

# Executive Decision Report

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## **LOCAL TRANSPORT BODY GOVERNANCE AND WORKING ARRANGEMENTS**

Decision to be taken by: City Mayor  
Decision to be taken on: 1 March 2013  
Lead director: Andrew L Smith

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**City Mayor**

## Useful information

- Ward(s) affected: All
- Report author: Garry Scott
- Author contact details: 29 6526
- Report version number: Rev03

### 1. Summary

The local framework for funding major transport schemes will be based on a Local Transport Body for Leicester and Leicestershire. This report is to determine key aspects of the governance, administration and working arrangements for the Local Transport Body from a City Council perspective.

### 2. Recommendations

That the following be approved –

1. That the City Council work with the County Council and LLEP partners to establish a Local Transport Body (LTB), to allocate DfT capital funding to agreed local major transport schemes, based on the following broad principles:
  - (a) Name: Leicester and Leicestershire Transport Board.
  - (b) Membership: Three voting members consisting of one City Council (City Mayor and substitute), one County Council, one Leicester and Leicestershire Enterprise Partnership (LLEP) and one non-voting District Council representative.
  - (c) The LTB will initially only make decisions on local major capital transport funding.
  - (d) Meetings of the LTB will be as and when but at least half yearly, and will be open to the public.
  - (e) Conflicts of interest, transparency and administration arrangements will follow City Council policies and practices.
2. Leicester City Council will act as the accountable body and provide support and administration.
3. That delegation be given to the Director of Planning Transportation and Economic Development in consultation with the City Mayor to negotiate and agree an appropriate detailed 'Assurance Framework' which shall take into account the above broad principles

### **3. Supporting information including options considered:**

#### **Context**

3.1 The new devolved system for prioritising and funding local major transport schemes for the next Spending Review period (beyond April 2015) – schemes which in the past have cost over £5m, will be based on newly established Local Transport Bodies.

3.2 The City Mayor was briefed on 12<sup>th</sup> September 2012, and the following decision was formally recorded on 2<sup>nd</sup> October 2012:

- That the Local Transport Body covering the City of Leicester be based on the Leicester and Leicestershire Local Enterprise Partnership boundary.

3.3 The final version of the Government's guidance for local transport bodies was issued in November 2012. This requires an 'Assurance Framework' to be submitted to DfT by February 2013, setting down the governance, administration and working arrangements for the Local Transport Body.

3.4 Joint discussions are taking place between City and County transport officers to draft a detailed assurance framework for an LTB. This would establish local governance arrangements along with a means to identify and prioritise transport investment received by the LTB (indicative allocation indicates £24.1m over four years from 2015/16). Evidence of the agreement of the framework between the parties needs to be submitted as well. DfT will respond within 2 months. Thereafter a prioritised list of schemes needs to be submitted to DfT by July 2013. We are discussing with County Council officers a method of selecting schemes to get a balanced approach that will support priority schemes in both areas. This list will need to have been agreed by the LTB before the July submission.

3.5 We have had informal officer meetings with the County Council and LLEP to discuss how we can best respond to the Government's requirements. The above recommendations have resulted from those discussions but both the County Council and LLEP will have to formally agree to them.

3.6 Other requirements include:

- There will need to be an independent local auditor appointed to ensure the LTB is operating within the agreed framework. First annual audit to be sent to DfT before Dec 2014.
- DfT will carry out periodic assessments of quality of assessments and scrutiny. Results may affect future funding.
- Meetings that determine programmes and investment decisions must be open to public.

3.7 There will be significant upfront costs in setting up and running an LTB. Many of these costs are likely to be in house staff costs and there will be staff resource implications. The DfT announced on 23<sup>rd</sup> January 2013 a capacity building funding that is not ring fenced of £131,579 to each individual LEP. LEPs have discretion to apply it to areas where it will be most effective. DfT hope that consideration is given to ensure LTBs have the capacity and resource to play an effective role in transport

decision making.

### **Options**

3.8 It is proposed that the Leicester and Leicestershire Transport Board is the most appropriate name for the LTB.

3.9 There are a number of options for the membership but the majority of voting members must be democratically elected. It is suggested that three voting members consisting of one City Council (City Mayor and substitute), one County Council, one Leicester and Leicestershire Enterprise Partnership) and one non-voting District Council representative would be most appropriate.

3.10 The accountable body could be either the City or County Council. Leicester City Council acts as the accountable body for the LLEP and these arrangements work well. It is suggested that Leicester City Council will act as the accountable body and provide support and administration. It should be noted that this would place a considerable responsibility on the City Council, as detailed in the finance and legal comments in section 5 below.

3.11 It is suggested that the LTB initially only covers capital local major transport funding. It is recognised that in order to maximise the benefits from whatever funding streams are available, there may be some merit in the LTB taking on a future role in relation to devolved funding and other funding streams as may be appropriate. This may enable the LTB to have a complete picture of the overall funding package for any major infrastructure project.

