

<b>DECISION-MAKER:</b>	<b>CABINET</b>		
<b>SUBJECT:</b>	TRANSPORT FOR SOUTH EAST CONSULTATION		
<b>DATE OF DECISION:</b>	20 AUGUST 2019		
<b>REPORT OF:</b>	CABINET MEMBER FOR TRANSPORT & PLACE		
<b><u>CONTACT DETAILS</u></b>			
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<b>STATEMENT OF CONFIDENTIALITY</b>			
None			
<b>BRIEF SUMMARY</b>			
To present an overview of the draft Proposal to Government for the establishment of a Sub-national Transport Body for the South East and set out the basis of the Council's response to the consultation.			
<b>RECOMMENDATIONS:</b>			
	(i)	That Cabinet notes the content of the draft proposal to establish a sub-national transport body for the South East to be known as Transport for the South East (TfSE).	
	(ii)	That Cabinet agrees the principles set out in this report to form the basis of the Council's response to the consultation on the draft proposal.	
	(iii)	That authority is delegated to the Director of Growth to finalise the detailed consultation response based on the approved principles following consultation with the Cabinet Member for Transport & Place.	
<b>REASONS FOR REPORT RECOMMENDATIONS</b>			
1.	The legislation requires any proposal for a new sub-national transport body 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, the shadow sub-national transport body, is carrying out this formal consultation process from 3 May – 31 July 2019 in order to fulfil this condition.		
2.	Southampton City Council, as one of the 16 constituent authorities of the Shadow Partnership Board, is required to respond to the consultation that sets out the Proposal to Government.		
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>			
3.	<p>The alternative option considered and rejected are as follows:</p> <ul style="list-style-type: none"> <li>The Council chooses not to respond to the consultation. This would result in weakening the Council's position as one of the TFSE constituent authorities and make it unclear at a sub-national level and to Government the SCC position regarding the establishment of a sub-national transport body. The legislation requires a new sub-national</li> </ul>		

	<p>transport body to be promoted by, and have the consent of its constituent authorities. This could undermine the process for the establishment of a Sub-national Transport Body and impact on the level of SCC influence in the development of the transport strategy for the south east and the future allocation of transport funding.</p>
<p><b>DETAIL (Including consultation carried out)</b></p>	
4.	<p><u>BACKGROUND</u> On 18 March 2019, the Transport for the South East (TfSE) Shadow Partnership Board (SPB) approved a Draft Proposal to Government for formal consultation, which can be accessed <a href="#">here</a>.</p>
5.	<p>The formal consultation period will close on 31 July 2019, although an extension has been secured in order for the Council to submit its final response following consideration by Cabinet. Since the consultation opened on the 3<sup>rd</sup> May, correspondence received by TfSE from the Secretary of State for Transport has indicated the Government's preference to work with shadow sub-national transport bodies (STBs) on a voluntary partnership basis for the time being. It was previously anticipated that the TfSE proposal would be finalised and submitted to Government by the end of this calendar year, but in light of this correspondence these timescales may now need to be reviewed.</p>
6.	<p>Consultation responses and next steps will be discussed at September's meeting of the TfSE Shadow Partnership Board. Should the Council be required to respond to proposals arising, a follow up report to this could be prepared for the consideration of the October Cabinet meeting as necessary.</p>
7.	<p>The subject of this 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 subnational transport body to achieve statutory status in April 2018.</p>
8.	<p>The statutory basis for a sub-national transport body 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. The twin purposes for creating a sub-national transport body are to facilitate the development of transport strategies and so promote economic growth for the area.</p>
9.	<p>The legislation requires a new sub-national transport body 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 carrying out this formal consultation process from 3 May – 31 July 2019 in order to fulfil this condition.</p>
10.	<p>Transport for the South East (TfSE) was established in shadow STB form in June 2017. In order to develop an ambitious Transport Strategy for the South East region, 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</p>
11.	<p>Through its' work on strategic level transport infrastructure planning, TfSE will seek to support the growth of the South East's economy, ensuring the</p>

