

Report Title:	Transport for the South East – Draft Proposal to Government
Contains Confidential or Exempt Information?	No - Part I
Member reporting:	Cllr Johnson, Lead Member for Infrastructure, Transport Policy, Housing and Property
Meeting and Date:	Full Council – 24 September 2019
Responsible Officer(s):	Hilary Hall: Interim Director of Adult Services and Deputy Director Strategy and Commissioning and Ben Smith: Head of Commissioning - Communities
Wards affected:	All

www.rbwm.gov.uk



REPORT SUMMARY

1. This report seeks to secure the Council's support for a draft proposal to Government agreed by the Transport for the South East (TfSE) Shadow Partnership Board in March 2019, setting out the powers that TfSE wishes to secure should it be offered statutory status.
2. Subsequently, the previous Secretary of State for Transport, wrote to all shadow Sub-National Transport Bodies (STBs), informing them that he was not minded to grant statutory status to any shadow STBs for the foreseeable future.
3. However, the letter clearly stated 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.
4. The report seeks to delegate powers to the Interim Director of Adult Services and Deputy Director Strategy & Commissioning in conjunction with the Lead Member for Infrastructure, Transport Policy, Housing and Property to agree final changes to the TfSE proposal in the event that it is submitted to Government at a future date.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That Full Council notes the report and:

- i) **Agrees to support the consultation draft of the Proposal to Government (Appendix 1) including the powers and responsibilities requested by TfSE and the proposed governance arrangements; and**
- ii) **Agrees to delegate any final changes to the TfSE proposal submitted to Government to the Interim Director of Adult Services and Deputy Director Strategy & Commissioning in conjunction with the Lead Member for Infrastructure, Transport Policy, Housing and Property**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

- 2.1 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 Local Enterprise Partnerships (LEPs) and will support delivery of Local Plans.
- 2.2 It will 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. TfSE will seek to address some of the barriers to growth of the economy that have been held back by transport infrastructure shortcomings, notably those affecting strategic road and rail networks. It will enable the council, to more directly influence the priorities and programmes of these agencies, so helping to secure delivery of long-standing transport infrastructure ambitions.
- 2.3 The options considered are set out in Table 1 below.

Table 1: Options arising from this report

Option	Comments
To support the draft proposal to Government as agreed by the TfSE Shadow Partnership Board and delegate powers to agree the final changes to the proposal to the Lead Member for Infrastructure, Transport Policy, Housing and Property. This is the recommended option	This will allow TfSE to seek statutory status promptly in the event that Government seeks to formalise STBs. Even as an informal body, TfSE would provide a constructive way for local authorities across the South East to speak with a single voice to Government on transport issues.
To seek significant amendments to the draft proposal agreed by the TfSE Shadow Partnership Board.	This is not recommended, since the proposal has been developed over months of careful negotiation with all constituent local authorities and Local Enterprise Partnerships. Significant changes at this late stage would most likely be resisted. The Council has previously been consulted directly and through the Thames Valley Berkshire Local Transport Body (TVBLTB).
Not to support the draft proposal agreed by the TfSE Shadow Partnership Board and to discontinue membership of TfSE.	This is not recommended as it would leave the Council isolated and would weaken its negotiating position with key stakeholders such as Network Rail and Highways England. It could also result in a loss of funding for strategic, cross-boundary transport schemes, including funding for scheme on the Major Roads Network.

3. KEY IMPLICATIONS

3.1 The key implications are set out in Table 2.

Table 2: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
TfSE submits a formal proposal seeking statutory status to Government	No proposal submitted	Proposal to be submitted by November 2019	-	-	Decision expected from the Secretary of State within 3 to 6 months

4. FINANCIAL DETAILS / VALUE FOR MONEY

4.1 TfSE has established an annual subscription of £58,000 per county and £30,000 per unitary. The six Berkshire Unitary Authorities have previously chosen to act together and join TfSE via the Thames Valley Berkshire Local Transport Body (BLTB). Therefore, for the purposes of subscriptions, BLTB has been treated as a county council. Slough BC, acting as the lead authority for the joint committee has paid the 2019/20 subscription and collected a one-sixth share from each unitary (£9,667 each).

4.2 DfT has recently settled a one-off grant of £1,000,000 towards the cost of the development of the Transport Strategy for the South East. 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.

Table 3: Financial Impact of report's recommendations

REVENUE COSTS	2019/20	2020/21	2021/22
Additional total	£0	£9,667	£9,667
Reduction	£0	£0	£0
Net Impact	£0	£9,667	£9,667

CAPITAL COSTS	2019/20	2020/21	2021/22
Additional total	£0	£0	£0
Reduction	£0	£0	£0
Net Impact	£0	£0	£0

5. LEGAL IMPLICATIONS

5.1 The statutory basis for sub-national transport bodies 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.

- 5.2 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.
- 5.3 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
- 5.4 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 undertook formal consultation from 3 May to 31 July 2019 in order to meet this condition.

6. RISK MANAGEMENT

- 6.1 There are few risks to the council connected with TfSE; the proposal sets out key strategy, influencing and consultative roles for the new body. None of these activities are inherently risky. There are opportunities that by joining together across the South East there are better outcomes for the council through the influence of TfSE.

