

Report to: **Partnership Board –Transport for the South East**
Date of meeting: **23 January 2023**
By: **Cllr Tony Page**
Title of report: **Governance Sub-Group Update**
Purpose of report: **To provide an update on the Governance sub-group**

RECOMMENDATIONS:

The members of the Partnership Board are recommended to:

- (1) Note the discussions at the recent meeting of the Governance sub-group;**
 - (2) Agree the proposed high level changes to the Intra Authority Agreement, subject to further discussions with Senior Officers;**
 - (3) Agree the Terms of Reference for the Audit and Governance Committee;**
 - (4) Appoint members to the Audit and Governance Committee; and**
 - (5) Agree the Audit and Governance Committee will lead a review of the Transport Forum in 2023/24.**
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1. Overview

1.1 At the January 2022 Partnership Board meeting it was agreed that the governance sub-group should be reconvened, with the first meeting taking place in March 2022.

1.2 The Partnership Board subsequently agreed the Terms of Reference for the sub-group in March 2022. It was agreed that the group should have a focus on ensuring that the governance arrangements for Transport for the South East (TfSE) remain robust and appropriate to support the implementation of the Strategic Investment Plan (SIP).

1.3 Membership of the sub-group is as follows:

- Berkshire Local Transport Body
- Kent County Council
- Brighton and Hove City Council
- Hampshire County Council
- Enterprise M3 LEP
- Chair, Transport Forum

1.4 The governance sub-group met on 12 January 2023. This paper provides a progress report on the key issues discussed and sets out the proposed next steps.

1.5 The ongoing support from the accountable body's legal team is recognised and welcomed.

2. TfSE Constitution

2.1 The Partnership Board agreed an amended version of the TfSE constitution in September 2022. The revised constitution contains the following key changes:

- Status – it clearly sets out that TfSE will operate as a partnership body, whilst recognizing the ambition to achieve statutory status at the appropriate time;
- Statutory officers – the previous Constitution sets out that TfSE, as a statutory body, would have its own Chief Officer, finance officer and monitoring officer. The revised draft recognises that the accountable body will take on those responsibilities whilst TfSE operates in partnership form;
- Scheme of delegations – the scheme of delegations have been updated to reflect the policies and procedures of the accountable body;
- Functions – the revised Constitution retains the general functions of an STB as set out in the Cities and Local Government Devolution Act 2016. However, it is clear that TfSE requires the formal consent of its constituent authorities if it were to submit a proposal for statutory status.
- Audit and Governance Committee – as agreed at the last meeting of the Partnership Board, TfSE will establish an Audit and Governance Committee. This reflects the increased financial responsibility that the partnership has as a result of the increased grant funding from Government. The Audit and Governance Committee will be established following the publication of the SIP. The revised Constitution sets out the proposals for this new committee.

2.2 In recognition of the comments provided at the Partnership Board meeting in September 2022, a further appendix has been added to the Constitution setting out more details on the co-opted Board members. The constitution has now been made available on the TfSE website.

3. Intra Authority Agreement

3.1 TfSE's Intra Authority Agreement (IAA) was put in place in 2019, with a view to TfSE obtaining statutory status in 2020. It set out arrangements to formalise the partnership and share the risks across the 16 constituent authorities.

3.2 As part of the general governance review, it is timely to review the IAA to ensure that the arrangements remain appropriate in light of the ongoing partnership arrangements and the changed landscape from what had been anticipated in 2019/20.

3.3 Working with the accountable body, it is proposed that two changes are required to the IAA to reflect the current partnership status of TfSE:

- Hold Harmless clause – this will be a new clause in the agreement, which will ask all constituent authorities to agree to hold harmless the Lead Authority in respect of any liabilities that could arise, either under a Third Party Contract,

or otherwise. For example, a number of authorities are currently undertaking work on behalf of TfSE through the local capability work stream. These entail the use of consultancy advice and the outputs of the work will be shared more widely across the TfSE partnership. Under the proposed clause, any authority undertaking work on behalf of TfSE would be protected from legal challenge from another authority within the partnership.

- Clarity over the role of the Lead Authority in entering into Third Party Contracts – to clarify the existing clause around the status of the Lead Authority as the contracting party on behalf of TfSE.

3.4 Board members are asked to agree, in principle, these proposed changes. TfSE will work through the Senior Officer Group to finalise the proposed text and to obtain legal sign off from all 16 constituent authorities. The Partnership Board will be updated on progress at the next meeting.

4. Audit and Governance Committee

4.1 As previously agreed by the Board, and recommended by the Member sub-group, TfSE will establish an Audit and Governance Committee in in 2023/24. This recognises the increasing responsibilities that TfSE holds for fiscal management of government grant funding.

4.2 TfSE works closely with colleagues in the accountable body for financial, legal and audit responsibilities. This includes Section 151 (s151) officer oversight of financial decisions. These arrangements will continue and will form the basis of the reporting framework to the new Committee.

4.3 It is proposed that the Audit and Governance Committee will ensure an independent, high-level focus on audit, assurance and reporting issues underpinning financial management and governance arrangements for TfSE. It will provide independent review and assurance to Members on governance, risk management and control frameworks. It will oversee financial reporting and audit, to ensure efficient and effective assurance arrangements are in place and will assist the Partnership Board in providing leadership, direction and oversight of the overall risk appetite and risk management strategy.

