

**From:** Mike Whiting, Cabinet Member for Planning, Highways, Transport and Waste

Barbara Cooper, Corporate Director of Growth, Environment and Transport

**To:** Environment and Transport Cabinet Committee – 16 July 2019

**Subject:** Kent County Council's Response to Transport for the South East's Proposal Consultation

**Classification:** Unrestricted

**Past Pathway of Paper:** N/A

**Future Pathway of Paper:** N/A

**Electoral Division:** All divisions

**Summary:**

This report outlines Kent County Council's (KCC) proposed response to the consultation by the emerging Sub-national Transport Body (STB) – Transport for the South East (TfSE) on its proposal to government for statutory powers.

TfSE includes the 16 Local Transport Authorities (LTAs) and the five Local Enterprise Partnerships (LEPs) that cover the geographic area. Kent County Council (KCC) and Medway Council are included. The development of TfSE is being led by East Sussex County Council.

TfSE will speak with a single voice on the South East's transport needs to directly influence the decisions of national infrastructure providers and operators. Once a statutory body, the Secretary of State must have regard to the STB's transport strategy in agreeing the investment priorities of Highways England and Network Rail. TfSE's transport strategy will be consulted on separately in the autumn.

TfSE is operating in 'shadow' form until it becomes a statutory body. To become a statutory body, it needs to submit a proposal to government with a request for transport powers, which if accepted, would then be taken through Parliament. Although the Secretary of State has indicated that he is not considering anymore STBs becoming statutory bodies at this time, TfSE is still preparing for this possibility in the future by undertaking a public consultation on its draft proposal and is asking its constituent authorities, including KCC, to formally respond. Following this consultation, TfSE will revise the proposal and seek endorsement from its constituent authorities.

**Recommendation:**

Cabinet Committee is asked to comment on the proposed response by Kent County Council (KCC) to the consultation by Transport for the South East (TfSE) with proposed support for powers 1 to 9, and conditional support for powers 10 to 15 as set out in the table in section 3.4 and in the conclusions in paragraphs 4.6 to 4.8. The conditional support is that it is agreed by TfSE that the principle of subsidiarity applies in that decisions on the use of those powers are made at the most immediate (or local) level, i.e. by constituent authorities, e.g. KCC.

## **1. Background**

- 1.1. The Government's 2015 Budget promised to offer areas legal powers to transform transport and rebalance the economy through the creation of Sub-national Transport Bodies (STBs).
- 1.2. The Cities and Local Government Devolution Act (2016) allows organisations to draw down powers from central government. The Secretary of State for Transport has the power to establish STBs for any area outside of Greater London.
- 1.3. The powers of each STB must be requested in a proposal to the Secretary of State, with the consent of all its constituent transport authorities, and then agreed in law through the Parliamentary process.
- 1.4. There are now several STBs in England. Transport for the North (TfN) became a statutory body in April 2018. Midlands Connect, England's Economic Heartland and Transport for the South East are all in 'shadow' form and working towards gaining statutory status. East of England and two STBs for the South West – Peninsular Transport and Western Gateway are newly emerging and will complete the coverage of STBs across the country.
- 1.5. However, the Secretary of State wrote to all the emerging STBs on 10 June 2019, and while he does not rule out creating more statutory STBs in the future, his preference is to continue working with emerging STBs on a voluntary partnership basis. The Department for Transport (DfT) will continue to take account of the views of emerging STBs in developing national transport policy and investment decisions regardless of formal status.

## **2. Transport for the South East (TfSE)**

- 2.1. The South East 7 (SE7) councils proposed the establishment of an STB for the South East that would bring central government, the South East's Local Transport Authorities (LTAs) and Local Enterprise Partnerships (LEPs) together with Highways England, Network Rail and port, airport, rail and bus operators in one body; Transport for the South East (TfSE).
- 2.2. TfSE is now a partnership of 16 LTAs and five LEPs. Kent County Council (KCC) is currently a constituent authority as resolved at the Environment and Transport Cabinet Committee on 17 November 2016 on the proposed decision (16/00120) that was taken by the Leader to establish and participate in the formation of TfSE working in partnership with:
  - East Sussex County Council (lead authority and Accountable Body)
  - West Sussex County Council
  - Medway Council
  - Hampshire County Council
  - Surrey County Council
  - Brighton and Hove City Council
  - Southampton City Council
  - Portsmouth City Council

