



WEST MIDLANDS
COMBINED AUTHORITY

Board Meeting

Date	20 January 2017
Report title	West Midlands Rail Limited – Revised Collaboration Agreement with Department for Transport
Leader with lead responsibility	Cllr Roger Lawrence – Transport
Accountable Chief Executive	Laura Shoaf, Managing Director, TfWM Email: laurashoaf@centro.org.uk Tel: 0121 214 7183
Accountable employee(s)	Malcolm Holmes, Programme Director, West Midlands Rail Email: malcolmholmes@westmidlandsrail.com Tel 0121 214 7058
Report to be/has been considered by	WMR Officers' Rail Devolution Group

Recommendation(s) for action or decision:

The West Midlands Combined Authority is recommended to:

1. **Note** the change of position to rail devolution being adopted towards rail devolution in the West Midlands by the new Secretary of State for Transport; and
2. **Cast** its votes in favour of the special resolution that is necessary under Article 8.3 of West Midlands Rail Limited (WMR Ltd) Articles of Association to authorise the signing of the revised Collaboration Agreement (appended to this report), whether that resolution is passed in writing or at a general meeting of the Company.

1.0 Purpose

- 1.1 The purpose of this report is to advise the West Midlands Combined Authority (WMCA) of a change to the drafting of the Collaboration Agreement between West Midlands Rail Limited (WMR Ltd) and the Department for Transport (DfT) since being approved by the Authority on 19 August 2016. The change has come about because of a change of opinion by the new Secretary of State for Transport.
- 1.2 The Collaboration Agreement sets out the relationship between WMR Ltd and the Department for Transport (DfT) in relation to the management of the West Midlands passenger rail franchise. Authorisation is sought for WMCA to cast its votes in favour of the special resolution to that is necessary under Article 8.3 of WMR Ltd Articles of Association to authorise the signing of the Collaboration Agreement.

2.0 Change of Ministerial Approach to Rail Devolution

- 2.1 On 19 August 2016, WMCA approved that WMR Ltd should sign the draft Collaboration Agreement with the DfT. Since that time, a new Secretary of State for Transport, Chris Grayling, has indicated a change of policy with regards to future devolution of rail franchising.
- 2.2 The change of thinking from the Transport Secretary reflects his concern about the benefits of full devolution of rail responsibilities across the UK. This has resulted in the Collaboration Agreement draft that has been approved by all WMR Member¹ authorities being amended to remove reference to full devolution.
- 2.3 Positively, the Transport Secretary wholeheartedly supports the collaborative approach that WMR has developed with the DfT, and is keen to highlight this as best practice for other partnerships that the DfT may enter into.
- 2.4 This change of approach raises a number of challenges for WMR, not least that the premise of the current draft Collaboration Agreement was based on us being on a journey to full devolution. Following discussion with Cllr Winnington and Cllr Lawrence, Chair and Vice Chair of WMR Ltd, it was concluded that the change of approach is manageable, and in practical and legal terms it changes nothing with regard to our involvement in franchise bid evaluation, the management of the franchise after award and our role in the competitions for other franchises, meaning our level of influence will remain the same. The Collaboration Agreement draft did not commit the Secretary of State or WMR to full devolution, and as that decision is not required until the early 2020s, there is plenty of time to build confidence with the ministerial team now and in the future.
- 2.5 In the meantime, the WMR Ltd priority will be to build a strong relationship with the new Secretary of State, and to that end, Cllr Winnington and Cllr Lawrence met with him and the Rail Minister Paul Maynard on 14 December. WMR Ltd will also continue to work positively and in close partnership with the DfT at an officer level.

¹ WMR Member authorities are the West Midlands Combined Authority and the seven Shire and Unitary Local Transport Authorities. In the continuing spirit of inclusivity, approval from individual Metropolitan District Authorities have also been sought throughout this process, although this is not technically required under WMR Ltd Articles of Association

3.0 Revised Collaboration Agreement Draft

- 3.1 Appended to this report is the revised drafting of the Collaboration Agreement. This version removes reference to longer term full devolution which, in any case, were not firm commitments on either party.
- 3.2 The revised Collaboration Agreement draft has been reviewed by Pannone Corporate, the WMR Ltd external legal advisors.
- 3.3 This revised draft was approved in principle by the WMR Board on 9 December 2016.

4.0 Financial implications

- 4.1 There are no changes to the arrangements outlined in the report approved by WMCA on 19 August 2016. DfT will continue to honour the previous commitment to provide the majority of future WMR Ltd funding (£0.5m² per annum), with a minimum £0.14m contribution from WMR Ltd member authorities.

5.0 Management of Risk

- 5.1 The changes to the Collaboration Agreement do not change the issues in relation to risk outlined in the report approved by WMCA on 19 August 2017.

7.0 Legal implications

- 7.1 Matters required to be considered are set out within the body of this report. There are no additional legal implications flowing from the contents of this report.

8.0 Equalities implications

- 8.1 None arising directly from this report.

9.0 Other implications

- 9.1 None arising directly from this report.

10.0 Schedule of background papers

- 10.1 West Midlands Combined Authority, 19 August 2016: 'West Midlands Rail Limited – Collaboration Agreement with Department for Transport'.
- 10.2 West Midlands Integrated Transport Authority, 18 November 2015: 'Establishment of West Midlands Rail Limited'.

11.0 List of Appendices

- 11.1 The draft 'Collaboration Agreement relating to rail operation in the West Midlands' is appended to this report.

² 2016 prices, no indexation permitted