7. POTENTIAL IMPACTS

- 7.1 **Equalities:** This paper relates to a procedural matter which will not in and of itself have an impact on people with protected characteristics. As and when the work of TfSE leads to the delivery of schemes and interventions in the Royal Borough of Windsor & Maidenhead, the Council will have opportunity to assess impacts on people with protected characteristics and take these into account when consenting to, implementing, or influencing TfSE operations.
- 7.2 **Data Protection:** There will be no processing of personal data as a result of implementing the recommendations of this report and it is therefore the view of officers that there are no data protection implications that need to be considered in order to satisfy the requirements of the Data Protection Act 2018.
- 7.3 **Climate Change / Sustainability:** The recommendations of this report do not have any direct implications for climate change or sustainability. However, there may be indirect benefits should TfSE be successful in securing funds for to schemes that achieve modal shift from private car to public transport, or tackle congestion bottlenecks on the strategic highway network.

8. CONSULTATION

- 8.1 Between 3 May and 31 July 2019, TfSE asked a range of stakeholders to give their views on the draft proposal by completing a short questionnaire.

- 8.2 More than 90 organisations and individuals responded to the consultation including partner organisations, local authorities in neighbouring regions, environmental groups, transport operators and more. The Berkshire local authorities issued a joint response through the Thames Valley Berkshire Local Transport Body.
- 8.3 The consultation results will be analysed and reported to the TfSE Shadow Partnership Board in the autumn. At that meeting, they will consider any changes to the proposal in response to consultation feedback received and will decide on how and when to proceed with the application for statutory status.

9. TIMETABLE FOR IMPLEMENTATION

- 9.1 Immediately

10. APPENDICES

- 10.1 This report is supported by two appendices:

- Appendix 1 - TfSE Contextual Information
- Appendix 2 - TfSE Proposal to Government (Draft for Consultation)

11. BACKGROUND DOCUMENTS

- 11.1 This report is supported by the following background documents:

- Agenda and Minutes, Thames Valley Berkshire Local Transport Body, 18 July 2019;
- Agenda and Minutes, Thames Valley Berkshire Local Transport Body, 14 March 2019;
- Agenda and Minutes, Thames Valley Berkshire Local Transport Body, 19 July 2018;
- Agenda and Minutes, Thames Valley Berkshire Local Transport Body, 16 November 2017;
- Agenda and Minutes, Thames Valley Berkshire Local Transport Body, 16 March 2017.

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Date returned
Cllr Johnson	Lead Member for Infrastructure, Transport Policy, Housing and Property	11/09/19	13/09/19
Duncan Sharkey	Managing Director	11/09/19	
Russell O'Keefe	Executive Director	11/09/19	
Andy Jeffs	Executive Director	11/09/19	13/09/19
Rob Stubbs	Section 151 Officer	11/09/19	

Name of consultee	Post held	Date sent	Date returned
Elaine Browne	Interim Head of Law and Governance	11/09/19	16/9/19
Nikki Craig	Head of HR and Corporate Projects	11/09/19	13/09/19
Louisa Dean	Communications	11/09/19	
Kevin McDaniel	Director of Children's Services	11/09/19	
Hilary Hall	Interim Director of Adult Services and Deputy Director Strategy and Commissioning	07/09/19	08/09/19

REPORT HISTORY

Decision type: Key decision: Added to Forward Plan 23 July 2019	Urgency item? No	To Follow item? No
Report Author: Ben Smith: Head of Commissioning Communities (07802) 338170		

Appendix 1 – TfSE Contextual Information

1. Background

- 1.1 A Strategic Transport Body (STB) is a body corporate, which may only be established by the Secretary of State if it is considered that:
- its establishment would facilitate the development and implementation of transport strategies for the area; and
 - the objective of economic growth in the area would be furthered by the development and implementation of such strategies.
- 1.2 Sixteen upper tier authorities in the South East have been working together since 2016 to develop a proposal for an STB to be known as Transport for the South East. They are:
- Bracknell Forest;
 - Brighton and Hove;
 - East Sussex;
 - Hampshire;
 - Isle of Wight;
 - Kent;
 - Medway;
 - Portsmouth;
 - Reading;
 - Slough;
 - Southampton;
 - Surrey;
 - West Berkshire;
 - West Sussex;
 - Windsor and Maidenhead; and
 - Wokingham.
- 1.3 The 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.
- 1.4 These efforts have been acknowledged by the Department for Transport, and a grant of £1m was awarded to TfSE to fund the development of the emerging Transport Strategy for the South East.
- 1.5 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.

Appendix 1 – TfSE Contextual Information

- 1.6 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.
- 1.7 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.
- 1.8 A full public consultation ran for 12 weeks between 3 May and 31 July. It was made available on the TfSE website and was circulated to relevant stakeholders.

2. The Draft Proposal to Government

- 2.1 At its meeting on 18 March 2019, the TfSE Shadow Partnership Board approved a draft Proposal to Government for formal consultation. During the consultation, there was ongoing dialogue with key partners and stakeholders about the content of the proposal. A joint response to the consultation from the Berkshire authorities was agreed at the Thames Valley Berkshire Local Transport Body meeting on 18 July.
- 2.2 A final proposal will be recommended to the Shadow Partnership Board meeting in September 2019 and it is proposed that this 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.
- 2.3 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. 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.
- 2.4 The draft proposal has the following headings:
 - Executive Summary
 - Transport for the South East
 - The Ambition
 - Strategic and Economic Case
 - Constitutional Arrangements
 - Functions

Appendix 1 – TfSE Contextual Information

3. Constitutional Arrangements

- 3.1 Each constituent authority will appoint one of their elected members or their elected mayor as a member of TfSE on the Partnership Board.
- 3.2 The Berkshire authorities have agreed to act collectively and have elected Cllr Tony Page to represent them on the Partnership Board. Each authority is still entitled to a vote, but only Cllr Page will attend the meetings. This arrangement entitles the Berkshire authorities to a reduced subscription equivalent to one sixth of a county council.
- 3.3 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.
- 3.4 A number of voting options were considered to find a preferred option that represents a straightforward mechanism, 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:
 - The approval and revision of TfSE's Transport Strategy;
 - The approval of TfSE's annual budget;
 - Changes to TfSE's constitution.
- 3.5 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 2.

