

CABINET - 29 JANUARY 2013

FUTURE DEVOLVED GOVERNANCE: LOCAL TRANSPORT BOARD

Report by Director for Environment & Economy

Introduction

1. The purpose of the report is to set out the opportunity to establish a Local Transport Board (LTB) to receive the devolution of local major scheme funding from the Department of Transport, to consider the potential governance and scheme assessment options and to assess whether the LTB should take a role in prioritising other funding streams where they relate to major transport projects.
2. In response to the Coalition Government's commitment to localism the Department of Transport (DfT) has announced its firm intention to devolve funding for local major transport schemes to Local Transport Bodies (LTBs) from 2015. LTBs will be voluntary partnerships between Local Authorities (LAs), Local Enterprise Partnerships (LEPs) and other stakeholder organisations. In order to ensure that the devolved system provides appropriate safeguards for the use of public funds and is able to deliver value for money it will need to have an Assurance Framework in place.
3. The DfT has asked that local partners submit their draft Assurance Framework by the end of February 2013 and an indicative list of prioritised local major schemes by the end of July 2013. Local partners will need to be consulted in order to provide evidence of agreement to the Assurance Framework. It is intended to report the proposals to the Oxfordshire LEP Board on 8 February and adopt a written consultation procedure with other partners over the forthcoming period.

Key Principles and Instructions

4. The arrangements to establish and operate the LTB have been set by the DfT: the key principles and instructions are:

Principles

- The DfT has confirmed that all LTBs need to put in place an Assurance Framework, setting out their governance and working arrangements, and that those frameworks will need to be submitted to, and approved by, DfT before any devolved funding will be transferred – a draft Assurance Framework for Oxfordshire is provided in the Annexe.
- While the devolved major scheme funding in the next Spending Review period post-2015 will be determined by population, in which case the allocation for Oxfordshire will be £16m over 2015-19, the DfT reserves the right to determine future funding allocations according to performance.

- LTBs may decide to take on wider remits and to pool their devolved major scheme funding with funds from other sources provided the major schemes funding is ring-fenced within the wider pool and its use restricted to arrangements that are compliant with the guidance.

Instructions

- All prospective local transport bodies should submit their assurance framework documents by the end of February 2013. The DfT requires this in order to provide it with confidence that the LTB is a fit for purpose organisation that can begin the process of prioritising and commissioning schemes.
- The DfT will also expect to receive an indicative list of prioritised schemes by July 2013. Any delay in this submission, or a submission that is not compliant with guidance, could therefore put at risk the ability of the LTB to have schemes ready from 2015 and therefore the DfT may consider delaying the devolution of funding to those areas.
- The DfT expects that the local assurance frameworks developed in line with the guidance will last for the duration of the post-2015 spending review period.

Options for Establishing the Local Transport Body

5. A number of options could be considered for the governance of the LTB including a new partnership body, the Board of the LEP or the adaptation of an existing partnership arrangement. A key proviso of the DfT guidance is that “elected members on an LTB cannot be outvoted by non-elected members”. This would seem to rule out the LEP Board acting as the LTB without a complicated and contrived voting arrangement to comply with the guidance. Setting up a new partnership body from scratch would be difficult to do if the DfT timetable is to be adhered to. Meaning that the most sensible and appropriate option in the Oxfordshire context is to ask the Spatial Planning & Infrastructure Partnership (SPIP) to establish the LTB under its auspices.
6. It is therefore proposed that the SPIP Board be requested to establish the LTB from amongst its members, which now includes representatives from the LEP, in accordance with the draft Assurance Framework attached as an Annex. As the South East Midlands LEP (SEMLEP) area covers the Cherwell District it is proposed that SEMLEP be offered Associate Member status, that the transport agencies – the Highways Agency and Network Rail – have a standing invitation with observer status, and the transport operators attend by invitation when relevant items appear on the LTB agenda.
7. There is a sound rationale for proposing that the SPIP Board should create a subsidiary Board to act as the Local Transport Board. The SPIP has a successful track record of collaborative working; the partners support an integrated approach to infrastructure investment; it already has the experience of undertaking a prioritisation process for key schemes and it has the opportunity to support the pooling of resources to meet strategic objectives.