	<p>delivery of high quality sustainable and integrated transport systems. In brief, this will:</p> <ul style="list-style-type: none"> <li>(I) support increased productivity to grow the South East and UK economy and compete in the global marketplace;</li> <li>(II) help to improve safety, quality of life, and access to opportunities for all; and</li> <li>(III) protect and enhance the South East's unique natural and historic environment.</li> </ul>
12.	<p>A sub-national transport body is a body corporate, which may only be established by the Secretary of State if it is considered that:</p> <ul style="list-style-type: none"> <li>(i) its establishment would facilitate the development and implementation of transport strategies for the area; and</li> <li>(ii) the objective of economic growth in the area would be furthered by the development and implementation of such strategies.</li> </ul>
13.	<p>Sixteen upper tier authorities in the South East have been working together since 2016 to develop a proposal for a sub-national transport body. They are:</p> <ul style="list-style-type: none"> <li>• Bracknell Forest Borough Council</li> <li>• Brighton and Hove City Council</li> <li>• East Sussex County Council</li> <li>• Hampshire County Council</li> <li>• Isle of Wight Council</li> <li>• Kent County Council</li> <li>• Medway Council</li> <li>• Portsmouth City Council</li> <li>• Reading Borough Council</li> <li>• Slough Borough Council</li> <li>• Southampton City Council</li> <li>• Surrey County Council</li> <li>• West Berkshire Council</li> <li>• West Sussex County Council</li> <li>• The Royal Borough of Windsor and Maidenhead Council</li> <li>• Wokingham Borough Council</li> </ul>
14.	<p>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.</p>
15.	<p>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.</p>
16.	<p>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.</p>
17.	<p>The draft proposal will also need to identify the types of powers and responsibilities that the sub-national transport body will be seeking, as well as identifying the proposed governance structures.</p>

18.	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.
19.	In fulfilment of this requirement, TfSE has provided for a public consultation to last twelve weeks, 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.
20.	<b><u>THE DRAFT PROPOSAL TO GOVERNMENT</u></b> At its meeting on 18 March 2019, the TfSE Shadow Partnership Board approved a Draft Proposal to Government for formal consultation, which can be viewed in appendix 1 and accessed by weblink <a href="#">here</a>
21.	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 and the Council has secured an extension until the end of August.
22.	As indicated above, it was previously envisaged that a final proposal would be recommended to the Shadow Partnership Board meeting in September 2019 and submitted to Government in November 2019. It was anticipated that the Secretary of State would then make a formal response to the proposal setting out the powers and responsibilities to be granted prior to the drafting of the requisite Statutory Instrument to be laid before Parliament with the consent of all the constituent authorities.
23.	However, in light of the correspondence received from the Secretary of State, further information is awaited on future timescales, and the Shadow Partnership Board will deliberate on next steps when it next meets in September. The draft proposal has the following headings: <ul style="list-style-type: none"> <li>- Executive Summary</li> <li>- The Ambition</li> <li>- Strategic and Economic Case</li> <li>- Constitutional Arrangements</li> <li>- Functions</li> </ul>
24.	<b><u>CONSTITUTIONAL ARRANGEMENTS</u></b> It is proposed that 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 number of 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