4.4 The Committee will become operational in April 2023. The proposed membership will comprise local authority representatives and Partnership Board members will want to consider the role of co-opted Board members. The governance sub group has discussed membership of the new committee and proposes that the Partnership Board to consider and agree the membership of the Committee to include:

- Cllr Tony Page, Reading Borough Council, representing the Berkshire Local Transport Body;
- Cllr Rob Humby, Hampshire County Council;
- Cllr Dan Watkins, Kent County Council;
- Geoff French, Transport Forum Chair; and
- One other constituent authority representative.

4.5 Draft Terms of Reference for the Committee were included in the Constitution that the Board agreed in September 2023. These have been extracted and are included as Appendix 1 for approval.

5. Transport Forum

5.1 The Transport Forum was convened in 2017 with the purpose of providing expert advice and guidance to the Partnership Board on the development of the Transport Strategy. Membership of the Forum has expanded and includes representatives from a wide range of stakeholder groups.

5.2 Following the forthcoming publication of the Strategic Investment Plan in spring 2023, it is considered timely to review the operation of the Forum and ensure that it continues to provide expert advice and guidance to the Partnership Board. There are also a number of other TfSE thematic groups, e.g. decarbonisation, future mobility, etc, and consideration should be given to how the Forum operates alongside these.

5.3 The governance sub-group proposes that the newly created Audit and Governance Committee leads a review of the Transport Forum operation in the next financial year. The review will need to engage existing members of the Forum to seek their views. The Partnership Board are asked to agree that the Audit and Governance Committee undertake a review of the Transport Forum and its operation.

6. Conclusions and Recommendations

6.1 The Partnership Board are recommended to note the progress of the sub-group and agree, in principle and subject to discussions with senior officers, the proposed changes to the Intra Authority Agreement.

6.2 Members are also asked to agree the Terms of Reference for the Audit and Governance Committee and appoint five local authority members to the Committee.

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Transport for the South East: Audit and Governance Committee Terms of Reference

1.1 Statement of Purpose

The Audit and Governance Committee is a key component of corporate governance providing an independent, high-level focus on the audit, assurance and reporting framework underpinning financial management and governance arrangements for TfSE. Its purpose is to provide independent review and assurance to Members on governance, risk management and control frameworks. It oversees financial reporting and internal and external audit, to ensure efficient and effective assurance arrangements are in place and assists the TfSE Partnership Board in providing leadership, direction and oversight of the overall risk appetite and risk management strategy.

1.2 Membership

1.2.1 Membership of the Audit and Governance Committee comprises five members (drawn from the members appointed by the Constituent Authorities in accordance the TfSE Constitution).

1.2.2 The members of the Audit and Governance Committee shall appoint from among them a Chair of the Committee.

1.2.3 A representative of the Department for Transport (DfT) will be invited to attend meetings of the Audit and Governance Committee.

1.2.4 An independent expert may be invited to attend and inform the Audit and Governance Committee where the Chief Officer and the Chair of the Committee agree that specialist skills are required.

1.3 Terms of Reference

The core functions of the Audit and Governance Committee are to:

1.3.1 approve TfSE's Accounts;

1.3.2 recommend approval of the annual statement of accounts for TfSE;

1.3.3 governance, risk and control;

1.3.4 review corporate governance arrangements against the Code of Corporate Governance and the good governance framework;

1.3.5 monitor the effectiveness of arrangements to secure value for money;

1.3.6 be satisfied that the assurance framework adequately addresses risks and priorities including governance arrangements in significant partnerships;

1.3.7 Monitor TfSE's risk and performance management arrangements including

review of the risk register, progress with mitigating action and the assurance map;

1.3.8 Consider reports on the effectiveness of internal controls;

1.3.9 Monitor the anti-fraud strategy, risk-assessment and any actions;

1.3.10 Make recommendations to the Chief Finance Officer and Monitoring Officer in respect of Part 6 of the Constitution (Financial Regulations).

1.4 Frequency and Quorum

1.4.1 The Audit and Governance Committee shall comprise five (5) members of whom at least four (4) shall be representatives of the Constituent Authorities. The quorum shall be three (3) of whom at least two (2) shall be representatives of the Constituent Authorities.

1.4.2 The Audit and Governance Committee shall meet quarterly or at such intervals as the Chair of the Committee may decide.

1.5 Accountability Arrangements

The Audit and Governance Committee shall report to its findings, conclusions and recommendations on the effectiveness of governance, risk management and internal controls to the Partnership Board on an annual basis, with quarterly update reports.

1.6 Voting

Voting at the Audit and Governance Committee shall be on the basis of one member one vote.

1.7 Miscellaneous

1.7.1 The Audit and Governance Committee may invite any individual, whether internal or external, to attend all or part of its meetings in whatever capacity as the Chair deems appropriate in order to assist the Audit and Governance Committee in its duties.

1.7.2 The Audit and Governance Committee will meet privately with the external auditor at least once a year, without the presence of TfSE Officers.