- Isle of Wight Council
  - The Berkshire unitary authorities through the Berkshire Local Transport Body (LTB) which includes West Berkshire, Wokingham, Windsor & Maidenhead, Bracknell Forest, Reading and Slough.
  - Five LEPs within the TfSE area are also included: South East LEP (SELEP), Enterprise M3, Coast to Capital, Solent and Thames Valley Berkshire.
- 2.3 TfSE's overall vision is to grow the South East's economy by delivering a quality, integrated transport system that makes the South East more productive and competitive; and improves the quality of life for all whilst protecting the environment.
- 2.4 TfSE is seeking to formalise its role as the South East's voice for strategic transport issues by becoming a statutory body. In order to do so they have worked with member authorities to develop a proposal to government which makes the case for becoming a statutory body and sets out the specific powers and responsibilities required to help TfSE deliver economic growth, improve quality of life and protect and enhance the environment.
- 2.5 Prior to this consultation on its draft proposal to government, TfSE undertook an informal engagement exercise with elected Members and officers from the constituent authorities and LEPs between January and the end of February 2019. In Kent there was a report to the Environment and Transport Cabinet Committee and a presentation to the Kent Joint Leaders on 17 January 2019 and the Joint Chiefs (8 January), and to the Kent and Medway Economic Partnership (KMEP) on 28 January.
- 2.6 Following the period of informal engagement the draft proposal was agreed by TfSE at its 'shadow' Board meeting in March and is now the subject of a 12-week public consultation between 3 May and 31 July 2019. A proposed formal response to the consultation from KCC (as a constituent member) will be submitted by the Cabinet Member, therefore the Environment and Transport Cabinet Committee is asked to comment on the proposed response as summarised in Section 3 of this report and attached in full in Appendix A.
- 2.7 Feedback from the consultation will be reported to TfSE's 'shadow' Board meeting in September and a revised proposal will be finalised. Constituent authorities will then need to endorse the post-consultation revised proposal before it is submitted to government, therefore it will be brought back to Cabinet Committee before a proposed decision by Leader under Article 10 (1) and 10 (4) of the Constitution. However, following the Secretary of State's letter sent after the launch of this consultation to the emerging STBs (see paragraph 1.5) on his preference to not grant statutory status at this time, there is not currently a timetable for the submission of the finalised proposal to government. A new approach to formalising TfSE's status will be discussed by its 'shadow' Board in September.

Summary of TfSE's Proposal to Government (The Consultation)

2.8 The table below outlines the powers and responsibilities proposed to be sought by TfSE.

	<b>Proposed Power</b>
<b>General functions</b>	As set out in the Local Transport Act (2008), these functions will give TfSE the powers to develop a transport strategy for the area and to provide advice to the Secretary of State (this is the minimum power for STBs).
<b>Rail</b>	Right to be consulted about new rail franchises
	Set high level output specification for rail
<b>Highways</b>	Set the Road Investment Strategy for the Strategic Road Network
	Enter into agreements to undertake certain works on the Strategic Road Network (SRN), Major Road Network (MRN) and local roads
	Acquire land to enable construction, improvement, or mitigate adverse effects of highway construction
	Construct highways, footpaths, bridleways
<b>Capital grants</b>	Make capital grants for the provision of public transport facilities
<b>Bus service provision</b>	Duty to secure the provision of bus services
	Enter into Quality Bus Partnerships
	Implement bus service franchising
<b>Smart ticketing</b>	Introduce an integrated ticketing scheme
<b>Air quality</b>	Establish clean air zones
<b>Other powers</b>	Promote or oppose Bills in parliament
	Incidental amendments to enable TfSE to operate as a type of local authority

2.9 All of the proposed powers and responsibilities would be concurrent with Local Highway Authorities' and Local Transport Authorities' (LTA) existing powers and responsibilities and would only be implemented with the consent of the affected Local Highway Authority / LTA and with the consensus of all TfSE's constituent authorities. See Section 9 – 'Other Corporate Implications' for consideration of the risks to KCC as a Local Highway Authority and LTA.

