of the TfSE Transport Forum, and a representative from the protected landscapes in the TfSE area have been co-opted onto the Shadow Partnership Board. A further report will be produced in September to cover the issues highlighted in this paragraph. The procedure for appointing outside bodies will be as per approved policies.
25. Several voting options were considered to find a preferred option that represents a straightforward mechanism as well as the characteristics of the partnership, and which does not provide any single authority with an effective veto. The starting point for decisions will be consensus, and if that can't be achieved then decisions will require a simple majority of those Constituent Bodies who are present and voting. Where consensus cannot be achieved the following matters will require enhanced voting arrangements:
 - (a) The approval and revision of TfSE Transport Strategy;
 - (b) The approval of TfSE annual budget;
 - (c) Changes to the TfSE constitution.
26. Decisions on these issues will require both a super-majority, consisting of three quarters of the weighted vote in favour of the decision, and a simple majority of the constituent authorities. The details of the proposed weighting voting system are set out in Section 5 of the draft Proposal to Government set out in Appendix 1.

Functions

27. The specific functions that TfSE is seeking as part of its Proposal to Government are set out in Section 5 of Appendix 1. The proposed powers will operate concurrently and with the consent of the constituent authorities. In outline these include the following:
 - (a) General STB functions relating to the preparation of a Transport Strategy, advising the Secretary of State and co-ordinating transport functions across the TfSE area (with the consent of the constituent authorities);
 - (b) Local Transport functions;
 - (c) Being consulted on rail franchising and setting the overall objectives for the rail network in the TfSE areas;
 - (d) Jointly setting the Road Investment Strategy (RIS) for the TfSE area;
 - (e) Obtaining certain highways powers which would operate concurrently and with the consent of the current highways authority to enable regionally significant highways schemes to be expedited;
 - (f) Securing the provision of bus services, entering into quality bus partnership and bus franchising arrangements with the consent of the constituent authorities;
 - (g) Introducing integrated ticketing schemes;

- (h) Establish Clean air zones with the power to charge high polluting vehicles for using the highway with the consent of the constituent authorities;
- (i) Power to promote or oppose Bills in Parliament;
- (j) Incidental powers to enable TfSE to act as a type of local authority.

Proposed Isle of Wight Council Comments

- 28. The following paragraphs 28 to 40 are proposed responses to the formal consultation for the Cabinet to approve.
- 29. There are clear benefits to be gained through participation in TfSE, and the council's involvement to date places it well to ensure that local outcomes can ultimately be delivered across the region. With the economic links to the two cities and the wider Hampshire area the Island would benefit from being in TfSE in supporting future transport infrastructure for the region and on the Island.

General Functions

- 30. The Isle of Wight Council supports the general functions and agrees that solutions required to deliver economic growth are best planned and developed in a coordinated manner and often cross boundary on a required scale.

Local Transport Functions

Rail

- 31. The council supports the right to be consulted about future rail franchises and agrees that TfSE should have a role in shaping future rail service provision.
- 32. The council also supports TfSE seeking powers to set high level output specification (HLOS) for Rail. This power would enable TfSE to act jointly with the Secretary of State to set and vary the HLOS in the South East. This is important in achieving a more balanced split in transport modes and would ensure greater prospects to deliver transformational investment in rail infrastructure.

Highways

- 33. The Highway powers sought are agreed on the basis that they are exercisable concurrently and only with the consent of the relevant highway authority.
- 34. The power to set the Road Investment Strategy (RIS) jointly with the Secretary of State would be welcome and could allow a more integrated approach between strategic road and rail investment across the South East. However, the council believes this aspect of the highway powers (Section 3 and Schedule 2 of the Infrastructure Act 2015) may benefit from a softer approach in order to gain the support of the Department for Transport (DfT).

Make Capital grants for public transport facilities

- 35. The council supports this concurrent power to support the funding and delivery of joint projects with constituent local authorities.

Bus Service Provision

36. The council supports TfSE seeking a duty to secure the provision of bus services and bus service franchising powers on a concurrent basis with the council as the local transport authority.

Smart Ticketing

37. The council supports the requirement for these powers on a concurrent basis and believes such powers would allow such products as Solent Go (on a current multi operator ticket) within South Hampshire could be expanded on a wider more regional scale.

Air Quality

38. The council supports TfSE seeking this general charging power on a mechanism for the introduction of Clean Air Zones (CAZ) subject to the consent of the local transport authority.
39. It should be noted that there are currently no Clean Air Zones on the Island.