8. The DfT require a lead authority to act as the Accountable Body for the devolved funding and it seems sensible and appropriate that the County Council take on this role as the Local Transport Authority (LTA). Given that position, it will be important that the representative of the LTA on the LTB has a 'golden share', including the right of veto in an extreme case, to protect the Council given the significant risk it will be taking on as the Accountable Body
9. It is proposed that views are sought from the District Councils, the Oxfordshire Local Enterprise Partnership, the SEMLEP, Network Rail, Highways Agency and the public transport operators are on the Assurance Framework set out in the Annexe.

Scheme Assessment and Appraisal

10. A minimum requirement of the DfT's Assurance Framework is an open and transparent assessment framework and a robust appraisal process that is independent of the scheme promoter. It includes specific requirements to set out a detailed transport business case and demonstrate high value for money. In order to comply, an independent Programme Office would be established by the Accountable Body, this office would co-ordinate all scheme appraisals in conjunction with partners and would not become involved in scheme promotion.
11. Preliminary discussions with colleagues in neighbouring authorities have indicated that there may be an approach to independent cross-boundary appraisal that would satisfy the DfT requirements. The Programme Office would liaise with a nominated neighbouring authority to undertake the formal appraisal work on a scheme-by-scheme basis.

Corporate Policy, Financial and Other Implications

Corporate Policies & Priorities

12. The Corporate Plan highlights that preparing an infrastructure plan and tackling transport priorities are two of the key priority actions to securing a **World Class Economy**. It also outlined that the County Council needed to demonstrate its Leadership of Place and take an integrated approach to the planning of infrastructure that will support the delivery of jobs, housing and community facilities that are fit-for-purpose and provided in the right place at the right time for the right reason. The proposed devolution of the local major scheme funding to be prioritised by local partners support this aim and will assist the Council in supporting a 'coherent approach across public agencies'.

Financial & Staff Implications

13. The DfT has stated that it will allocate the first tranche of local major scheme capital grant on a pro-rate population basis for the first spending period 2015-19. This will mean that Oxfordshire as the functional economic area will receive £16m in allocation over that period. It is proposed that as this is capital grant, although it will be provided to an independent body in the LTB

that as the accountable body the Council manages this as it would any capital grant with the rigour and control of the capital programme applied to this programme.

14. At the present time the DfT are not suggesting that there is a competitive bidding process for the devolution of local major scheme funding although for future spending review periods the allocation may be decided on performance against delivery. There is the opportunity, should local partners accept it, of pooling the devolved local major scheme funding with other funding streams, such as the Growing Places Fund. There may also be the opportunity, as part of the emerging City Deal proposals, to negotiate with DfT the form in which the funding is provided, e.g. switching from capital grant to revenue to provide the basis for a greater level of capital borrowing.
15. In terms of staffing capacity, it is proposed that the Local Transport Board will be supported by staff within the Transport Plans & Priorities team within the realigned structure of the Environment & Economy (E&E) Directorate. There is a limit to this capacity which can be estimated at roughly 1.5 FTE. In order to develop the joint work that will be necessary to support the LTB it will require the LEP to provide support from its recently announced resource base, for stakeholders who wish to engage with the LTB to resource the capacity to do so and for any external appraisal to be funded from the non-staffing budget within the E&E Directorate on a priority basis.

Legal Implications

16. There will be significant legal and financial input required on behalf of the Monitoring Officer and Section 151 to help develop, approve and then monitor the application of the assurance framework. In taking on the role of the accountable body on behalf of the LTB there will be certain legal liabilities and burdens that the Council will shoulder in supporting investment decisions, letting contracts and monitoring compliance with corporate policies and audit requirements. There will also need to be a memorandum of Understanding put in place between the LTB and the Council as Accountable Body and legal agreements with scheme promoters where delivery is undertaken by third parties. This will involve a dedicated level of resource particularly in the initial stages and wherever possible costs will be recouped although elements of the Accountable Body role will be a burden that the Council will have to accept as a consequence of supporting the devolved arrangements.

Equality & Inclusion Implications

17. The decision by the Department of Transport to devolve the local major scheme funding to the Local Transport Board will allow local partners including the County Council in its role as Local Transport Authority to make decisions that will better reflect local needs and priorities. This should allow a more targeted and flexible approach to addressing the transport needs of target groups and deprived communities particularly in providing access to employment, housing and education thus promoting a greater level of inclusion. A detailed Equality Impact Assessment will be completed should the draft assurance framework be accepted by the DfT.