4. Functions

- 4.1 The specific functions that TfSE is seeking as part of its Proposal to Government are set out in Section 6 of the Proposal. The proposed powers will operate concurrently and with the consent of the constituent authorities. In outline these include the following:
 - 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).
 - Being consulted on rail franchising and setting the overall objectives for the rail network in the TfSE areas.
 - Jointly setting the Road Investment Strategy (RIS) for the TfSE area.

Appendix 1 – TfSE Contextual Information

- 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.
- Securing the provision of bus services, entering into quality bus partnership and bus franchising arrangements.
- Introducing integrated ticketing schemes.
- Establish Clean air zones with the power to charge high polluting vehicles for using the highway.
- Power to promote or opposes Bills in Parliament.
- Incidental powers to enable TfSE to act as a type of local authority.

Proposal to Government

Draft for consultation

May 2019

1. Executive summary

- 1.1 Transport for the South East is a sub-national transport body (STB) established to speak with one voice on the strategic transport priorities for the South East region.
- 1.2 Our aim is to support and grow the economy through the delivery of our transport strategy – a programme of integrated transport projects and programmes to unlock growth, boost connectivity and speed up journeys while improving access to opportunities for all and protecting and enhancing our region’s unique environment.
- 1.3 By operating strategically across the South East on transport infrastructure – a role that no other organisation currently undertakes on this scale – we will directly influence how and where money is invested and drive improvements for the travelling public and for businesses in a region which is the UK’s major international gateway.
- 1.4 Already we are commanding the attention of government, facilitating greater collaboration between South East local authorities, local enterprise partnerships (LEPs) and government to shape our region’s future.
- 1.5 Our next step is to become a statutory body. This draft proposal will be subject to a public consultation from May to July 2019 before being submitted to Government by the end of 2019 for consideration.
- 1.6 Our draft proposal has been developed in partnership with TfSE’s members and stakeholders and represents a broad consensus on the key issues facing the region and the powers required to implement our transport strategy.
- 1.7 The constituent authorities and LEPs have steered the development of the proposal, with input from members of our Transport Forum, which brings together representatives of transport operators, transport users and other interest groups.
- 1.8 Our members and stakeholders are clear that a statutory sub-national transport body for the South East is vital if we are to successfully:
 - Increase our influence with Government and key stakeholders;
 - Invest in pan-regional strategic transport corridors;
 - Enable genuinely long-term planning; and
 - Support the delivery of jobs, housing and growth.
- 1.9 We have only proposed those powers for TfSE which are proportionate and will be effective in helping us achieve our strategic aims and objectives, complementing and building on the existing powers of local authorities.
- 1.10 These powers would enable us to deliver significant additional value at regional level through efficient and effective operational delivery, better coordination of pan-regional schemes and the ability to directly influence and inform national investment programmes.

2. The Ambition

“The South East is crucial to the UK economy and is the nation’s major international gateway for people and businesses.

“We will grow the South East’s economy by facilitating the development of a high quality, integrated transport system that makes the region more productive and competitive, improves access to opportunities for all and protects the environment.”

Transport for the South East vision statement

- 2.1 Transport for the South East (TfSE) was established in shadow form in June 2017. In the short period since, we have emerged as a powerful and effective partnership, bringing together 16 local transport authorities, five local enterprise partnerships and other key stakeholders including protected landscapes, transport operators, district and borough authorities and national agencies to speak with one voice on the region’s strategic transport needs.
- 2.2 Our shared vision is to ensure the delivery of a high quality, sustainable and integrated transport system that:
 - Supports increased productivity to grow the South East and UK economy and compete in the global marketplace;
 - Works to improve safety, quality of life and access to opportunities for all; and
 - Protects and enhances the South East’s unique natural and historic environment.
- 2.3 Our transport strategy, which covers the period to 2050, will form the basis for achieving that vision. It will be supported by a targeted investment plan which will identify how we can grow the GVA of the South East to £500 billion by 2050 and create almost three million additional jobs.
- 2.4 TfSE has already, in shadow form, added considerable value in bringing together partners and stakeholders to work with Government on key strategic issues, securing positive outcomes for the region in the Roads Investment Strategy 2 and Major Road Network consultation, influencing rail franchising discussions and providing collective views on schemes such as southern and western rail access to Heathrow.
- 2.5 The requirements within our draft proposal seek to provide TfSE with the initial functions and powers to move to the next stage of our development – to begin delivering the transport strategy and realising the benefits that a high quality, sustainable and integrated transport system can unlock for people, businesses and the environment.
- 2.6 We are clear that we only seek those powers and functions which are necessary to deliver our strategy and achieve our vision. Our requirements differ from those of other STBs and reflect the different geographic, economic, political, social and environmental characteristics of our region and the strategic objectives of TfSE and its partners.