Other Powers

40. The council supports TfSE seeking these powers on a concurrent basis.

Conclusions and Way Forward

41. TfSE provides an opportunity to support and deliver growth plans across the region through the development of a long-term strategic programme of transport measures to facilitate economic growth and make the South East more competitive. It will complement the work of the LEPs and support delivery of Local Plans.
42. It would enable the council to influence the prioritisation of investment by the major national transport agencies such as Highways England and Network Rail in a way that has not been possible in the past.
43. TfSE will address some of the barriers to growth of the economy that have been held back by transport infrastructure shortcomings, notably the strategic infrastructure, that is the responsibility of Network Rail and Highways England. The STB would enable the council to more directly influence the priorities and programmes of these agencies, so helping to secure delivery of longstanding transport infrastructure ambitions.
44. The consultation period closes on 31 July 2019, and the responses will be reported to the next meeting of the TfSE Shadow Partnership Board on 19 September 2019. That meeting will approve a final version of the Proposal and will seek formal consent from the constituent authorities.
45. The consent from The Isle of Wight Council will be delegated to the Leader / reported to cabinet on 13 June 2019.
46. The application will then be considered by the DfT and by Parliament. The provisional go live date is late 2020.

STRATEGIC CONTEXT

47. This proposal aligns to the Isle of Wight Council Corporate Plan. Aligning with the wider region will impact improved transport to support Growth, Regeneration, Opportunity and Wellbeing.
48. This also aligns with the recommendations of the Infrastructure Task Force to improve infrastructure, public transport and mainland connectivity.

CONSULTATION

49. See BACKGROUND section above for details of the government consultation associated with the TfSE proposal.

FINANCIAL / BUDGET IMPLICATIONS

50. TfSE has established an annual subscription of £30,000 per unitary and £58,000 per county council. This fee is currently split between the Planning Department budget and the Highways department budget.
51. DfT has recently settled a one-off grant of £1 million towards the cost of the development of the Transport Strategy. There is a reasonable expectation that DfT will allocate some core revenue funding for TfSE once it has achieved statutory status, on the basis that the constituent authorities will continue to make contributions. TfSE will also seek further capital funding from the DfT to take forward its technical work programme.

LEGAL IMPLICATIONS

52. Schedule 5A of the Local Transport Act 2008 enables the Secretary of State by regulations to establish a sub-national transport body for any area in England outside Greater London, where this would facilitate the development of transport strategies for the area and such strategies would further the objective of economic growth in the area.

EQUALITY AND DIVERSITY

53. The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. None of the identified groups are likely to be adversely affected by the recommendations of this report.

OPTIONS

54. Option A: Cabinet **approve** the Isle of Wight Council response to the Draft TfSE proposal to Government as outlined in paragraphs 28 to 40.
55. Option B: Cabinet **do not approve** the Isle of Wight Council response to the Draft TfSE proposal to Government as outlined in paragraphs 28 to 40.

RISK MANAGEMENT

56. The following risks have been identified in this proposal:
57. Option A: Cabinet **approve** the Isle of Wight Council response to the Draft TfSE proposal to Government as outlined in paragraphs 28 to 40.
- (a) **Unintended Consequences:** There is a risk that the council backed responses to the consultation have consequences that are not currently known or identified. This risk is mitigated to the best possible extent through a detailed review of the TfSE proposal and by the council being represented on the TfSE Shadow Board.
58. Option B: Cabinet **do not approve** the Isle of Wight Council response to the draft TfSE proposal to Government as outlined in paragraphs 28 to 40.
- (a) **Lack of Influence in the future of TfSE:** There is a risk that if the council do not provide comments to the draft TfSE proposal, the consultation may result in a situation not supported by the council. This risk is mitigated partially as the council will be represented on the TfSE Board and will have voting rights.

EVALUATION

59. Option A (recommended): Cabinet **approve** the Isle of Wight Council response to the Draft TfSE proposal to Government as outlined in paragraphs 28 to 40.
- (a) The benefits of this option are that the council views will be heard by the Government. These views are largely favourable and will allow the council to continue to support TfSE. Future benefits of a positive relationship with TfSE include: ability to influence policy, support for external funding opportunities and improved transportation infrastructure for the Isle of Wight.
- (b) The disbenefits of this option are minimal as this will not lock the council into any position, the comments just form part of a larger consultation.
60. Option B (not recommended): Cabinet **do not approve** the Isle of Wight Council response to the draft TfSE proposal to Government as outlined in paragraphs 28 to 40.
- (a) The benefits of this option are minimal if the council wishes to continue its relationship with TfSE.
- (b) The disbenefits of this option are that the council's views will not be taken into account in the development of TfSE and its future operation. This could result in a TfSE that the council is not willing to support or continue participation in.

RECOMMENDATION

61. Cabinet **approve** the Isle of Wight Council response to the Draft TfSE proposal to Government as outlined in paragraphs 28 to 40.

APPENDICES ATTACHED

62. [Appendix 1: Proposal to Government for formal consultation](#)

BACKGROUND PAPERS

63. Not applicable.

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