Sustainability Implications

18. The devolution of local major scheme funding should allow the integration of investment in jobs, housing and infrastructure thus paving the way for more sustainable decisions to be made. That will only be possible if a robust assessment and appraisal process is put in place that incorporates reference to an economic, environmental and social sustainability and a weighting system in determining priorities that pays due regards to sustainability factors as part of an approach that supports balanced judgement.

Risk Management Implications

19. At a strategic level, in taking on the role of accountability body on behalf of the Local Transport Board the County Council will be extending its financial risk in respect of capital provision and its reputational risk in respect of project delivery. These additional risks will need to be weighed against the benefits to be achieved from more effective local decision making. At a scheme level, the Local Transport Authority has a robust risk management framework in place and officers with the requisite level of skills to support the development and delivery of the local major scheme programme. These risks will be managed proactively to ensure that the overall allocation of funding is invested effectively and value for money is achieved. A policy statement on risk and how it is to be managed is a minimum requirement of this process.

RECOMMENDATIONS

20. **Cabinet is RECOMMENDED** to approve the following:
- (a) That the County Council supports the proposal to devolve the funding of local major schemes and facilitates the creation of a Local Transport Board under the auspices of the SPIP Board.
 - (b) The County Council seeks views on the Assurance Framework set out in the Annex from District Councils, the Oxfordshire Local Enterprise Partnership, the SEMLEP, Network Rail, Highways Agency and the public transport operators;
 - (c) That the Director of Environment & Economy, in consultation with the Deputy Leader, be authorised to develop the Scheme Prioritisation Process and progress the Assurance Framework to completion for submission to the Department of Transport in accordance with their timetable in consultation with the Section 151 and Monitoring Officer.

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Annex

OXFORDSHIRE LOCAL TRANSPORT BOARD ASSURANCE FRAMEWORK

PURPOSE, STRUCTURE AND OPERATING PRINCIPLES

Name

1. The name of the Local Transport Body is the “Oxfordshire Local Transport Board”.

Geography

2. The geography covered by the Oxfordshire Local Transport Board is the functional economic area of the County of Oxfordshire.

Membership

3. The following table details the membership of the Oxfordshire LTB, those organisations that will be invited to participate in its proceedings with voting rights and those organisations that would have a standing invitation to attend as observers without voting rights.

Members	<p>The following organisations have an automatic right to full LTB membership with voting rights:</p> <ul style="list-style-type: none"> •Oxfordshire County Council as the Local Transport Authority represented by the Leader of Council (or the Cabinet Member with responsibility for Transport) •Oxfordshire Local Enterprise Partnership represented by the Chairman (or nominated Board Member with responsibility for Transport) •The following District Councils represented by their nominated Leader(s) of Council <ul style="list-style-type: none"> Cherwell District Council Oxford City Council South Oxfordshire District Council Vale of White Horse District Council West Oxfordshire District Council
Observers with Standing Invitation	<p>The following organisations will have a standing invitation to attend the LTB with non-voting observer status:</p> <ul style="list-style-type: none"> •Highways Agency represented by the Regional Director (or their nominee) •Network Rail represented by the Regional Director (or their nominee)

4. The following organisation will have associate members status that will allow them to have a standing invitation to attend the Oxfordshire LTB and to have the ability to vote on matters that fall within their geographical sphere of influence.

Associate Member	<p>The following organisation will have a standing invitation to attend the LTB with the ability to vote on matters that lie within their geographical sphere of influence:</p> <ul style="list-style-type: none"> • South East Midlands Local Enterprise Partnership represented by the Chairman (or their nominee)
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5. The following organisations will have observer status that will allow them to attend the Oxfordshire LTB by invitation, participate in the proceedings and comment on matters that have an impact on their operational sphere of influence.

Observer Status by Invitation	<p>The following organisation will have observer status by invitation to the LTB with the ability to comment on matters that lie within their operational sphere of influence:</p> <ul style="list-style-type: none"> • Transport Operators
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6. The democratic accountability of the LTB will be assured by maintaining that a majority of votes are held by the nominated democratic representatives and adopting a 'golden share' for the representative of the LTA in order to protect the position of the Accountable Body.

7. The membership of the LTB will be reviewed on an annual basis and it will have the ability to co-opt members with specialist technical expertise or from associated stakeholder organisations to advise it on an on-going basis.

Conflicts of Interest

8. The LTB will manage conflicts of interests between members' LTB role and their role in their host organisation, by seeking to ensure through the constitution that LTB members act in the interests of the area as a whole and not according to the narrow sectoral or geographical interests of their member organisations (except of course where that relates to their defined sphere of influence, e.g. in the case of SEMLEP).

