



Transport Leadership Board

15 July 2022

Agenda Item 9: William-Shapps Plan for Rail – Consultation on Legislation

Recommendation:

It is recommended that the Board:

- a) Agrees STBs should be recognised in primary legislation as a partner organisation to GBR.**
- b) Agrees that, in preparation for the passage of the legislation and only if required, EEH should seek the appropriate legal guidance regarding the wording to be included in legislation.**
- c) Provides comments on other recommended aspects of EEH's response.**
- d) Subject to reflecting Board comments, agrees to delegate final approval for the response to the EEH Chair.**
- e) Notes the publication of responses to the GBRTT call for evidence on the 30-year strategy for rail.**

1. Purpose of report

- 1.1. This paper lays out how EEH proposes to respond to the consultation on the legislative changes required to meet the ambitions of the Williams-Shapps Plan for Rail. A key part of this response will be recommending that the role of sub-national transport bodies is established within legislation.

2. Key points to note

- 2.1. The Department for Transport is currently consulting on the legislative changes required to realise the Williams-Shapps Plan for Rail, including the establishment of Great British Railways (GBR).
- 2.2. Despite the statutory duty of the Secretary of State for transport to give due regard to STB transport strategies, the consultation on the creation of GBR fails to reference the role of sub-national transport bodies, such as EEH.
- 2.3. It is recommended that EEH's response calls for the role of STBs to be included within legislation.
- 2.4. Other recommended areas of the response include regarding the geography of the GBR divisions; multimodal integration; and accessibility to include broader considerations on fare structures.
- 2.5. The feedback from the Whole Industry Strategic Plan consultation has also been published.

3. Context

- 3.1. On 9 June 2022, the Department for Transport (DfT) opened their consultation on 'primary legislative changes required to effect rail reform as set out in the Williams-Shapps Plan for Rail'.
- 3.2. The consultation documents can be found on the DfT website: <https://www.gov.uk/government/consultations/williams-shapps-plan-for-rail-legislative-changes-to-implement-rail-reform> with responses submitted via a webform.
- 3.3. The Williams-Shapps Plan for Rail was published in May 2021, laying out the government's plans for widespread rail industry reform. It proposed the creation of a new public body to manage an integrated rail network: Great British Railways (GBR).
- 3.4. It is proposed that EEH will only respond on questions which impact upon partner local authorities; the role of STBs and those linked with our regional transport strategy.

4. GBR Functions and Duties

- 4.1. GBR will be an arms-length body of the DfT made up of staff and activities from Network Rail (NR), DfT, Rail Delivery Group and the GBR Transition Team (GBRTT). The aim is to create 'a single company to support full integration into a single guiding mind', supported by a statutory licence that reflects integrated responsibilities across track and train. Given the complexities of accountabilities within the rail industry today, a single guiding mind is to be welcomed.
- 4.2. However, it should be noted that elsewhere in the consultation, GBR is described as the "operational guiding mind for the railways" and that "ultimate accountability for the framework for the railways in Great Britain will continue to sit with the Secretary of State for Transport". The decision-making needs to be open, transparent, and clear, particularly when it comes to fulfilling the statutory requirement of having regard to STB transport strategies, which are reflective of regional priorities.
- 4.3. GBR is planned to have a set of three core functions:
 - To plan and manage access to, and ensure safe and effective use of, the Great British Railways Network, consistent with Secretary of State guidance
 - To manage Great British Railways infrastructure
 - To manage and secure delivery of high-quality, reliable Great British Railways passenger services and be accountable for the customer offer.
- 4.4. To achieve these, GBR will be required to:
 - Cooperate, support and provide leadership across rail systems – in the short and long term
 - Perform these functions in manners which pursue financial sustainability and promote efficiency
 - Act transparently, including in relation to the promotion of open data"
 - Co-operate and collaborate with other organisations on day-to-day operations and long-term planning
 - Encourage private sector involvement in the railway where it brings benefits for rail users and society as a whole
 - Consider the impacts on railway operators and other rail bodies"
 - Ensure the safe, efficient and effective maintenance, renewal, improvement and development of the railways
 - Ensure the capability of the railway, its people and systems, including in the longer-term.



5. Role of STBs in legislation

- 5.1. There will be an overarching duty on GBR 'to act in a manner it considers maximises the social and economic value (as defined by the Secretary of State) from the use of the network', which includes considerations on 'benefits for communities, regions, the economy and the supply chain'.
- 5.2. It is therefore disappointing that the key role of sub-national transport bodies (STBs), as identified by DfT, is not referenced in the consultation.
- 5.3. The consultation document states that 'some important elements of rail transformation are not being consulted on', including 'local partnerships', because 'they do not require primary legislation'. It says it 'will engage on the non-legislative reforms through other mechanisms'.
- 5.4. However, for STBs, GBR and the Secretary of State to discharge their duties and requirements fully, STBs should be embedded into primary (or secondary) legislation. It is only through such a formal arrangement that a truly integrated transport system can be achieved: it is STBs which provide the link between national approach and individual regions. Placing the duty to work in partnership in legislation would also ensure the duties of the Office of Rail and Road (ORR) would better capture its role in monitoring stakeholder relationships of GBR.
- 5.5. The Cities and Local Government Devolution Act 2016, provides the rationale for this request. It states that the Secretary of State for Transport 'must have regard to proposals contained in the transport strategy of an STB...in determining national policies relating to transport'¹.
- 5.6. Moreover, as part of the proposals, the Secretary of State will set high level outputs which are required to be achieved across both infrastructure and services. There is a clear role for STBs to be involved in setting out the needs of our communities at a strategic level. As such, it is right that EEH requires this consideration to be legally mandated.
- 5.7. If agreed by the Board and in consultation with the Chair, EEH may seek small-scale legal advice regarding the terminology of a clause to be included in the legislation. This action would only be taken if absolutely necessary and if it was clear that additional evidence of a possible clause could strengthen the case for its inclusion.