2.10 The table below shows the powers and responsibilities that TfSE is not seeking, which includes highway maintenance.

<b>Power</b>	<b>Reason for TfSE to not seek the power</b>
<b>Set priorities for local authorities for roads that are not part of the Major Road Network (MRN)</b>	TfSE will only be responsible for identifying priorities on the MRN.
<b>Being responsible for any highway maintenance responsibilities</b>	There is no intention of TfSE becoming involved in routine maintenance of MRN or local roads.

<b>Take on any consultation function instead of an existing local authority</b>	Local authorities are best placed to seek the views of their residents and businesses
<b>Give directions to a constituent authority about the exercise of transport functions by the authority in their area</b>	Constituent authorities understand how best to deliver their transport functions to meet the needs of their residents and businesses
<b>Carry passengers by rail</b>	There are no aspirations for TfSE to become a train operating company
<b>Act as co-signatories to rail franchises</b>	There are no current aspirations for TfSE to become involved in this area.
<b>Be responsible for rail franchising</b>	

- 2.11 TfSE's proposal to government also includes the constitutional arrangements of the STB. As with the existing 'shadow' body, once statutory status is granted it is expected that each constituent authority will continue to appoint one of their Councillors/Members or their elected Mayor as a member of TfSE on the Partnership Board. The Partnership Board will be the only place where all constituent authorities are represented at an elected Member level, therefore the Board will have formal decision-making powers. The Partnership Board will meet at least twice per annum, with the option to meet more regularly. Each constituent authority will also appoint another one of their Councillors/Members as a substitute member.
- 2.12 TfSE expects the Partnership Board will continue to work by consensus but have also proposed an approach to voting when consensus cannot be reached and for certain key decisions, i.e. agreeing the TfSE transport strategy, budget and changes to its constitution. It is proposed that a population weighted voting arrangement is adopted in these circumstances. Kent, with the largest population of all the constituent authorities, would have the most votes of any single authority (11 votes) but is not large enough to have a veto (there are a total of 54 votes across all constituent authorities).

#### TfSE's work to date

- 2.13 Whilst operating in 'shadow' form, TfSE has responded to several consultations as a collective partnership, acting as one voice for the South East. The main consultations include Highways England's proposals for Road Investment Strategy 2 (RIS2) and the DfT's proposals for a Major Road Network (MRN). A DfT representative attends all 'shadow' Board, Senior Officer Group, and Transport Strategy working group meetings.
- 2.14 Engagement with the DfT regarding the MRN and RIS2 priorities has so far been positive. TfSE's RIS2 priorities included the improvements along the M2/A2 corridor that are essential once the new Lower Thames Crossing opens to enable bifurcation. This included dualling of the A2 Lydden to Dover,

Brenley Corner (M2 Junction 7) upgrade and improvements to the A229 connection between the M2 and the M20.

- 2.15 DfT also asked TfSE to prioritise MRN and Large Local Major (LLM) schemes and among the top 10 priorities are KCC's bid for the gap funding for Highways England's RIS1 scheme for improvements to M2 Junction 5 (Stockbury roundabout) on the A249; and a bid for a Birchington, Acol, and Westgate-on-Sea relief road of the A28 as part of the Thanet draft Transport Strategy for its draft Local Plan. Brenley Corner (M2 Junction 7) upgrade and A229 Bluebell Hill M2 and M20 interchange upgrades are also among TfSE's priorities for the LLM scheme programme.
- 2.16 Furthermore, TfSE has responded to consultations on Heathrow expansion, Western Rail Access to Heathrow; Gatwick Airport's Draft Master Plan; Midlands Connect's proposal to government; the Lower Thames Crossing; the Public Information Exercise on Solutions to Operation Stack, which gave support to KCC's position; the Williams Rail Review; Light Rail and Other Rapid Transit Solutions Call for Evidence; Pay-as-you-go on Rail; and the Berkshire Local Industrial Strategy framework document.