3.12 It is proposed that meetings will be as and when but at least half yearly, and will be open to the public. There needs to be a meeting when making decisions on the programme and also on individual scheme investment decisions. We believe that this will give the right balance between the burden of an overly prescriptive regime of meetings whilst allowing for adequate public involvement. There will need to be a meeting before the end of July 2013 to determine the prioritised list of schemes.

3.13 If the City Council were to be the accountable body, it is suggested that it would be sensible for conflicts of interest, transparency and administration arrangements to follow normal City Council practices.

## **4. Details of Scrutiny**

The Transport and Climate Change Scrutiny Commission has received reports on related City Deal proposals which included discussion of the Local Transport Body.

## 5. Financial, legal and other implications

### 5.1 Financial implications

**Finance:** *Paresh Radia – Principal Accountant 29 6507*

Complying with the Department for Transport requirements would enable us to access a share of a Major Transport scheme capital pot. For Leicester and Leicestershire this is estimated to be around £20m over the 4 years 2015-2019.

The requirement to establish an accountable body to be responsible for the devolved programme will have resource implications in servicing of the Local Transport Body (LTB) and to discharge new responsibilities in respect of scheme appraisal. An independent audit will be required to ensure the LTB is working within the agreed framework. Funding may be available to cover these additional costs. If not, costs will be shared between the authorities.

Acting as accountable body does of course place significant responsibility and accountability upon the Council, in essence to ensure that all LTB funds are properly spent and accounted for and ultimately accepting liability to repay the Government should this not be the case. The Council is however accustomed to taking the accountable body role and officers will ensure that appropriate governance, accounting and risk sharing arrangements are in place.

### 5.2 Legal implications

**Legal:** *Jamie Guazzaroni, Solicitor, Legal Services 29 6350*

This Report details the Councils proposals re the governance, administration and working arrangements between the parties involved in the establishment of the Local Transport Body. All proposals will need to be agreed through the parties involved and it is recommended that the Contract and Procurement Section of Legal Services is contacted to look at the proposals prior to any agreements being reached on behalf of the Council.

*Beena Adatia, Senior Solicitor, Legal Services 29 6378*

This report requests the Executive to approve that the City Council partake in the future devolvement system of local major transport schemes. The DfT expect that LTBs be set up and comprise local authorities, the Local Enterprise Partnership and possibly other organisations. This report recommends that the LTB for Leicester and Leicestershire comprise the City and County Councils and membership includes the LLEP and one District Council. The DfT guidance sets out in paragraphs 3 – 8 under the heading “Part One: Purpose, Structure and Operating Principles” the Membership requirements, and before agreeing the Assurance Framework to submit to the DfT by the end of February 2013, all organisations proposed as members need to agree the document. Types of membership need to be detailed (voting, observers etc).

It can be seen from the DfT guidance paper, that the DfT has set out in some detail, what it expects in terms of a written quality assurance framework for a LTB, which

includes minimum requirements for governance, transparency and accountability. The DfT must be satisfied as to the arrangements before it devolves anything.

This report sets out that the LTB be comprised as a non-legal entity which is one of the options in the DfT guidance, and thus the LTB would operate similarly to the LLEP. The report also recommends that the City Council act as accountable body. The obligations for so doing are considerable. Some of the more significant ones relate to the hosting and servicing, accounting and auditing requirements – for example, the LTB meetings must be held in public and have published agendas and decisions. Further, the City Council will be entering into legal agreements relating to both incoming funds and outgoing funding for schemes approved by the LTB. As the LTB will be a non-legal entity, the City Council will be the focal point for any liabilities etc and must ensure that agreements are entered into before the LTB comes into operation, with member organisations to ensure back to back assurances from other LTB partners, who in the proposed membership is the County Council (the LLEP being a non-legal entity). Client officers must seek appropriate legal advice.

The accountable body requirements (in paragraphs of the DfT guidance) also highlight the assurances required of the s151 officer.

In summary, the general power of competence will enable the City Council to partake and act as accountable body for a LTB, There are significant implications of doing so, and client officers should take legal and other professional advice with regard to the details of the Assurance Framework, and the City Council should ensure that appropriate 'side' agreements are in place to deal with risks associated with being the host and accountable body. There will be considerable legal work should the approvals as set out in this report be given and early advice should be taken.

It should also be noted that currently the City Council's own constitution requires that a decision as to whether the Council should act as an accountable body in relation to any project or funding programme, subject to a de minimus level of £100,000 requires the City Mayor's approval. Any specific incoming funding for this purpose will therefore need to satisfy this requirement.

### 5.3 Climate Change and Carbon Reduction implications

No direct implications at this time.

### 5.4 Equality Impact Assessment

No direct implications at this time.

### 5.5 Other Implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

No direct implications at this time.

**6. Background information and other papers:**

Guidance from DfT at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/15176/guidance-local-transport-bodies.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15176/guidance-local-transport-bodies.pdf)

<https://www.gov.uk/government/speeches/devolution-of-funding-for-local-major-transport-schemes-indicative-funding>.

**7. Summary of appendices:**

None

**8. Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?**

No.

**9. Is this a “key decision”?**

Yes.

**10. If a key decision please explain reason**

Significant in terms of its effects on communities living or working in two or more wards in the City.