3. The Strategic and Economic Case

The Transport for the South East area

- 3.1 The South East is already a powerful motor for the UK economy, adding more than £200 billion to the economy in 2015 – second only to the contribution made by London and more than Scotland, Wales and Northern Ireland combined.
- 3.2 It is home to 7.5m people and 329,000 businesses including some of the world's biggest multinationals as well as a large number of thriving, innovative SMEs. It is a world leader in knowledge intensive, high value industries including advanced engineering, biosciences, financial services and transport and logistics.
- 3.3 The South East area includes both of the nation's busiest airports in Heathrow and Gatwick, a string of major ports including Southampton, Dover and Portsmouth, many of the country's most vital motorways and trunk roads and crucial railway links to London, the rest of Britain and mainland Europe.



- 3.4 The South East's international gateways support the economic wellbeing of the whole of the UK. As we withdraw from the European Union, they will be integral to supporting a thriving, internationally facing economy.
- 3.5 Half of all freight passing through Dover going on to other parts of the country. Southampton sees £71 billion of international trade each year and Portsmouth handles two million passengers a year. More than 120 million air passenger a year use Gatwick, Southampton and Heathrow airports.
- 3.6 Our people and infrastructure are not our only assets. With two national parks, numerous areas of outstanding natural beauty and much of the region allocated as green belt, the South East draws heavily on its unique and varied natural environment for its success. It offers outstanding beaches, historic towns, dynamic cities and unparalleled links to London, the UK, Europe and the rest of the world. It is, in short, an amazing place to live, work and visit.

The scale of the challenge and why change is needed

- 3.7 But we face a real challenge. Despite these enviable foundations – and in some cases because of them – our infrastructure is operating beyond capacity and unable to sustain ongoing growth.
- 3.8 Despite the economic importance of the region to the UK economy, contributing almost 15% of UK GVA (2015), the South East has seen continued underinvestment in transport infrastructure with a per capita spend that is significantly below the England average and a third of that in London.

Planned transport infrastructure spending per head



Source: IPPR North analysis of planned central and local public/private transport infrastructure spending per capita 2017/19 onwards (real terms 2016/17 prices)

- 3.9 So while transport links to and from the capital are broadly good, elsewhere connectivity can be poor – even between some of our region’s major towns and cities. Train journey times between Southampton and Brighton (a distance of around 70 miles) are only marginally less than the fastest train journeys between London and Manchester. The corresponding journey on the A27 includes some of the most congested parts of the South East’s road network.
- 3.10 Underinvestment in road and rail infrastructure is making life harder for our residents and businesses. New housing provision is being hampered by the lack of adequate transport infrastructure. In our coastal communities, lack of access to areas of employment and further education and higher education are major contributors to high unemployment and poor productivity.
- 3.11 These are challenges that extend beyond administrative and political boundaries. They require TfSE to have the powers to effectively join up transport policy, regulation and investment and provide clear, strategic investment priorities which will improve connectivity into and across the region, boost the economy and improve the lives of millions.

The powers to achieve our vision

- 3.12 To enable us to achieve our vision through the efficient and effective delivery of the transport strategy, we propose that a range of functions exercisable by a local transport authority, passenger transport executive or mayoral combined authority are included in the regulations to establish TfSE on a statutory footing.
- 3.13 We have only sought those powers which we believe are proportionate and will be effective in helping us achieve our strategic aims and objectives, complementing and building on the existing powers of local authorities. The powers will be sought in a way which means they will operate concurrently with – and only with the consent of – the constituent authorities.
- 3.14 These powers would enable us to deliver significant additional value at regional level in three key areas:
- **Strategic influence:** Speaking with one voice and with the benefit of regional scale and insight to influence the development of national investment programmes; a trusted partner for government, Network Rail and Highways England.
 - **Coordination:** Developing solutions which offer most benefit delivered on a regional scale; working with partners and the market to shape the development of future transport technology in line with regional aspirations.
 - **Operational:** Accelerating the delivery of schemes and initiatives which cross local authority boundaries, ensuring strategic investment happens efficiently and that the benefits for residents and businesses are realised as soon as possible.

The benefits of establishing TfSE as a statutory body

- 3.15 **One voice for strategic transport in the South East**
TfSE will provide a clear, prioritised view of the region's strategic transport investment needs. We already offer an effective mechanism for Government to engage with local authorities and LEPs in the region; statutory status would take that a step further, enabling us to directly inform and influence critical spending decisions by Government and key stakeholders including Highways England and Network Rail.
- 3.16 **Facilitating economic growth**
The transport strategy will facilitate the delivery of jobs, housing and growth across the South East and further build on our contribution to UK GVA. Implementation of strategic, cross-boundary schemes, particularly investment in the orbital routes, will connect economic centres and international gateways for the benefit of people and businesses, regionally and nationally. TfSE also offers a route to engage with other sub-national transport bodies and Transport for London on wider cross-regional issues.
- 3.17 **Delivering benefits for the travelling public**
TfSE can support the efficient delivery of pan-regional programmes that will offer considerable benefits to the end user – for example, integrated travel solutions

combined with smart ticketing will operate more effectively at a regional scale and can best be facilitated by a regional body than by individual organisations.

3.18 **Local democratic accountability**

Our transport strategy will be subject to public consultation and will, in its final form, provide a clear, prioritised view of investments agreed by all the South East's local transport authorities and with input from passengers, businesses and the general public. Delivery of the strategy will be led by the Partnership Board, comprising elected members and business leaders with a direct line of accountability to the people and organisations they represent.

3.19 **Achieving the longer term vision**

Securing statutory status offers TfSE the permanence and security to deliver the transport strategy to 2050, providing a governance structure that matches the lifecycle of major infrastructure projects. It will provide confidence to funders, enable us to work with the market to ensure the deliverability of priority schemes and support development of the skills needed to design, build, operate and maintain an improved transport network.

