

Strategic Transport Leadership Board

5 December 2024

Agenda Item 8 Statutory Functions – exploration of options

Recommendation:

It is recommended that the Board:

- a) Notes the progress made in the ongoing exploration of statutory functions**
- b) Approves the proposed consultation responses to both Transport's East proposed Enabling Powers (annex A) and Transport for the South East's proposed Devolved Powers (annex B).**

1. Purpose of Report

- 1.1 This paper provides an update on the exploration of possible statutory functions being undertaken by the EEH Business Unit.

2. Key points to note

- 2.1. In September 2024, the Board agreed the principles for the business unit to work within when identifying possible options for 'statutory status'. This paper provides an update of the progress of this work, recognising the ongoing considerations within the region in light of the Devolution White Paper.
- 2.2. Our two neighbouring sub-national transport bodies, Transport East and Transport for South East, are also exploring statutory powers and functions. Both STBs have now proceeded with a consultation on their proposed approaches – which are similar, but not identical. In approving the consultation responses, this should not be taken as an agreement that these functions or powers would be appropriate or desired by EEH.

3. Context

- 3.1. Within EEH, work is ongoing to explore how establishing statutory functions for the sub-national transport body would better enable EEH to deliver our role, as set out by the Cities and Local Government Devolution Act 2016¹ and in line with on going discussions by the Strategic Transport Leadership Board about priority areas of focus for EEH.
- 3.2. In line with this, and in support of our established role to develop and implement a regional transport strategy, there are potential advantages to EEH obtaining a small number of statutory functions. These would be designed to complement the powers of its local authority partners and strengthen the influence the region is able to exert on national transport investment and policy decisions.

¹ [Cities and Local Government Devolution Act 2016](#)

- 3.3. Since the General Election there has been considerable focus on devolution, and it is within the context of this evolving landscape that the EEH Board is likely to want to consider the case, approach and statutory functions that we eventually may wish to pursue. As such, this paper is not seeking agreement for EEH to proceed with proposals yet.
- 3.4. In the background and while we await the next steps following the Devolution White Paper, officers continue to collate the evidence that will inform the Board's options and preferred approach for pursuing statutory functions - when and if the time is right.

4. Statutory Functions and Powers – EEH approach

- 4.1. Core to our thinking is the formal recognition of EEH as the regional voice in government funding allocations for transport, representing a coordinated view of our partner/constituent authorities. This could be achieved through the Secretary of State having a more established and formal process for 'having regard' of the regional transport strategy, for example seeking that the SoS should provide a rationale for decisions that run counter to the strategy. Establishing this requirement strengthen the 'golden-thread' between local democratic decision making, the performance and prioritisation of investment on our country's national networks (road, rail and public transport) and government policy making'.
- 4.2 Similarly, officers are exploring an option that would see the requirement to "have regard of the regional transport strategy" be extended to all relevant executive agencies and executive non-departmental public bodies, such as Active Travel England. This option could also and propose that appropriate consideration of the regional transport strategy by Great British Railways and National Highways could be reviewed in performance terms by the Office of Rail and Road.
- 4.3 Officers are also exploring the extent to which 'statutory status' may not mean a large stand alone body corporate, but instead whether the Board's ambitions could more sensibly be achieved through a "lite" version of statutory status: where powers and/or functions are granted to a non-statutory EEH.
- 4.4 These options may be enabled through alternative delivery models or governance arrangements, which could still achieve the Board's ambitions but may not require full statutory status. These could include:
- EEH, as the sub-national transport body, to have a defined role in rail and road decision-making and strategic investment processes. This could be written into the network licence conditions and/or governance arrangements for Great British Railways and National Highways.
 - EEH having greater the ability to hold, make or receive capital grant funding, where our partners and Board identified there was a need for us to do so. This would allow us to better support delivery (particularly across boundaries), develop complementary measures (such as digital connectivity) and focus more confidently on benefits realisation of projects. This function may also allow EEH to leverage additional revenue generation from other funding streams, such as grants from other government departments, innovation and private finance.



- Linked with this, the Board have agreed that they would like to see EEH develop strategic and/or economic dimensions of business cases – the ability to act as a scheme promoter in partnership with of our local authorities could include being able to draw down on capital funds from the Department for Transport to support the development.
- 4.5 An integrated transport network will perform most successfully if it is designed to function that way from the beginning rather than retrofitting. Therefore, we are looking to understand what a recognised role in the early planning and development of significant infrastructure with strategic transport implications including Nationally Strategic Infrastructure Projects and strategic transport infrastructure could look like. This could be further extended to give a supporting or advisory role in planning for other infrastructure and utilities, such as energy. Officers do not think, at this stage, we will be recommending that the Board looks to become a statutory planning consultee.
- 4.6 Considered at a regional scale, there could be a case for franchises or enhanced partnerships across a broader geography to drive improvements in service provision across the region alongside ensuring cross-boundary bus routes. However, this ability to secure the provision of cross-border bus services would require changes to the current legislation.
- 4.7 This might be enhanced through powers enabling EEH to design, implement, coordinate, deliver and manage region-wide multi-modal integrated ticketing schemes, as well as making advanced ticketing schemes concurrently with our constituent authorities.

5 Exploring Delivery Models

- 5.1 In order to inform the evidence on which the Board will be asked to consider options for statutory functions (and status), EEH has commissioned some external advice. The work seeks to identify the most appropriate (light touch) delivery models and governance arrangements existing within the public sector which could be used to support the Board and EEH once it has decided to proceed with statutory activities.
- 5.2 This has been undertaken as a series of case studies, drawing on research of statutory and non-statutory transport, place-based and economic development organisations with statutory status, joint committee or informal partnership arrangements across England, Scotland and Wales.
- 5.3 The next phase is to develop an options spectrum, which will be tested against a number of critical success factors necessary for achieving the Board’s aspirations. This would also include consideration of the powers/functions desired by the Board and the specific legal entity through which the function can be discharged.
- 5.4 It is anticipated that any change to our organisational model may require updates to the governance arrangements. Depending on the nature and scale of these, this may need to be a phased approach to enable transition of existing governance arrangements alongside planning and delivering any new responsibilities.

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November 2024