### **3. Summary of KCC's Proposed Response to TfSE's Consultation on its Proposal to Government** *(full response in Appendix A)*

- 3.1 KCC's proposed response gives support for the establishment of an STB for the South East and outlines the benefits of TfSE having statutory status. These benefits include the ability to speak with one voice to ensure the case for strategic transport investment in the region is clearly heard by government. As a statutory body under the legislation, TfSE will also be able to inform and influence the critical spending decisions of Highways England and Network Rail in the South East as government will have to 'have regard to' the adopted regional transport strategy. This will enable a collective voice of the South East to make the case to government for improved rail services, and investment in the Strategic Road Network, including the new Lower Thames Crossing and wider network improvements.
- 3.2 KCC's proposed response agrees that as the Local Transport Authority (LTA) and Local Highway Authority, KCC should be a constituent member authority of TfSE. The UK's international gateways of the Port of Dover and Eurotunnel, which both play a significant role in the performance of the South East and national economies, are within Kent. With a population of just over 1.5 million, Kent has the largest population of all the English non-metropolitan authorities and its proximity to London and the continent make it a unique and attractive place in the South East to live, work and visit. Kent should therefore be part of the STB for the South East.
- 3.3 KCC's proposed response also gives support to TfSE's proposed population weighted voting mechanism. As the county with the largest population within the TfSE area, KCC will have more votes than any other individual constituent authority and this equates to 11 votes from a total of 54.

- 3.4 TfSE’s consultation seeks views on the proposed functions and powers being sought from government. The below table summarises the powers and KCC’s proposed response to support or to conditionally support\* each power being requested by TfSE with the reasons given. **\*The conditional support is that it is agreed by TfSE that the principle of subsidiarity applies in that decisions on the use of those powers are made at the most immediate (or local) level, i.e. by constituent authorities, e.g. KCC.**

	<u>Proposed Function</u>	<u>Relevant Act</u>	<u>TfSE Rationale</u>	<u>KCC Support/ Conditional Support</u>	<u>KCC Response</u>
General functions					
1	<b>General powers required for TfSE to operate as a statutory body</b>	Section 102 H of the Local Transport Act 2008	Provides the general powers required for TfSE to operate as a statutory STB, meeting the requirements of the enabling legislation to facilitate the development and implementation of a transport strategy.	Support	This is required to enable TfSE to operate as a statutory body in terms of preparing a transport strategy and advising the Secretary of State, therefore is supported.
Rail					
2	<b>Right to be consulted about new rail franchises</b>	Section 13 of the Railways Act 2005 – Railway Functions of Passenger Transport Executives	TfSE is seeking the extension of the right of a Passenger Transport Executive to be consulted before the Secretary of State issues an invitation to tender for a franchise. The right of consultation is significant to TfSE as it confirms its role as a strategic partner.	Support	This would provide added weight to KCC’s own responses to consultations on franchises, therefore is supported.
3	<b>Set High Level Output Specification (HLOS) for Rail</b>	Schedule 4A, paragraph 1D, of the Railways Act 1993	This power would enable TfSE to act jointly with the Secretary of State to set and vary the HLOS in our area. TfSE will act as the collective voice of its constituent authorities, providing an evidence-based regional perspective and consensus on the priorities for investment in our rail network.	Support	This would provide devolution of powers from government to TfSE and enable the South East to set its own priorities for the rail network, therefore is supported.