4. Constitutional arrangements

Requirements from legislation

Name

- 4.1 The name of the sub-national transport body would be 'Transport for the South East ("TfSE")' and the area would be the effective boundaries of our 'constituent members'.

Members

- 4.2 The membership of the STB 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

Partnership Board

- 4.3 The current Shadow Partnership Board is the only place where all 'constituent members' are represented at an elected member level¹. Therefore this Board will need to have a more formal role, including in ratifying key decisions. This would effectively become the new 'Partnership Board' and meet at least twice per annum. The Partnership Board could agree through Standing Orders if it prefers to meet more regularly.
- 4.4 Each constituent authority will appoint one of their councillors / members or their elected mayor as a member of TfSE on the Partnership Board. Each constituent authority will also appoint another one of their councillors / members or their elected mayor as a substitute member (this includes directly elected mayors as under the Local Government Act 2000). The person appointed would be that authority's elected mayor or leader, provided that, if responsibility for transport has been formally delegated to another member of the authority, that member may be appointed as the member of the Partnership Board, if so desired.

¹ The six constituent members of the Berkshire Local Transport Body (BLTB) will have one representative between them on the Partnership Board.

- 4.5 The Partnership Board may delegate the discharge of agreed functions to its officers or a committee of its members in accordance with a scheme of delegation or on an ad hoc basis. Further detail of officer groups and a list of delegations will be developed through a full constitution.

Co-opted members

- 4.6 TfSE proposes that governance arrangements for a statutory STB should maintain the strong input from our business leadership, including LEPs and other business representatives. The regulations should provide for the appointment of persons who are not elected members of the constituent authorities but provide highly relevant expertise to be co-opted members of the Partnership Board.
- 4.7 A number of potential co-opted members are also set out in the draft legal proposal. Co-opted members would not automatically have voting rights but the Partnership Board can resolve to grant voting rights to them on such issues as the Board considers appropriate, for example on matters that directly relate to co-opted members' areas of interest.

Chair and vice-chair

- 4.8 The Partnership Board will agree to a chair and vice-chair of the Partnership Board. The Partnership Board may also appoint a single or multiple vice-chairs from the constituent members. Where the chair or vice-chair is the representative member from a constituent authority they will have a vote.

Proceedings

- 4.9 It is expected that the Partnership Board will continue to work by consensus but to have an agreed approach to voting where consensus cannot be reached and for certain specific decisions.
- 4.10 A number of voting options were considered to find a preferred option that represents a straightforward mechanism, reflects the characteristics of the partnership and does not provide any single authority with an effective veto. We also considered how the voting metrics provide a balance between county and other authorities, urban and rural areas and is resilient to any future changes in local government structures.
- 4.11 The steering group considered these options and preferred the population weighted option based on the population of the constituent authority with the smallest population (the Isle of Wight with 140,000 residents).
- 4.12 This option requires that the starting point for decisions will be consensus; if that cannot be achieved then decisions will require a simple majority of those constituent authorities who are present and voting. The decisions below will however 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 appointed present and attending at the meeting:
- (i) The approval and revision of TfSE's transport strategy;
 - (ii) The approval of the TfSE annual budget;

(iii) Changes to the TfSE constitution.

The population weighted vote would provide a total of 54 weighted votes, with no single veto. A table showing the distribution of votes across the constituent authorities is set out in Appendix 1. This option reflects the particular circumstances of TfSE, being based on the population of the smallest individually represented constituent member who will have one vote, and only a marginally smaller proportionate vote. It is considered that this option is equitable to all constituent authority members, ensures that the aim of decision making consensus remains and that smaller authorities have a meaningful voice, whilst recognising the size of the larger authorities in relation to certain critical issues.

4.13 The population basis for the weighted vote will be based on ONS statistics from 2016 and reviewed every ten years.

4.14 The Partnership Board is expected to meet twice per year. Where full attendance cannot be achieved, the Partnership Board will be quorate where 50% of constituent members are present.

Scrutiny committee

4.15 TfSE will appoint a scrutiny committee to review decisions made or actions taken in connection with the implementation of the proposed powers and responsibilities. The committee could also make reports or recommendations to TfSE with respect to the discharge of its functions or on matters relating to transport to, from or within TfSE's area.

4.16 Each constituent authority will be entitled to appoint a member to the committee and a substitute nominee. Such appointees cannot be otherwise members of TfSE including the Partnership Board.

Standing orders

4.17 TfSE will need to be able to make, vary and revoke standing orders for the regulation of proceedings and business, including that of the scrutiny committee. This will ensure that the governance structures can remain appropriate to the effective running of the organisation.

4.18 In regards to changing boundaries and therefore adding or removing members, TfSE would have to make a new proposal to Government under Section 102Q of the Local Transport Act 2008 and require formal consents from each constituent authority.

Miscellaneous

4.19 It may be necessary that certain additional local authority enactments are applied to TfSE as if TfSE were a local authority, including matters relating to staffing arrangements, pensions, ethical standards and provision of services etc. These are set out in the draft legal proposal.

4.20 TfSE also proposes to seek the functional power of competence as set out in section 102M of the Local Transport Act 2008.

- 4.21 TfSE will consider options for appointing to the roles of a Head of Paid Service, a Monitoring Officer and a Chief Finance Officer whilst considering possible interim arrangements.

Funding

- 4.22 TfSE will work with partners and the Department for Transport to consider a sustainable approach to establishing the formal STB and effectively and expeditiously as possible, bearing in mind the considerable support among regional stakeholders for TfSE's attainment of statutory status.

