

TELFORD & WREKIN COUNCIL

**CABINET – 15 OCTOBER 2015
FULL COUNCIL – 26 NOVEMBER 2015**

WEST MIDLANDS RAIL GOVERNANCE

REPORT OF ASSISTANT DIRECTOR, NEIGHBOURHOOD & CUSTOMER SERVICES

LEAD CABINET MEMBERS – CLLR KULDIP SAHOTA & CLLR ANGELA McCLEMENTS

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

The purpose of this report is to approve the proposed governance arrangements for the development and oversight of the West Midlands Rail Franchise through West Midlands Rail Limited (WMR Ltd) and to approve the Council's membership of WMR Ltd and the appointment of directors to the board of WMR Ltd.

2. RECOMMENDATIONS

That Cabinet recommends to Council to;

- 2.1 Approve the proposed governance arrangements set out in this report for the development and oversight of WMR Ltd**
- 2.2 Approve the Council joining WMR Ltd as a member.**
- 2.3 Approve the appointment by the Council of Cllr Kuldip Sahota as a Director of WMR Ltd and note that Cllr Angela McClements will attend as his substitute if he is unable to attend any Board meetings and note that in this role they will be authorised to make decisions in this capacity relating to the strategic direction for the new West Midlands Rail Franchise.**
- 2.4 That Cabinet notes that it is intended that WMR Ltd will in due course enter into a formal partnership agreement with the DfT that will set out the rights and obligations of WMR Ltd in relation to the award of the new West Midlands Rail Franchise and related matters. A further report will be brought back to Cabinet in due course in this respect**

3. SUMMARY IMPACT ASSESSMENT

| | | |
|---|---|--|
| COMMUNITY IMPACT | Do these proposals contribute to specific Co-Operative Council priority objective(s)? | |
| | Yes | Contributes to all by improving access within the Borough and to external destinations but specifically: Protect and create jobs as a 'Business Supporting, Business Winning Council' |
| | Will the proposals impact on specific groups of people? | |
| | No | - |
| TARGET COMPLETION/DELIVERY DATE | Issue OJEU/PQQ - December 2015 Public Consultation - Winter 2015/Spring 2016 Publish ITT - July 2016 Contract Award - June 2017 Commence Service - October 2017 | |
| FINANCIAL/VALUE FOR MONEY IMPACT | Yes | The operating costs of West Midlands Rail (WMR) Ltd for the period 2015/16 to 2017/18, and the Authority's contribution to these costs are set out in Table 2. These costs, plus any costs associated with providing Director's Liability Insurance for Cllr's Sahota and McClements, will be met from existing transport revenue budgets. The full financial implications to TWC of the West Midlands Rail Franchise will emerge during the procurement phase (phase 1) and will be the subject of future reports. Full financial advice and support will be provided to the process and to our appointed Directors of WMR Ltd as required. JAC 160915 |
| LEGAL ISSUES | Yes | The Council has the powers to join WMR Ltd and to appoint directors to its Board of Directors under section 1 of the Localism Act 2011. The Council's maximum liability as a member of WMR Ltd is limited to £1. However, Directors of the Company do have potential to be personally liable for actions taken in respect of their role as a Director and it is expected an indemnity will be provided by the Council and/or an insurance policy will be put into effect. |
| OTHER IMPACTS, RISKS & OPPORTUNITIES | No | - |
| IMPACT ON SPECIFIC WARDS | No | - |

PART B) – ADDITIONAL INFORMATION

4. INFORMATION

- 4.1 West Midlands Rail (WMR) Partner Authorities have been developing a proposal for increasing local involvement and influence over local rail services for approximately two and a half years, in line with government policy on devolution and evidenced by the benefits experienced elsewhere from local control of rail services.
- 4.2 In order for Partner Authorities to be active partners in the future management of the West Midlands Rail Franchise, the DfT requires that an appropriate governance framework is in place. This is expected to involve all Shire, Unitary and Metropolitan authorities, including the West Midlands Integrated Transport Authority (ITA) in the West Midlands Travel to Work Area. Partner Authorities expected to participate in WMR are shown in Table 1, below:

| Metropolitan Authorities | Shire and Unitary Authorities |
|--|--------------------------------------|
| Birmingham City Council | Herefordshire Council |
| Coventry City Council | Northamptonshire County Council |
| Dudley Metropolitan Borough Council | Shropshire Council |
| Sandwell Metropolitan Borough Council | Staffordshire County Council |
| Solihull Metropolitan Borough Council | Borough of Telford & Wrekin |
| Walsall Metropolitan Borough Council | Warwickshire County Council |
| Wolverhampton City Council | Worcestershire County Council |
| West Midlands Integrated Transport Authority | |

Table 1 WMR Partner Authorities

- 4.3 Partner Authorities are seeking greater influence and management over the West Midlands local rail network, and the Secretary of State for Transport has made a commitment to work with Partner Authorities to achieve these ends. The process for the letting of the new West Midlands Rail Franchise is now underway, and is already being developed with Partner Authorities.
- 4.5 The franchise will be let by the DfT and as such, financial and contractual risk will initially remain with central government. However, it is a longer term aspiration of the Partner Authorities that future rail franchises might be entirely devolved to local control, as is the case on Merseyside, and it is expected that during the next franchise term (2024 onwards), the options for increased devolution with transfer of funding and powers will be explored. However, any such increased devolution direct to Partner Authorities would be expected to require the approval of the Partner Authorities and, in the case of changes to WMR Ltd's expected partnership agreement with the DfT would require the approval of a 75% majority of WMR Ltd members.
- 4.6 The proposition that Partner Authorities have agreed with DfT for rail devolution in the West Midlands includes the following features:
- a) The existing London Midland franchise will split into two business units after the West Midlands Rail Franchise is let in 2017; a West Midlands Rail Local Business Unit and a West Coast Business Unit (see map in appendix A).