Highways					
4	<b>Set Road Investment Strategy (RIS) for the Strategic Road Network (SRN)</b>	Set 3 and Schedule 2 of the Infrastructure Act 2015	This power would enable TfSE to act jointly with the Secretary of State to set and vary the RIS in our area. TfSE will act as the collective voice of its constituent authorities, providing an evidence-based regional perspective and consensus on the priorities for roads investment.	Support	This would provide devolution of powers from government to TfSE and enable the South East to set its own priorities for the motorway and trunk road network, therefore is supported.
Make capital grants for public transport facilities					
5	<b>Make capital grants for the provision of public transport facilities</b>	Section 56 (2) of the Transport Act 1968	Constituent authorities would benefit from the granting of this concurrent power as they may, in future, be recipients of funding from TfSE to partly or wholly fund a transport enhancement within their local authority area.	Support	This could lead to an improvement in public transport; therefore, is supported.
Bus service provision					
6	<b>Bus service franchising</b>	The Bus Services Act 2017	This power, currently available to Mayoral Combined Authorities, would enable TfSE to implement bus service franchising in its area with the consent of the affected LTA.	Support	This power is currently only available to Mayoral Combined Authorities; therefore, it would be good if the STB could lead on franchising and therefore this is supported.
Smart ticketing					
7	<b>Introduce integrated ticketing schemes</b>	Sections 134C – 134G & Sections 135-138 Transport Act 2000	This would enable TfSE to expedite the introduction of a cost effective smart and integrated ticketing system on a regional scale.	Support	Support is given for this power, in particular if the intention is to introduce a regional ticketing scheme.
Other powers					
8	<b>Promote or oppose Bills in Parliament</b>	Section 239 Local Government Act 1972	Local authorities have the power to promote or oppose Bills in Parliament;	Support	A statutory body should have the ability to promote or oppose Bills in

			granting the power concurrently to TfSE reflects the devolution agenda of which STBs are a key part.		Parliament, therefore this is supported.
9	<b>Incidental amendments</b>	Local Government Act 1972, Localism Act 2011, Local Government Pension Scheme Regulations 2013	A statutory STB requires certain incidental amendments to enable it to operate as a type of local authority, with duties in respect of staffing, pensions, monitoring and the provision of information about TfSE.	Support	A statutory body needs these powers to operate as an organisation, therefore this is supported.
<b>Highways</b>					
10	<b>Enter into agreements to undertake certain works on Strategic Road Network, Major Road Network or local roads</b>	Section 6(5) of the Highways Act 1980, (trunk roads) & Section 8 of the Highways Act 1980 (local roads)	TfSE is seeking the power that Local Highway Authorities currently have to enter into an agreement with other Highway Authorities to construct, reconstruct, alter, improve or maintain roads. These powers, operated concurrently with the local authorities, will enable TfSE to promote and expedite the delivery of regionally significant cross-boundary schemes.	Conditional Support*	Local Highway Authorities can already enter into agreements with other Highway Authorities for cross-boundary schemes. Therefore, even though the TfSE proposal is that these powers would only be used with the consent of the Local Highway Authority, we question if the duplication of these powers that Local Highway Authorities already have is required at STB level.
11	<b>Acquire land to enable construction, improvement, or mitigate adverse effects of highway construction</b>	Sections 239, 240, 246 and 250 of the Highways Act 1980	This power, exercisable concurrently and only with the consent of the relevant Highway Authority, would allow preparations for the construction of a highways scheme to be expedited where Highway Authorities are not able to acquire land.	Conditional Support*	It is unclear how an STB would acquire land if a Local Highway Authority was unable, therefore even though the TfSE proposal is that these powers would only be used with consent of the Local Highway Authority, we question if the duplication of these powers that Local

					Highway Authorities already have is required at STB level.
12	<b>Construct highways, footpaths, bridleways</b>	Sections 24, 25 & 26 of the Highways Act 1980	The concurrent powers required to effectively promote, coordinate and fund road schemes are vital to TfSE. Without them, TfSE would not be able to enter into any contractual arrangement in relation to procuring the construction, improvement or maintenance of a highway or the construction or improvement of a trunk road.	Conditional Support*	Local Highway Authorities already have these powers and are able to deliver schemes, therefore even though the TfSE proposal is that these powers would only be used with consent of the Local Highway Authority, we question if the duplication of these powers that Local Highway Authorities already have is required at STB level.
<b>Bus service provision</b>					
13	<b>Duty to secure the provision of bus services</b>	Section 63 (1) Transport Act 1985	TfSE is seeking this duty concurrently with the Local Transport Authorities in its area, enabling it to fill in identified gaps in bus service provision or secure the provision of regionally important bus services covering one or more constituent authority areas.	Conditional Support*	Local Transport Authorities already have the power to fund services that cross authority boundaries. However, if TfSE wanted to intervene and provide specific cross boundary services, these could be funded through the power to provide grants (as in power 5) rather than having the duty to secure the provision of services.
14	<b>Quality Bus Partnerships</b>	The Bus services Act 2017 Sections 113C – 113O & Sections 138A-138S	This would allow TfSE to expedite the introduction of partnership schemes covering more than one Local Transport Authority area which otherwise might not be introduced.	Conditional Support*	Quality Bus Partnerships are more effective when led and developed locally to ensure they meet local need, including the impact on the local bus market and local authority needs. However, it may be possible for TfSE to have a role supporting