Governance: Transport Forum and Senior Officer Group

- 4.23 The Partnership Board will appoint a Transport Forum. This will be an advisory body to the Senior Officer Group and Partnership Board, comprising a wider group of representatives from user groups, operators, District and Borough Councils as well as Government and National Agency representatives.
- 4.24 The Transport Forum will meet quarterly and be chaired by an independent person appointed by the Partnership Board. The Transport Forum may also appoint a vice-chair for the Transport Forum, who will chair the Transport Forum when the chair is not present.
- 4.25 The Transport Forum's terms of reference will be agreed by the Partnership Board. It is envisaged that the Transport Forum will provide technical expertise, intelligence and information to the Senior Officer Group and the Partnership Board.
- 4.26 The Partnership Board and Transport Forum will be complemented by a Senior Officer Group representing members at official level providing expertise and co-ordination to the TfSE programme. The Senior Officer Group will meet monthly.

5. Functions

TfSE's proposal is to become a statutory sub-national transport body as set out in section part 5A of the Local Transport Act 2008.

General functions

- 5.1 Transport for the South East proposes to have the 'general functions' as set out in Section 102H (1) including:
- a. to prepare a transport strategy for the area;
 - b. to provide advice to the Secretary of State about the exercise of transport functions in relation to the area (whether exercisable by the Secretary of State or others);
 - c. to co-ordinate the carrying out of transport functions in relation to the area that are exercisable by different constituent authorities, with a view to improving the effectiveness and efficiency in the carrying out of those functions;
 - d. if the STB considers that a transport function in relation to the area would more effectively and efficiently be carried out by the STB, to make proposals to the Secretary of State for the transfer of that function to the STB; and
 - e. to make other proposals to the Secretary of State about the role and functions of the STB. (2016, 102H (1))5.
- 5.2 The general functions are regarded as the core functions of a sub-national transport body and will build on the initial work of TfSE in its shadow form. To make further proposals to the Secretary of State regarding constitution or functions, Transport for the South East will need formal consents from each 'constituent member'.
- 5.3 Transport for the South East recognises that under current proposals the Secretary of State will remain the final decision-maker on national transport strategies, but critically that the Secretary of State must have regard to a sub-national transport body's statutory transport strategy. This sets an important expectation of the strong relationship Transport for the South East aims to demonstrate with Government on major programmes like the Major Road Network and Railway Upgrade Plan.

Local transport functions

- 5.4 Initial work has identified a number of additional powers that Transport for the South East may require that will support the delivery of the transport strategy. The table below provides an assessment of these functions.
- 5.5 The powers which are additional to the general functions relating to STBs will be requested in a way that means they will operate concurrently and with the consent of the constituent authorities.

Table 1: Proposed powers and responsibilities

POWER	RATIONALE
General functions	
<p>Section 102 H of the Local Transport Act 2008</p> <p>Prepare a transport strategy, advise the Secretary of State, co-ordinate the carrying out of transport functions, make proposals for the transfer of functions, make other proposals about the role and functions of the STB.</p>	<p>This legislation provides the general powers required for TfSE to operate as a statutory sub-national transport body, meeting the requirements of the enabling legislation to facilitate the development and implementation of a transport strategy to deliver regional economic growth.</p> <p>Government at both national and local level recognises that the solutions required to deliver regional economic growth are best identified and planned for on a regional scale by those who best understand the people and businesses who live and work there.</p>
Rail	
<p>Right to be consulted about new rail franchises</p> <p><i>Section 13 of the Railways Act 2005 – Railway Functions of Passenger Transport Executives</i></p>	<p>We are seeking the extension of the right of a Passenger Transport Executive to be consulted before the Secretary of State issues an invitation to tender for a franchise agreement.</p> <p>The right of consultation is significant to TfSE as it confirms our role as a strategic partner, enabling us to influence future rail franchises to ensure the potential need for changes to the scope of current services and potential new markets identified by TfSE are considered.</p> <p>TfSE is uniquely placed to provide a regional perspective and consensus on the priorities for rail in its area. This would benefit central government as a result of the vastly reduced need for consultation with individual authorities.</p> <p>We recognise that changes to the current franchising model are likely following the Williams Review; regardless of these changes, TfSE is clear that it should have a role in shaping future rail service provision.</p>
<p>Set High Level Output Specification (HLOS) for Rail</p> <p><i>Schedule 4A, paragraph 1D, of the Railways Act 1993</i></p>	<p>TfSE requires a strong, formal role in rail investment decision making over and above that which is available to individual constituent authorities. We act as the collective voice of our constituent authorities, providing an evidence-based regional perspective and consensus on the priorities for investment in our rail network.</p> <p>This power would enable TfSE to act jointly with the Secretary of State to set and vary the HLOS in our area, ensuring TfSE's aspirations for transformational investment in rail infrastructure are reflected in the HLOS and enabling an integrated approach across road and rail investment for the first time.</p>