- b) The specification of the West Midlands Rail Franchise will be led by the DfT, with Partner Authorities having a strong involvement, including staff from West Midlands Passenger Transport Executive (Centro) on behalf of the ITA and some Partner Authority and/or Centro staff being seconded to work alongside the DfT's team on behalf of the Partner Authorities and WMR Ltd. Following franchise award, it is expected that WMR Ltd will jointly manage the franchise in partnership with the DfT. This will allow WMR Ltd to develop experience and capability in readiness for future full devolution.
- c) Partner Authorities, via WMR Ltd, will also have influence over franchises that provide core services through the region when they are retendered.

4.7 The Partnership will have two distinct phases of development:

- d) Phase 1: The period between now and the commencement of the new West Midlands Rail Franchise in 2017, during which WMR Ltd and DfT will work collaboratively on the franchise design and procurement processes although the Secretary of State for Transport will retain responsibility for letting the franchise; and
- e) Phase 2: The period following the commencement of the new West Midlands Rail Franchise, during which it is expected that the relationship between WMR and DfT will develop into a clearly governed partnership for managing the franchise.

5.0 Proposed West Midlands Rail Devolution Governance Structure

5.1 The principles that the governance is designed to achieve are:

- Effective, inclusive and transparent decision making between partner authorities
- Democratic accountability
- Robust financial management

5.2 To achieve delivery of these principles the governance structure is set out in Appendix B in the Articles of Association.

6.0 WMR Ltd Board of Directors

6.1 Each Partner Authority other than the ITA will be represented on the Board by a principal director or (in the absence of the principal director) a substitute director appointed by that Partner Authority. The ITA will in effect be represented on the Board by the appointees of the ITA's constituent councils. Each Director will have one vote at Board meetings.

6.2 The Board of WMR Ltd are to be responsible, initially, for determining the desired strategic direction, on behalf of Partner Authorities, for the specification of the new West Midlands Rail Franchise. Going forward, and subject to the agreement of each Partner Authority, the Board will oversee strategic policy matters in respect of the envisaged partnership agreement between WMR Ltd and the DfT.

7.0 West Midlands Rail Limited

- 7.1 WMR Ltd will be a separate body, acting on behalf of the ITA and Metropolitan and Shire/Unitary Partner Authorities and will be a company limited by guarantee.
- 7.2 WMR Ltd has already been formally incorporated, set-up by Centro as a dormant company in 2014 in order to preserve the availability of the company name. At the point that Partner Authorities become members of WMR Ltd, Centro will cease to be a member and upon the new directors being appointed the existing sole director will resign.
- 7.3 The rights of Partner Authorities to be consulted by the Secretary of State about the specification for rail franchises is unaffected by the existence of WMR Ltd and will remain. Similarly, powers to procure increments from the train operator will also remain, as at present. WMR Ltd is intended to provide Partner Authorities with a powerful further influence by providing a united, collegiate voice at the heart of franchise specification and management.
- 7.4 It is proposed that Partner Authorities join WMR Ltd and appoint directors to WMR Ltd's Board in advance of the LRG meeting scheduled for 4 December 2015 so that that meeting will become the first meeting of the new WMR Ltd Board of Directors.

8.0 Financial Implications

- 8.1 As previously agreed by LRG and as applied for 2015/16, funding for WMR is divided between Metropolitan districts (75%) and Shire/Unitary authorities (25%). For Metropolitan districts this funding is provided through the Centro levy. For Shire/Unitary authorities, the 25% balance is divided equally amongst the seven Partners.
- 8.2 Future funding requirements will be agreed by the WMR Ltd Board of Directors, and will be divided as described above. For the remainder of the franchise competition period, the agreed budget for 2015/16 and anticipated costs for the following two years are shown in Table 2, below:

| Description | 2015/16 | 2016/17 | 2017/18 (7 Months) |
|------------------------------|-----------------|-----------------|-----------------------|
| 1. Franchise Specification | £220,000 | £100,000 | £0 |
| 2. DfT/WMR Agreements | £25,000 | £15,000 | £15,000 |
| 3. WMR Governance and Admin | £5,000 | £85,000 | £80,000 |
| 4. Project/Programme Support | £135,500 | £136,000 | £95,000 |
| 5. Contingency (10%) | £38,550 | £33,600 | £19,000 |
| Total | £424,050 | £369,600 | £209,000 |

Table 2 WMR Indicative Budgets - April 2015 - October 2017

- 8.3 On the basis of the financial information in Table 2 above and the proposed split of financing between authorities, Telford & Wrekin's contribution for 15/16 was £15,144. This has been met through existing budgets. For 16/17 the contribution from Telford & Wrekin will be £13,200. The Council's contribution for 17/18 will be £7,464.
- 8.4 After the commencement of the West Midlands franchise in October 2017, the current assumption is that most WMR operating costs will be met by the DfT, and that the requirement for direct Partner Authority financial contributions should be very modest.
- 8.5 In the event that any Partner Authority were to resign from WMR Ltd. the resigning member would be required to honour its funding commitments for the duration of the applicable financial year.

9.0 PREVIOUS MINUTES

None

10.0 BACKGROUND PAPERS

Appendix A – WMR Schematic Map
Appendix B - Articles of Association

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