	<p>Bodies who are present and voting. Where consensus cannot be achieved the following matters will require enhanced voting arrangements:</p> <ul style="list-style-type: none"> <li>- The approval and revision of Transport for the South East's ("TfSE") Transport Strategy;</li> <li>- The approval of TfSE annual budget; and</li> <li>- Changes to the TfSE constitution.</li> </ul>
25.	<p>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 weighted voting system are set out in Section 4 of the Draft Proposal to Government.</p>
26.	<p><b><u>FUNCTIONS</u></b></p> <p>The specific functions that TfSE is seeking as part of its Proposal to Government are set out in Section 5. These include the following:</p> <ul style="list-style-type: none"> <li>- General sub-national transport body 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);</li> <li>- Local Transport functions;</li> <li>- Being consulted on rail franchising and setting the overall objectives for the rail network in the TfSE areas;</li> <li>- Jointly setting the Road Investment Strategy RIS for the TfSE area;</li> <li>- 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;</li> <li>- Securing the provision of bus services, entering into quality bus partnership and bus franchising arrangements with the consent of the constituent authorities;</li> <li>- Introducing integrated ticketing schemes;</li> <li>- Establishing Clean air zones with the power to charge high polluting vehicles for using the highway with the consent of the constituent authorities;</li> <li>- Power to promote or oppose Bills in Parliament; and</li> <li>- Incidental powers to enable TfSE to act as a type of local authority.</li> </ul>
27.	<p><b><u>DRAFT RESPONSE OF SOUTHAMPTON CITY COUNCIL</u></b></p> <p><b><u>Subsidiarity and Devolution of Powers</u></b></p> <p>The Council takes the view that the principle of subsidiarity should underpin the powers available to TfSE as an STB as far as possible, with an emphasis on drawing down powers from Government that lend themselves to sub-national governance and would sit well at the regional level. On this basis, the Council welcomes the inclusion of the following powers as part of the proposal:</p> <ul style="list-style-type: none"> <li>- To set High Level Output Specification for Rail;</li> <li>- To set Road Investment Strategy (RIS) for the Strategic Road Network (SRN).</li> </ul>
28.	<p>The Proposal to Government is a key step in a process which will positively shape the role of TfSE in the future management of strategic transport infrastructure investment for the South East for years to come.</p>

29.	Although the draft proposal includes consideration of the process to make future amendments to TfSE's functions and constitution, the initial phase of set up will be pivotal in establishing the terms of any future negotiation, and is likely to be the best opportunity at which to seek true devolution of powers from central government to the region.
30.	The Council would therefore welcome further discussion as to what other powers held centrally at present could be beneficially devolved to the regional level with a view to improving outcomes for residents, and to supporting sustainability and economic growth.
31.	<p><u>Concurrent Powers and Consent</u></p> <p>A significant part of Section 5 of the draft proposal focuses on a number of powers to be held concurrently with the 16 constituent Local Transport Authorities (LTAs). In most cases (though not all), the proposal requires that the exercise of such powers is with the consent of the affected local authority(ies). However, as currently written, there are a number of significant powers that do not currently require this, such as constructing highways or making capital grants for the provision of public transport facilities. The Council would require that any such powers may only be exercised by TfSE with the express consent of the authority(ies) affected which concurrently hold the same power.</p>
32.	The proposed constitutional arrangements stressing majority and supermajority decision making may be appropriate on matters of strategy, budget, and constitution, but for particular interventions and activities it is vital to establish the principle of local consent. The draft proposal rules out the use of vetoes per se, but in certain circumstances the withholding of local consent could amount to a veto, and the Council would like the Proposal to Government to make it clear that this right would be enshrined in the constitutional arrangements to preserve the final say of existing LTAs on interventions within and affecting their areas.
33.	These two key principles, the one of consent and the other of subsidiarity, should be at the core of the proposal, with the principle of local consent written into the constitutional arrangements. The Council would support further engagement with other constituent authorities about how best to further clarify the centrality of these guiding principles over and above the necessary detail and legal provisions to be included in the Proposal to Government.
34.	In the Solent Area, through bodies such as the Partnership for Urban South Hampshire (PfSH) working collaboratively on land use planning, and Solent representing the four LTAs collaborating on strategic transport issues, this has demonstrated clear benefits that can be derived from stronger forms of cross-boundary and multi-LTA partnership working. This approach, which has seen the establishment of joint committees, has gone a long way to achieving mutually beneficial transport outcomes on a sub-regional basis.
35.	Such sub-regional governance in transport has helped support the development of a sub-regional transport model for the Solent, which has then helped foster co-operation and substantial inward investment as a result of funding bids and supporting the planning for strategic development. This co-operation has also supported development of Solent Go - a multi-operator bus and ferry smartcard. More recently, this has also enabled the LTAs to work collaboratively on joint bids to the DfT's Transforming Cities Fund for