Highways	
<p>Set Road Investment Strategy (RIS) for the Strategic Road Network (SRN)</p> <p><i>Section 3 and Schedule 2 of the Infrastructure Act 2015</i></p>	<p>TfSE requires a strong, formal role in roads investment decision making over and above that which is available to individual constituent authorities. We act as the collective voice of our constituent authorities, providing an evidence-based regional perspective and consensus on the priorities for roads investment.</p> <p>This power would enable TfSE to act jointly with the Secretary of State to set and vary the RIS in our area, ensuring TfSE's aspirations for transformational investment in road infrastructure are reflected in the RIS and enabling an integrated approach across road and rail investment for the first time.</p>
<p>Enter into agreements to undertake certain works on Strategic Road Network, Major Road Network or local roads</p> <p><i>Section 6(5) of the Highways Act 1980, (trunk roads) & Section 8 of the Highways Act 1980 (local roads)</i></p>	<p>We are seeking the power that local highway authorities currently have to enter into an agreement with other highway authorities to construct, reconstruct, alter, improve or maintain roads.</p> <p>These powers, operated concurrently with the local authorities, will enable TfSE to promote and expedite the delivery of regionally significant cross-boundary schemes that otherwise might not be progressed. They would overcome the need for complex 'back-to-back' legal and funding agreements between neighbouring authorities and enable us to reduce scheme development time and overall costs.</p>
<p>Acquire land to enable construction, improvement, or mitigate adverse effects of highway construction</p> <p><i>Sections 239,240,246 and 250 of the Highways Act 1980</i></p>	<p>This power, exercisable concurrently and only with the consent of the relevant highway authority, would allow preparations for the construction of a highways scheme to be expedited where highway authorities are not in a position to acquire land.</p> <p>Land acquisition by TfSE could facilitate quicker, more efficient scheme delivery, bringing forward the economic and broader social and environmental benefits.</p>
<p>Construct highways, footpaths, bridleways</p> <p><i>Sections 24,25 & 26 of the Highways Act 1980</i></p>	<p>The concurrent powers required to effectively promote, coordinate and fund road schemes are vital to TfSE. Without them, we would not be able to enter into any contractual arrangement in relation to procuring the construction, improvement or maintenance of a highway or the construction or improvement of a trunk road.</p> <p>Granting of these powers would enable TfSE directly to expedite the delivery of regionally significant road schemes that cross constituent authority boundaries that otherwise might not be progressed.</p>

Make capital grants for public transport facilities	
<p>Make capital grants for the provision of public transport facilities</p> <p><i>Section 56(2) of the Transport Act 1968</i></p>	<p>This concurrent power would enable TfSE to support the funding and delivery of joint projects with constituent local authorities, improving deliverability and efficiency.</p> <p>Constituent authorities would benefit from the granting of this concurrent power as they may, in future, be recipients of funding from TfSE to partly or wholly fund a transport enhancement within their local authority area.</p>
Bus service provision	
<p>Duty to secure the provision of bus services</p> <p><i>Section 63(1) Transport Act 1985</i></p>	<p>Local transport authorities and integrated transport authorities have a duty to secure the provision of such public passenger transport services as it considers appropriate and which would not otherwise be provided.</p> <p>Travel-to-work areas do not respect local authority boundaries. TfSE is seeking to have this duty concurrently with the local transport authorities in our area, enabling us to fill in identified gaps in bus service provision within our geography or secure the provision of regionally important bus services covering one or more constituent authority areas which would not otherwise be provided.</p>
<p>Quality Bus Partnerships</p> <p><i>The Bus services Act 2017 Sections 113C – 113O & Sections 138A – 138S</i></p>	<p>TfSE is seeking powers, currently available to local transport authorities and integrated transport authorities, to enter into Advanced Quality Partnerships and Enhanced Partnership Plans and Schemes to improve the quality of bus services and facilities within an identified area. These powers would be concurrent with the local transport authority in the area.</p> <p>This would allow us to expedite the introduction of partnership schemes covering more than one local transport authority area which otherwise might not be introduced.</p>
<p>Bus service franchising</p> <p><i>The Bus Services Act 2017</i></p>	<p>This power, currently available to Mayoral Combined Authorities, would enable TfSE to implement bus service franchising in its area with the consent of the affected local transport authorities.</p> <p>We believe extending this power to STBs is consistent with the intention of the legislation in terms of delivering passenger benefit across travel-to-work areas and could enable a level of bus provision which otherwise would not exist. It would only be implemented with the consent of the local transport authority.</p>

Smart ticketing	
<p>Introduce integrated ticketing schemes</p> <p><i>Sections 134C- 134G & Sections 135-138 Transport Act 2000</i></p>	<p>We are seeking powers concurrently with local transport authorities to enable TfSE to procure relevant services, goods, equipment and/or infrastructure; enter into contracts to deliver smart ticketing and receive or give payments.</p> <p>This would enable us to expedite the introduction of a cost effective smart and integrated ticketing system on a regional scale which would dramatically enhance the journey experience and increase access to transport to support jobs and education.</p>
Air quality	
<p>Establish Clean Air Zones</p> <p><i>Sections 163-177A of the Transport Act 2000 – Road User Charging</i></p>	<p>Local transport authorities and integrated transport authorities have the power under the Transport Act 2000 to implement road charging schemes.</p> <p>TfSE is seeking this general charging power as a mechanism for the introduction of Clean Air Zones, enabling reduced implementation and operating costs across constituent authority boundaries. This will be subject to the consent of the local transport authority.</p> <p>Transport is a major contributor to CO2 emissions and poor air quality; these are increasingly critical issues which our transport strategy will seek to address.</p>
Other powers	
<p>Promote or oppose Bills in Parliament</p> <p><i>Section 239 Local Government Act 1972</i></p>	<p>Local authorities have the power to promote or oppose Bills in Parliament; granting the power concurrently to TfSE reflects the devolution agenda of which STBs are a key part.</p> <p>Under the Transport and Works Act 1992, a body that has power to promote or oppose bills also has the power to apply for an order to construct or operate certain types of infrastructure including railways and tramways.</p> <p>Granting of this power would enable TfSE to promote, coordinate and fund regionally significant infrastructure schemes, accelerating delivery of cross-boundary schemes which might otherwise not be progressed.</p>
<p>Incidental amendments</p> <p><i>Local Government Act 1972, Localism Act 2011, Local Government Pension Scheme Regulations 2013</i></p>	<p>A statutory STB requires certain incidental amendments to enable it to operate as a type of local authority, with duties in respect of staffing, pensions, monitoring and the provision of information about TfSE.</p> <p>The incidental amendments sought are listed below in Appendix 2.</p>

