



# Enterprise and Business Scrutiny Panel

4 March 2014

<b>Report title</b>	Rail Devolution	
<b>Cabinet member with lead responsibility</b>	Councillor Peter Bilson Economic Regeneration and Prosperity	
<b>Wards affected</b>	All	
<b>Accountable director</b>	Tim Johnson, Education and Enterprise	
<b>Originating service</b>	Transportation	
<b>Accountable employee(s)</b>	Lydia Barnstable	Head of Transportation
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<b>Report to be/has been considered by</b>	N/A	

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## Recommendation(s) for action or decision:

The Panel is recommended to:

1. Provide comments on the Rail Devolution proposals and proposed governance structures.
2. Agree that Cabinet be asked to approve support in principle for pursuing rail devolution in the West Midlands.
3. Agree that Cabinet be asked to support the preferred governance arrangements of a Special Purpose Vehicle, which involves the establishment of a separate company limited by guarantee to deliver and manage rail devolution on behalf of the West Midlands authorities and Centro.

## Recommendations for noting:

The Panel is asked to note:

1. This item is being considered as pre-decision scrutiny and will therefore not be available to call-in once a decision is made by the Executive.

## **1.0 Purpose**

- 1.1 The purpose of the report is to inform the Scrutiny Panel of the background to, and the current progress of, the emerging rail devolution proposals for the West Midlands region, along with the proposed governance arrangements.
- 1.2 West Midlands Rail (WMR), a partnership of fourteen local transport authorities, has been invited by the Secretary of State to submit a proposal for the devolution of the specification and management of local rail services. The current West Midlands proposals will split the existing London Midland franchise to create a West Midlands Rail Contract (WMRC) for the operation of local rail services. The contract would be democratically accountable to Councillors rather than central Government as is the case at present. The remaining London Midland services would continue to be specified and managed by the Department for Transport (DfT). It is proposed that local management of the WMRC would commence in June 2017 and operate for a period of seven to nine years. Governance arrangements would need to be established which will reflect the interests not only of the ITA (on behalf of the Metropolitan Authorities) but also those of the neighbouring shires and unitary authorities.
- 1.3 The proposal that is submitted to the Secretary of State will be non-binding and the starting point for more detailed discussions with the DfT. The DfT has indicated that it will need to make a decision in principle on whether to split the London Midland franchise in early 2015 in order to meet a June 2017 start for the WMRC.

## **2.0 Background**

- 2.1 Rail is an essential part of the economy of the West Midlands, with some 44 million trips being made in the metropolitan area and continued strong growth being experienced (around 7% last year). However, the rail network in the West Midlands is congested, with peak overcrowding becoming an increasingly serious problem on many routes and the service offer to passengers much poorer than it should be. Local passenger services compete for track capacity with long-distance and freight services. Many of the services on the passenger rail network carry people making relatively short journeys and are a key part of the local public transport network. At the moment the franchise contracts underlying most train services in England are specified, funded and managed centrally by the DfT based in London.
- 2.2 The localism agenda and the McNulty Rail Value for Money Study (2011) propose greater local control over public services, including rail. The Department for Transport's new policy for rail franchising, which was published in January 2011, recognised that the aspiration for ITAs (Integrated Transport Authorities) and PTEs (Passenger Transport Executives) to take a direct role over local rail services is consistent with the Government's desire to see more "localism". In March 2012 the Department for Transport (DfT) published a Rail Decentralisation paper, which explores the options available to Government to devolve responsibility and budgets for passenger rail services in parts of England to local bodies. Further details regarding the current rail franchise position and

the options for devolution are outlined in this document: 'Rail Decentralisation – Devolving decision-making on passenger rail services in England' (see 11.1 for link).

- 2.3 The decision of the Secretary of State to construct HS2 to the West Midlands and this proposal for a devolved railway gives an opportunity to locally determine how best to use the released capacity on our local network and make the right connections into HS2.

### **3.0 Progress, options, discussion, etc.**

- 3.1 In order to progress Rail Devolution options within the West Midlands a partnership of fourteen local authorities and Centro has been set up and is called West Midlands Rail (WMR). The geography of the partnership reflects the West Midlands Travel to Work Area and includes those areas which would be within any potential devolved network. If devolution is progressed then it is proposed that WMR as a special purpose vehicle would commission and manage local rail services from 2017.
- 3.2 The link between passenger rail services and economic growth and regeneration are well recognised. Currently, all rail services operated in the West Midlands are specified and controlled by central Government leading to key decisions on investment being made remotely. Local decision makers may be better placed to recognise trends in usage and demand, propose how transport networks can best adapt to new housing or employment patterns and determine how the transport network can develop in a way that contributes to achieving the wider economic objectives of an area.
- 3.3 There are already options available to local decision makers to influence the provision of rail services affecting their area:
- DfT consults widely on service specifications prior to an Invitation to Tender (ITT) being issued to bidders for franchises and changes have been made to specifications in response to proposals from stakeholders.
  - PTE's and local authorities can and do specify and fund additions to the base specification either before the franchise begins or during the life of a franchise.
  - If a local authority or PTE concludes that capital investment is required to deliver the rail service improvements it wants, it has the option of seeking Local Major Transport Scheme funding.
- 3.4 However, rail devolution brings decision-making closer to the people who use the trains, and to the key bodies influencing the economic regeneration of the region's towns and cities. It will help maximise the capacity released on the local rail network by HS2 and increase influence over national investment programmes. Integration between transport modes can be achieved more effectively when a substantial portion of the network is specified locally.