					authorities with additional resource for partnerships.
Air quality					
15	<b>Establish Clean Air Zones</b>	Sections 163-177A of the Transport Act 2000 – Road User Charging	Local Transport Authorities have the power under the Transport Act 2000 to implement road charging schemes. TfSE is seeking this general charging power as a mechanism for the introduction of Clean Air Zones.	Conditional Support*	The power to introduce Road User Charging should remain with Local Transport and Highway Authorities and any potential cross-boundary scheme could be facilitated by inter-authority agreements.

3.5 KCC's full draft response can be found in Appendix A.

#### 4. Conclusions

- 4.1 Sub-national Transport Bodies (STBs) are resulting in a new regional level of transport planning in the UK.
- 4.2 KCC is currently a constituent authority in the 'shadow' Transport for the South East (TfSE) along with 15 other Local Transport Authorities (LTAs) and five Local Enterprise Partnerships (LEPs).
- 4.3 TfSE will speak with a single voice on the South East's transport needs to directly influence the decisions of national infrastructure providers and operators (for example Network Rail and Highways England would need to 'have regard to' TfSE's transport strategy).
- 4.4 TfSE is currently consulting on its draft proposal to government to become a body with statutory powers and functions.
- 4.5 KCC's proposed response supports the establishment of an STB for the South East with it as a constituent authority within TfSE and supports the proposed voting arrangements for the Partnership Board.
- 4.6 KCC's proposed response supports the following proposed functions and powers of TfSE (powers 1-9 in the table in paragraph 3.4):
- General powers required for TfSE to operate as a statutory body.
  - The right to be consulted about new rail franchises.
  - Set the High-Level Output Specification (HLOS) for rail.
  - Set the Road Investment Strategy (RIS) for the Strategic Road Network (SRN).
  - Make capital grants for the provision of public transport services.
  - Bus service franchising.
  - Introduce integrated ticketing schemes.
  - Promote or oppose Bills in Parliament.
  - Incidental amendments.

- 4.7 KCC's proposed response gives support on the condition that it is agreed by TfSE that the principle of subsidiarity applies in that decisions on the use of these powers are made at the most immediate (or local) level, i.e. by constituent authorities, e.g. KCC, for TfSE's proposal to have the concurrent powers of a Local Highway Authority through the Highways Act 1980 to (powers 10-12 in the table in paragraph 3.4):
- Enter into agreements to undertake certain works on Strategic Road Network, Major Road Network or local roads;
  - Acquire land to enable construction, improvement, or mitigate adverse effects of highway construction;
  - Construct highways, footpaths, bridleways.
- 4.8 KCC's proposed response also gives support on the condition that it is agreed by TfSE that the principle of subsidiarity applies in that decisions on the use of these powers are made at the most immediate (or local) level, i.e. by constituent authorities, e.g. KCC, for TfSE's proposal to have the concurrent powers of a Local Transport Authority (LTA) for (powers 13-15 in the table in paragraph 3.4):
- The duty to secure the provision of bus services (Transport Act 1985);
  - Quality Bus Partnerships (The Bus Services Act 2017);
  - Establishing Clean Air Zones (The Transport Act 2000 – Road User Charging).
- 4.9 Following this consultation, TfSE will update the draft proposal to government and publish a summary of the comments received.
- 4.10 A post-consultation revised proposal will then be agreed by TfSE's 'shadow' Board, which will need endorsement by KCC with a decision by the Leader under Article 10 (1) and 10 (4) of the Constitution, before TfSE's submission to government. The proposed decision by the Leader will be brought to Cabinet Committee.
- 4.11 It was expected for the proposal to be submitted by TfSE to government in late 2019, with statutory status subsequently being awarded should approval be given by the Secretary of State in 2020. However, after the consultation launched, the Secretary of State wrote to all emerging STBs indicating his preference for the time being to continue to work with them as voluntary partnerships rather than granting statutory status. A new approach to formalising TfSE's status will therefore be discussed by its 'shadow' Board in September.