9. The LTB will ensure that a register of personal interests of its decision making members is maintained and available to the public. In the case of elected councillors a reference to their own council's register of interests will be made and this will be expanded to cover associate members and observers.

Conflict of Interest	<p>The LTB will have a statement defining how conflicts of interest are managed within its constitution and terms of reference.</p> <p>The LTB will maintain and enable access to, publicly available registers of members' interest(s).</p>
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Gifts and Hospitality

10. The LTBs will have a clear policy on the acceptance and declaration of gifts and hospitality and maintain appropriate records. This will be based on the process and practice of Oxfordshire County Council as the Accountable Body.

Status and Role of Accountable Body

11. The Oxfordshire LTB will be an informal partnership, consisting of the local authorities within Oxfordshire and the existing LEPs with a geographic sphere of influence in the area, namely the Oxfordshire LEP and SEMLEP.

12. The Accountable Body for the LTB will be Oxfordshire County Council as the strategic authority for the area and the Local Transport Authority.

13. The primary role of the Accountable Body will be to hold the devolved major scheme funding and make payments to delivery bodies such as Local Authorities. It should be able to account for these funds in such a way that they are separately identifiable from the Accountable Body's own funds, and provide financial statements to the LTB as required. The local agreements that underpin the LTB will ensure that the funds can be used only in accordance with an LTB decision.

14. It is confirmed that the accountable body will take on the following responsibilities:

- ensuring that the decisions and activities of the LTB conform to legal requirements with regard to equalities, environmental, EU issues etc.;
- ensuring (through their Section 151 Officer) that the funds are used appropriately;
- ensuring that the LTB assurance framework as approved by DfT is being adhered to;
- maintaining the official record of LTB proceedings and holding all LTB documents;
- the decisions of the LTB in approving schemes (for example if subjected to legal challenge).

15. The operation of the LTB will be underpinned by a Memorandum of Understanding with the Council as Accountable Body, funding agreements and associated performance measures with scheme promoters, and appropriate legal agreements where delivery is undertaken by third party delivery partners. The delivery partner will need to have their own assurance framework in place to be able to receive funds and deliver projects on behalf of the LTB.

LTB Accountable Body	<ul style="list-style-type: none"> • The accountable body for the LTB will be Oxfordshire County Council • Funding agreements linked to assurance frameworks will be put in place for any devolved funding for project delivery
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Local audit and scrutiny

16. The LTB will be subject to the local audit and assurance framework adopted by Oxfordshire County Council as the Accountable Body for its partnership arrangements.

Local Independent Audit	<ul style="list-style-type: none"> • A local independent audit will be established by Oxfordshire County Council as the accountable body that reflects its current arrangements with partnership bodies
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Strategic Objectives and Purpose

17. The strategic objective and purpose of the Oxfordshire LTB will be fully defined in its constitution and terms of reference. By illustration it will have the defined responsibility of making decisions on devolved LA major funds and for determining the priority of investment in transport schemes for other pots of devolved funding, such as the Growing Places Fund, where they are utilised for transport purposes, i.e. decisions will be made in one place on transport priorities where the funds are not already within the remit of the Local Transport Authority.

<p>Strategic Objectives and Purpose</p>	<p>The strategic objective and purpose of the Oxfordshire LTB will be fully defined in its constitution and terms of reference and will include in respect of devolved LA major scheme funding</p> <ul style="list-style-type: none"> • Responsibility for ensuring Value for money is achieved • Identifying a prioritised list of investments within the available budget • Making decisions on individual scheme approval, investment decision making and release of funding, including scrutiny of individual scheme business cases • Monitoring progress of scheme delivery and spend • Actively managing the devolved budget and programme to respond to changed circumstance [scheme slippage, scheme alteration, cost increases etc.]
<p>Prioritisation</p>	<p>The Oxfordshire LTB will have the role of prioritising transport schemes to be funded from other devolved funding sources, not already within the remit of the Local Transport Authority, to ensure that decisions are made in one place and supported by all relevant partners and stakeholders.</p> <p>The LTB will also have the ability to comment on wider consultations and funding investment decisions from national agencies, e.g. Network Rail, Highways Agency, where these have a strategic impact on the local transport network.</p>

Support and Administration Arrangements

18. The LTB will receive administrative support and professional advice from officers of the Local Transport Authority and, where appropriate, from officers of the Local Enterprise Partnership. Professional advice from senior officers in the local District Councils will also be sought on locality matters as will advice from SEMLEP where the investment or prioritisation decision impacts on their areas. The LTB will enjoy full time and part time support depending on workload and prioritisation of schemes over the period.