### **4.0 Governance and risk**

- 4.1 Effective, inclusive and transparent decision making, along with democratic and financial accountability, are key requirements for any governance proposals. The governance structure must also allow appropriate level decision making, have the powers to hold and

process large payments of public funds and give WMR the ability to manage the contract effectively. There will also be a need to respond to unexpected events, respect individual partner requirements and have the flexibility to enable individual authorities to enter into direct agreements with the delivery body. Local and national government confidence in the governance structure will be essential.

4.2 Currently there are three key bodies identified in the rail devolution process:

- **Leaders Rail Group** – Leader / nominee from all authorities; they will make strategic policy and funding decisions and will hold voting rights for any risk bearing Local Authorities (LA's). This group can also include observers such as a Local Economic Partnership (LEP) representatives or the DfT.
- **Contract Board** – One member from each LA will be appointed by the Leaders Rail Group and they will provide scrutiny to WMR over management of the contract. Some delegated authority for financial and other decisions would sit with this group, with only risk bearing LA's having voting rights.
- **Delivery Body** – A professional team managing the contract who will report on performance, projects and other contract issues to the board. This body would hold the contract with the train operator.

4.3 Two possible governance models have been identified:

- Use Local Government and PTE structures: '**West Midlands Rail**'. This would be a separate delivery body within the PTE with support functions provided by the PTE and the funding agreement being between DfT and the PTE. This would require an additional mechanism to involve authorities outside of the West Midlands Metropolitan area. The PTE in this instance would be Centro.
- Creation of a Special Purpose Vehicle (SPV): '**West Midlands Rail Ltd**'. This would be a company limited by guarantee, incorporating the contract board and delivery body. Independent business support resources would be needed and the funding would be held by a nominated LA fund holder. Contract board members would be directors of the company and the SPV would need to demonstrate financial security to give authorities and DfT comfort.

4.4 At this stage the **SPV** is being recommended as the preferred option and further details of how this would be arranged are currently being investigated.

4.5 Some initial work has been undertaken to identify risks associated with rail franchising, however the exact quantum of risk will only be known following discussions with DfT. The expression of interest would be non-binding at this time.

## 5.0 Conclusions

5.1 The rail devolution proposal affords the opportunity to develop a more effective local rail network by devolving responsibility and funding to an accountable and responsive local level, in the form of West Midland Rail Ltd. In this way decisions can be made about the best way of delivering desired outcomes to ensure rail services in the West Midlands can be delivered most effectively for both taxpayers and passengers.

- 5.2 The West Midlands Railway is fundamental to our future economic growth connecting people to jobs and opportunities, as well as providing a wider employment pool and improved access for investors and employers. Rail also plays an increasingly important role in facilitating business-to-business and longer-distance leisure trips. A strong rail offer is critical if the productivity of our local economy is to grow and our economies are to thrive.
- 5.3 The proposals for rail devolution have the potential to:
- ensure that the most cost effective transport solutions are implemented which will deliver the region's needs and economic priorities.
  - deliver the right investment decisions for the railway that support economic growth and carbon reduction; and
  - improve the quality and sustainability of the railways, encouraging passenger growth and mode shift away from less sustainable modes of transport.
- 5.4 A report on Rail Devolution is being taken to Cabinet on 26 March where a recommendation is to be made to approve in principle support for pursuing rail devolution. If agreed this will involve Wolverhampton City Council signing a non-binding letter of support to accompany the West Midlands Rail (WMR) submission to the secretary of state; a draft example of the letter is appended to this report. Discussions can then commence between WMR and DfT regarding the options available, financial constraints and future risk. A further report will be brought to Cabinet later in 2014 to seek a decision on whether or not Wolverhampton will continue to support the rail devolution process, based on a more detailed business case.

## **6.0 Financial implications**

- 6.1 The letter of support would be non-binding and contains no financial requirements or commitments at this stage. Should rail devolution discussions be progressed, financial risk to the local authority will be a key consideration and will be addressed in a future report to Cabinet. [RT/13022014/K]

## **7.0 Legal implications**

- 7.1 The letter of support would be non-binding and includes no commitment from Wolverhampton City Council to enter into any further agreements. There are therefore no legal implications arising from this report. Should rail devolution proposals be progressed, legal considerations, accountability and decision making will be a key consideration and will be addressed in a future report to Cabinet. [JH/13022014/Q]

## **8.0 Equalities implications**

- 8.1 No changes to rail services or their operations are proposed and an initial analysis indicates that there are no equalities implications arising from this report. As rail devolution proposals are developed, the equalities implications will continue to be considered and an appropriate analysis will be submitted alongside future reports.

## **9.0 Environmental implications**

- 9.1 The letter of support would be non-binding and therefore contains no environmental implications or commitments at this stage.

## **10.0 Human resources implications**

- 10.1 The proposed governance structures would place a requirement upon the local authority to provide resources in the form of councillors and staff, to assist in the governance of the rail contract. The details of this requirement are unknown at this time, but will be addressed in a future report to Cabinet if rail devolution proposals are progressed. The proposed letter of support is non-binding and does not commit Wolverhampton City Council to providing any resources at this time.

## **11.0 Schedule of background papers**

- 11.1 Department for Transport Consultation Document March 2012: Rail Decentralisation – Devolving decision-making on passenger rail services in England  
<https://www.gov.uk/government/consultations/rail-decentralisation-devolving-decision-making-on-passenger-rail-services-in-england>

Draft letter of Local Authority support – February 2014