## **5. Financial Implications**

- 5.1 KCC contributes £58,000 per year to fund the development of TfSE. All constituent authorities make this contribution (unitary authorities contribute £30,000 per year). This has been matched by £1million of funding from the DfT in 2018/19 and a further £500,000 in 2019/20.

## **6. Legal Implications**

- 6.1 Advice from Invicta Law included the need to amend KCC's Constitution to list TfSE in Appendix 2 Part 5 Partnership Committees and Bodies and Joint Arrangements.

## **7. Equalities Implications**

- 7.1 A full Equality Impact Assessment (EqIA) will be undertaken by TfSE as part of its draft transport strategy that will be consulted on in Autumn 2019. KCC has undertaken an EqIA screening of its proposed response and concluded that some protected characteristic groups could benefit from TfSE becoming a statutory body. The EqIA screening is attached in Appendix B.

## **8. General Data Protection Regulations (GDPR) Considerations**

- 8.1 A Data Protection Impact Assessment (DPIA) is not required as this consultation response does not require the processing of personal data.

## **9. Other Corporate Implications**

- 9.1 Key to the TfSE proposal is that the powers which are additional to the general functions relating to STBs, including those powers that a Local Highway Authority and Local Transport Authority already have, will be requested from government in a way that means they will operate concurrently and with the consent of the constituent authorities. KCC is therefore not giving up any powers to TfSE but would be sharing them. These shared powers would also only be used by TfSE with the consent of KCC as a constituent authority, therefore the normal KCC decision making process as a Local Highway Authority and Local Transport Authority still apply if KCC agrees to the TfSE proposal (at this stage it is only a consultation on a draft proposal, the proposed KCC response to which is to give conditional support for the concurrent powers, subject to it being agreed by TfSE that the principle of subsidiarity applies in that decisions on the use of these powers are made at the most immediate or local level, i.e. by constituent authorities, e.g. KCC).

## **10. Governance**

- 10.1 Decision (16/00120) taken by the Leader on 8 December 2018 to establish and participate in the formation of TfSE was resolved at the Environment and Transport Cabinet Committee on 17 November 2016.
- 10.2 The Leader or Cabinet Member/Deputy Cabinet Member for Planning, Highways, Transport and Waste represents KCC on the TfSE 'shadow' Board. The Corporate Director for Growth, Environment and Transport represents KCC at the TfSE Senior Officer Group.
- 10.3 A decision will be taken by the Leader under Article 10 (1) and 10 (4) of the Constitution to endorse the final proposal made by TfSE to government on powers and responsibilities relating to the establishment of TfSE following this formal consultation. The post-consultation revised final proposal by TfSE will be

brought back to Cabinet Committee prior to the decision being taken by the Leader.

## 11 Recommendation:

Cabinet Committee is asked to comment on the proposed response by Kent County Council (KCC) to the consultation by Transport for the South East (TfSE) with proposed support for powers 1 to 9, and conditional support for powers 10 to 15 as set out in the table in section 3.4 and in the conclusions in paragraphs 4.6 to 4.8. The conditional support is that it is agreed by TfSE that the principle of subsidiarity applies in that decisions on the use of those powers are made at the most immediate (or local) level, i.e. by constituent authorities, e.g. KCC.

## 12 Background Documents

Appendix A: Proposed response from Kent County Council to the consultation by Transport for the South East (TfSE) on its proposal to government.

Appendix B: Equality Impact Assessment (EqIA) screening.

