

CABINET MEMBER DECISION

13 March 2017

WEST MIDLANDS RAIL LTD – CHANGE TO THE DRAFT COLLABORATION AGREEMENT WITH THE DEPARTMENT FOR TRANSPORT

Relevant Cabinet Members

Dr K A Pollock and Mr A N Blagg

Relevant Officer

Director of Commercial & Change
Director of Economy & Infrastructure

Recommendation

- 1. The Director of Economy and Infrastructure recommends that the Cabinet Member with Responsibility for Economy, Skills & Infrastructure:**
 - (a) notes the change of position to rail devolution being adopted by the new Secretary of State for Transport; and**
 - (b) approves that Worcestershire County Council continues to support the signing of the revised Collaboration Agreement (included with this report as appendix A).**

Background

2. The purpose of this report is to advise the Cabinet Member 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 Council's Cabinet on 29 September 2016. 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.
3. The change of thinking from the Transport Secretary reflects his concern about the benefits of full devolution of rail responsibilities across the UK, and has resulted in the Collaboration Agreement draft that had been previously approved by all WMR Member authorities being amended to remove reference to full devolution accordingly.
4. 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.

5. 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 original 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.

6. 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 him on 14 December. WMR Ltd will also continue to work positively and in close partnership with the DfT at an officer level.

Revised Collaboration Agreement Draft

7. Included with this report at Appendix A is the revised drafting of the Collaboration Agreement. This revised draft removes reference to longer term full devolution which in any case were not firm commitments on either party.

8. The revised Collaboration Agreement draft has been reviewed by Pannone Corporate, the WMR Ltd external legal advisors, commissioned by West Midlands Combined Authority

9. This revised draft was also presented at the WMR Board meeting on 9 December

Implications for WMR Partner Authorities

10. In accordance with paragraph 8.3 of the WMR Ltd Articles of Association, any change to the WMR Ltd relationship with the DfT or substantial changes to that agreement must gain the prior approval of WMR authorities by special resolution. As such, the change to the Collaboration Agreement drafting must be endorsed by a minimum of 75% of Member authorities, and as it stands all other Member authorities have endorsed or are in the process of endorsing the change.

11. 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 required under WMR Ltd Articles of Association.

Legal, Financial and HR Implications

12. The financial implications remain unchanged, and the commitment from DfT to fund WMR Ltd for franchise management costs (£500K per year) remains in force.

13. There are no additional legal implications arising from the change to the Collaboration Agreement drafting.

Privacy and Public Health Impact Assessments

14. There are no privacy implications arising directly from this report

Equality and Diversity Implications

15. An Equality Relevance Screening has been completed in respect of these recommendations. The screening did not identify any potential equality considerations requiring further consideration during implementation.

Supporting Information

- Appendix A Revised Collaboration Agreement

Contact Points

County Council Contact Points

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Specific Contact Points for this report

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Background Papers

In the opinion of the proper officer (in this case the Director of Economy & Infrastructure) the following are the background papers relating to the subject matter of this report:

Agenda and background papers for the meetings of the Cabinet held on 19 November 2015 and 29 September 2016