19. The establishment of any LTB sub-groups (working or technical groups) for the designated growth areas or for sector consideration, e.g. rail strategy or bus strategy, will be decided in due course and be part of the annual review of governance arrangements.

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Support and Administration	The LTB will enjoy both full and part time support from officers of the Local Transport Authority subject to workload demands and professional advice from the LEPs and associated District Councils.
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Working Arrangements and Meeting Frequency

20. It is anticipated that meetings of the LTB will be on a quarterly basis with more regular meetings as the Board becomes established. In any event, there will be a minimum of two meetings during the year, one to determine the priorities of the local major schemes and to review governance arrangements and a mid-year review to monitor progress against scheme delivery and strategic objectives.

Meeting Frequency	It is anticipated that the LTB will meet quarterly with a minimum of two meetings per year, one to review priorities and review governance arrangements and a mid-year review to monitor progress against scheme development and delivery.
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Transparency and Local Engagement

21. As with all partnerships supported by Oxfordshire County Council the LTB will ensure a high level of transparency, ensuring the active involvement of the public and key stakeholders.
22. The protocols for LTB meetings and circulation and publication of agendas, minutes, will reflect Oxfordshire County Council's custom and practice as the Accountable Body for the LTB. This will include the presentation of agenda papers for the Board and working groups on a publicly accessible web site and the depositing of papers in public libraries and access points. Channels of communication with stakeholders will be developed and maintained on a regular basis. The LTB will produce an annual report and review of its work that will be published and open to scrutiny.
23. The LTB as a non-statutory body will not itself be subject to the Freedom of Information Act 2005 or the Environmental Impact Regulations 2004. However, Oxfordshire County Council as the Accountable Body that is responsible for holding all formal LTB records will be the focal point for statutory information requests. Any applicants for information to the LTB will be made aware of their right to access information through the Accountable Body.

Transparency	<p>The LTB will routinely publish meeting papers and minutes, scheme business cases and evaluation reports (or link to them on LAs own websites), funding decision letters with funding levels and conditions indicated, and regular programme updates on delivery and spend against budget.</p> <p>The LTB will have a defined process to provide public and stakeholders with meaningful input before decisions are made.</p> <p>The LTB will adhere to Local Government Transparency Code.</p> <p>The LTBs will publish a clear statement of the approach that will be followed by the LTB when making major investment decisions.</p> <p>The LTB will ensure that FOI and EIR requests are dealt with in accordance with the relevant legislation through Oxfordshire County Council as the Accountable Body.</p>
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Channels of Communication	<p>The LTB will have a dedicated web page and will deposit papers at public libraries and access points.</p> <p>The LTB will make published material accessible to the general public to help inform debate (particularly technical material such as modelling and appraisal) via the nominated Project Director for each scheme.</p>
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24. The LTB will deal with and resolve complaints from stakeholders in accordance with the current protocols in place for Oxfordshire County Council acting as the Local Transport Authority. This will include complaints from members of the public, or internal whistleblowers, in cases where it is alleged that the LTB is acting in breach of the law or failing to adhere to its framework or failing to safeguard public funds.

BACKGROUND PAPERS

The following documents will be utilised in further developing the assurance framework:

1. Devolving Local Major Transport Schemes: <https://www.gov.uk/government/publications/guidance-for-local-transport-bodie>
2. Description of the Transport Business Case: <http://www.dft.gov.uk/publications/transport-business-case>
3. WebTAG (DfT's modelling and appraisal guidance): <http://www.dft.gov.uk/webtag/>
4. DfT Value for Money guidance: <http://assets.dft.gov.uk/publications/value-for-money-assessments-guidance/vfmguidance.pdf>
5. Early Assessment and Sifting Tool (EAST): <http://assets.dft.gov.uk/publications/transport-business-case/east-guidance.pdf>; and <http://assets.dft.gov.uk/publications/transport-business-case/east.xls>
6. HMT Green Book (Appraisal and Evaluation in Central Government): http://www.hm-treasury.gov.uk/d/green_book_complete.pdf
7. Documentation from the Development Pool (guidance, examples of business cases and assessments): <http://www.dft.gov.uk/publications/local-major-transport-schemes>