Proposal to Government: Draft for Consultation, Transport for the South East (TfSE), May 2020 <https://transportforthesoutheast.org.uk/wp-content/uploads/2019/05/Transport-for-the-South-East-Draft-proposal-for-consultation.pdf>

Sub-National Transport Body for the South East, Item 146, Environment and Transport Cabinet Committee, Thursday 17<sup>th</sup> January 2019 <https://democracy.kent.gov.uk/documents/s88577/Item%20-%20Sub-national%20Transport%20Bodies%20-%20Transport%20for%20the%20South%20East.pdf>

Decision 16/00120 Sub National Transport Board for the South-East <https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2215>

Further information on TfSE can be found on its website <https://transportforthesoutheast.org.uk/> including the full consultation material <https://transportforthesoutheast.org.uk/about/becoming-a-statutory-body/>

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## **Appendix A: Kent County Council's Proposed Response to Transport for the South East's (TfSE) Draft Proposal to Government Consultation Questionnaire**

- 1. Do you, in principle, support the establishment of a sub-national transport body for the South East, including the ability to publish a transport strategy and advise central government on transport matters in the region?**

**YES/NO**

- 2. What do you regard as the benefits Transport for the South East will provide as a statutory sub-national transport body?**

Sub-national Transport Bodies (STBs) provide an opportunity to address regional transport issues. Given the role the South East plays in the overall UK economy, through its proximity to London and as the UK's international gateway, it is imperative that government understands the unique transport challenges faced by this region. Having a statutory sub-national transport body for the South East will provide a strong platform to engage with the Department for Transport (DfT), Highways England, Network Rail, transport operators and other key stakeholders about the strong case for investment in strategic transport infrastructure.

Obtaining statutory status will strengthen Transport for the South East's (TfSE) ability to directly influence the investment decisions of government in relation to national networks (road and rail) in the region as the Secretary of State must have regard to the transport strategy of the STB. Having statutory status and an adopted regional transport strategy will ensure the South East's strategic transport priorities are considered and recognised nationally. An adopted regional transport strategy will also assist in the delivery of jobs, housing and growth across the South East and therefore further increasing our contribution to the overall UK economy.

Kent County Council (KCC) gives support for the establishment of a statutory STB for the South East. This will enable a collective voice of the South East to make the case to government for improved rail services, and investment in the Strategic Road Network, including the new Lower Thames Crossing and wider network improvements.

- 3. Do you, in principle, think your relevant local transport authority should be a member of the Transport for the South East sub-national transport body? If not, why?**

**YES/NO**

The South East is the UK's international gateway, with several of the country's major airports and ports located within the region. Kent is home to the Port of Dover and Eurotunnel, which both play a significant role in the performance of the South East and national economies. With a population of just over 1.5 million, Kent has the largest population of all the English non-metropolitan authorities and its proximity to London and the continent make it a unique and attractive place in the South East to live, work and visit. Kent should therefore be part of the STB for the South East.

Furthermore, Kent County Council is also a member of the South East 7 (SE7) councils which originally proposed the establishment of an STB for the South East. The purpose behind this was to bring central government, the South East's Local Transport Authorities (LTAs) and Local Enterprise Partnerships (LEPs) together with Highways England, Network Rail and port, airport, rail and bus operators into one body; Transport for the South East (TfSE).

**4. Are you content with the proposed functions in the draft STB proposal?**

YES/NO

**5. What other functions do you think an STB should have/not have and why?**

The table below summarises KCC's support or conditional support for each function being proposed by TfSE. The conditional support is that it is agreed by TfSE that the principle of subsidiarity applies in that decisions on the use of those powers are made at the most immediate (or local) level, i.e. by constituent authorities, e.g. KCC. **Table is shown in Section 3.4 of the main Cabinet Committee Report**

**6. Would you be content with an STB having such functions if any use of those functions required the consent of the relevant local transport authority?**

YES/NO

**7. Are you content with the preferred voting mechanism, to be used when consensus cannot be reached?**

YES/NO

**8. Any other comments**

Transport for the South East (TfSE) as a partnership of local authorities, formalised as a statutory body, should be responsible for the strategic transport priorities of the South East, influencing the investment priorities of Network Rail and Highways England as powers are requested to be devolved down from central government. Delivery of transport schemes can be through its constituent authorities and their existing powers, rather than through a duplication of those powers by devolving up to a regional body.