Powers and responsibilities not being sought

5.6 Transport for the South East does not propose seeking the following functions/powers:

POWER	RATIONALE
Set priorities for local authorities for roads that are not part of the Major Road Network (MRN)	TfSE will only be responsible for identifying priorities on the MRN
Being responsible for any highway maintenance responsibilities	There is no intention of TfSE becoming involved in routine maintenance of MRN or local roads
Carry passengers by rail	There are no aspirations for TfSE to become a train operating company
Take on any consultation function instead of an existing local authority	Local authorities are best placed to seek the views of their residents and businesses
Give directions to a constituent authority about the exercise of transport functions by the authority in their area	Constituent authorities understand how best to deliver their transport functions to meet the needs of their residents and businesses

5.7 The Williams Review, to which TfSE have submitted a response, could recommend significant changes to the structure of the rail industry, including the role of STBs in both operations and infrastructure enhancement. As a result, we will keep the following functions under review pending the Williams recommendations and subsequent White Paper.

POWER	RATIONALE
Act as co-signatories to rail franchises	There are no current aspirations for TfSE to become involved in this area.
Be responsible for rail franchising	

6. Summary of support and engagement

- 6.1 This draft Proposal was shaped and endorsed by the TfSE Shadow Partnership Board in March 2019 prior to the launch of the consultation.
- 6.2 During the consultation process, the draft Proposal will be made available on the TfSE website and feedback sought via social media and other promotional activity. Meetings will be held with key stakeholders such as Network Rail, Highways England, Transport for London, England's Economic Heartlands and the Transport Forum.
- 6.3 Following the consultation period, TfSE will update the draft Proposal and publish a summary of the comments received.
- 6.4 TfSE will seek consent from its constituent authorities and the final draft Proposal will be endorsed by the Shadow Partnership Board in autumn 2019.
- 6.5 The final Proposal will include a summary of engagement activities, including a list of the organisations engaged in the process and an appendix with a number of letters of support from key organisations and businesses.

Appendix 1: Distribution of votes

TfSE constituent authorities	Population ²	Number of votes ³
Brighton and Hove City Council	287,173	2
East Sussex County Council	549,557	4
Hampshire County Council	1,365,103	10
Isle of Wight Council	140,264	1
Kent County Council	1,540,438	11
Medway Council	276,957	2
Portsmouth City Council	213,335	2
Southampton City Council	250,377	2
Surrey County Council	1,180,956	8
West Sussex County Council	846,888	6
<i>Bracknell Forest Council</i>	<i>119,730</i>	
<i>Reading Borough Council</i>	<i>162,701</i>	
<i>Royal Borough of Windsor & Maidenhead</i>	<i>149,689</i>	
<i>Slough Borough Council</i>	<i>147,736</i>	
<i>West Berkshire Council</i>	<i>158,576</i>	
<i>Wokingham Borough Council</i>	<i>163,087</i>	
Berkshire Local Transport Body (total)	901,519	6
Total	7,552,567	54

² Population as per ONS 2016 estimates

³ Number of votes = population/140,000 (the population of constituent authority with the smallest population, this being the Isle of Wight)

Appendix 2: List of incidental powers sought

This appendix sets out the incidental amendments that will be needed to existing legislation. They include areas relating to the operation of TfSE as a type of local authority with duties in respect of staffing, pensions, transparency, monitoring and the provision of information about TfSE.

(1) Section 1 of the Local Authorities (Goods and Services) Act 1970 has effect as if TfSE were a local authority for the purposes of that section.

(2) The following provisions of the Local Government Act 1972 have effect as if TfSE were a local authority for the purposes of those provisions—

- (a) section 101 Arrangements for discharge of functions by local authorities
- (b) section 111 (subsidiary power of local authorities);
- (c) section 113 (secondment of staff)
- (d) section 116 (member of TfSE not to be appointed as officer);
- (e) section 117 (disclosure by officers of interests in contracts);
- (f) section 135 (standing orders for contracts);
- (g) section 142(2) (provision of information);
- (h) section 222 (power to investigate and defend legal proceedings);
- (i) section 239 (power to promote or oppose a local or personal Bill).

(4) Sections 120, 121 and 123 of that Act (acquisition and disposal of land) have effect as if—

- (a) TfSE were a principal council;
- (b) section 120(1)(b) were omitted;
- (c) section 121(2)(a) were omitted.

(5) Section 29 of the Localism Act 2011 (registers of interests) has effect as if—

- (a) TfSE were a relevant authority, and
- (b) references to “the monitoring officer” were references to an officer appointed by TfSE for the purposes of that section.

(6) In the Local Government Pension Scheme Regulations 2013—

- (a) in Schedule 2 (scheme employers), in Part 2 (employers able to designate employees to be in scheme), after paragraph 14 insert—
“15. Transport for the South East.”;
- (b) in Schedule 3 (administering authorities), in the table in Part 2 (appropriate administering authorities for categories of scheme members), at the end insert—

“An employee of Transport for the South East	East Sussex County Council”
--	-----------------------------

(7) The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 have effect as if TfSE is a local authority within the meaning of s 101 Local Government Act 1972.