	the Portsmouth and Southampton City Regions and a Solent wide bid to the Future Mobility Zone fund.
36.	The Solent area is home to three international gateways, namely the maritime ports of Southampton and Portsmouth, and the airport of Southampton. This makes the Solent area a key area of focus for TfSE as the transport strategy is developed alongside the ambitious plans for sustainable growth. It will be important to ensure there is positive integration and alignment at a sub-national and sub-regional level to maintain the successful partnerships and investment in the Solent.
37.	<p>It is anticipated, there are new and unique benefits that can be realised through the creation of a sub-national transport body for the South East, entrusted with statutory powers. Specifically, when formalised as a sub-national transport body, TfSE will be able to:</p> <ul style="list-style-type: none"> <li>• Exercise greater influence over Government than individual authorities, or informal joint working arrangements between them;</li> <li>• Lobby for and seek to attract more investment in the region as a whole and for specific localities; and</li> <li>• Obtain powers over and above those held by specific authorities, drawing funding and powers down from Government to facilitate more regional and local solutions for sub-national transport needs and issues.</li> </ul>
38.	There are clear benefits to be gained through participation in TfSE, where this does not seek to duplicate cross-boundary collaboration which is best addressed via existing Solent Transport and PfSH joint working processes. The Council's significant involvement with TfSE to date places it well to help ensure that locally beneficial outcomes for strategic transport infrastructure can ultimately be delivered across the region.
39.	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 and Local Transport Plans. Such a body would also 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.
40.	The consultation period closes on 31 July 2019 with the Council delaying its final submission until after Cabinet approval, and the responses will be reported to the next meeting of the TfSE Shadow Partnership Board on 19 September 2019, where the constituent authorities will discuss next steps in light of the Secretary of State for Transport's recent letter. Subject to agreement of this report's recommendations, the Council will seek to work with other constituent authorities, through the Shadow partnership Board to refine the proposals, accounting for the full analysis of the consultation feedback.
41.	Authority is therefore sought to formally submit a detailed response to the draft proposal in consultation with the Cabinet Member for Transport & Place based upon the principles outlined above. Such a response will comment on each of the powers sought in detail, liaising with the Cabinet Member.

<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
42.	TfSE has established an annual subscription of £58,000 per county and £30,000 per unitary authority, which is set and agreed by the Shadow Partnership Board on an annual basis. The Council contribution is funded by SCC Strategic Transport Revenue budget. The Department for Transport (DfT) has recently settled a one-off grant of £1,000,000 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.
<b><u>Property/Other</u></b>	
43.	N/A
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
44.	The statutory basis for a sub-national transport body 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.
<b><u>Other Legal Implications:</u></b>	
45.	N/A
<b>RISK MANAGEMENT IMPLICATIONS</b>	
46.	Through delegated authority there will be further opportunity for SCC to refine its response to the consultation, for which we will also be represented at the Shadow Board by the Cabinet Member for Transport & Place.
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
47.	The twin purposes for creating a sub-national transport body are to facilitate the development of transport strategies and so promote economic growth for the area. TFSE and its emerging Transport Strategy for the South East will therefore need to be considered alongside both the national policy and also that of the Solent and SCC Local Transport Plan and other supporting strategies of the Solent LEP and Partnership for Urban South Hampshire.
<b>KEY DECISION?</b>	<b>Yes</b>
<b>WARDS/COMMUNITIES AFFECTED:</b>	<b>ALL</b>
<b><u>SUPPORTING DOCUMENTATION</u></b>	
<b>Appendices</b>	
1.	TfSE Draft Proposal to Government



## Documents In Members' Rooms

1.	<a href="http://www.legislation.gov.uk/ukpga/2008/26/part/5A">http://www.legislation.gov.uk/ukpga/2008/26/part/5A</a> (online only)	
<b>Equality Impact Assessment</b>		
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.		<b>No</b>
<b>Data Protection Impact Assessment</b>		
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.		<b>No</b>
<b>Other Background Documents</b>		
Other Background documents available for inspection at:		
<b>Title of Background Paper(s)</b>	<b>Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)</b>	
1.	N/A	