6. Regional structures and accountability

- 6.1. The consultation document presupposes a structure with five regional divisions. Currently, Network Rail has such a structure.
- 6.2. In order to streamline our engagement with GBR and to ensure the body is working on functional and realistic economic geographies, EEH should require the regional divisions of GBR to align with local economies (such as the STB geography) rather than one based on historic rail geographies.
- 6.3. In addition, it is unclear how the commitment to 'key strategic decisions will be taken centrally, with operational matters led by five regional divisions' will work in practice. This is particularly a risk when it comes to long term planning and strategy, particularly as 'the Department for Transport will take on a more strategic role, defining the policy and strategic vision for rail together with other transport services'. It also states that "government's focus will be on setting requirements and directions to GBR for the long and medium term'.
- 6.4. A question remains, therefore, as to where strategic planning teams will be located and who they will be accountable to – within government, centrally or within the regions.

¹ <https://www.legislation.gov.uk/ukpga/2016/1/section/21?view=plain>



- 6.5. The consultation invites comments on whether 'the proposed framework gives GBR the ability to act as a guiding mind for the railways, whilst also ensuring appropriate accountability'.
- 6.6. It is recommended that EEH's response focuses on the lack of clarity on where strategic planning will be undertaken and decisions made, which impairs the ability to judge on whether the accountability is appropriate. Additionally, the phrase 'act as a guiding mind' would benefit from greater definition.

7. Encouraging modal integration

- 7.1. The rail reform legislation strongly pulls on using competition to deliver benefits for customers and efficiencies, to deliver taxpayer value. It proposes that the ORR must take into consideration both users and public sector funding of rail when promoting competition in a mixed public/private market.
- 7.2. Further proposals include removing barriers to collaboration between passenger service operators, but without altering competition law. Currently, competition law is one of the legal barriers to integrating bus and train timetables, and shared ticketing schemes.
- 7.3. The EEH response should support the legislative proposal to allow GBR to issue directions to contracted operators to collaborate on timetables and services, where the benefits to passengers or efficiencies in taxpayer money are clear. In addition, our submission should go further to include a requirement to broaden these directions to include provision to collaborate with bus operators contracted to local authorities, for example, enhanced partnerships.
- 7.4. Whilst integrated multimodal ticketing is not directly mentioned within the consultation document, there is opportunity to weave the region's expectations for a clearer, integrated ticketing structure into EEH's response.

8. Accessibility

- 8.1. It is proposed that GBR will have 'specific statutory duties to improve accessibility, promote rail freight, and to consider environmental principles in all its operations', which will be reflected in the GBR licence and enforceable by ORR. The new GBR licence is planned to be consulted on in due course.
- 8.2. A new national rail accessibility strategy will be developed. Alongside this, other commitments have been made in the Plan for Rail including a new accessibility duty; statutory requirement to consult with accessibility stakeholders; and a national accessible travel policy. The new duty goes above the public sector equality duty to 'underpin cultural change'.
- 8.3. Our response to the consultation will draw on our transport strategy, which includes support of the Leonard Cheshire campaign for accessible stations.
- 8.4. It is proposed our response should also include a push to broaden the definition of accessibility to include social mobility, given the opportunities for fare reforms presented by transitioning to GBR, and linking accessibility to the wider performance regime.

9. Whole Industry Strategic Plan: consultation feedback

- 9.1. GBRTT ran a call for evidence in December 2021-February 2022 to inform the development of a 30-year strategy for the railway, also known as the Whole Industry Strategic Plan (WISP). EEH provided a submission to this call for evidence, which was agreed by the Board.
- 9.2. GBRTT published their response to this report in June 2022. This can be found on the GBRTT website: <https://gbrtt.co.uk/wisp/>.
- 9.3. Among the themes identified in the responses, the following were highlighted:
 - The key role rail should play in decarbonising the wider transport network



- The need to improve accessibility and the service we offer customers (including integrating rail with other forms of transport)
 - The importance of rail's role in levelling up
 - The need for much greater efficiency
 - The recognition that rail isn't always the answer.
- 9.4. There were also suggestions for how we could reduce 'gold plating' on Britain's railways, use railway land to provide solar energy to the national grid, and more effectively standardise and share data.
- 9.5. GBRTT has recognised that there is "very strong support for better integration of rail with the wider transport system". The respondent proposal for integrated multi-modal timetabling, though not committed to by GBRTT, is an idea that EEH would be supportive of GBR and DfT exploring further.
- 9.6. It is welcome that 'a common thread in many responses was the importance of creating a more integrated, place-based approach to infrastructure investment that looks across different transport modes and different types of economic infrastructure to identify the right interventions that will maximise the benefits in a particular area and be more accountable and responsive to the local community'.
- 9.7. It was also noted that 'some respondents stressed the importance of aligning GBR regions with local government and Sub-national Transport Bodies'.
- 9.8. The responses were split over the balancing of freight and passenger train services – for EEH, it is our view that the appropriate balance is more nuanced than simply passenger or freight, and must also consider long-distance, regional and commuter passenger services. It is not clear what the DfT consider to be an optimal mixed-use railway. The recently launched consultation for a rail freight target will allow greater clarity on this matter.
- 9.9. EEH welcomes GBRTT's recognition that: "Many felt that devolution, improved collaboration and proactive, meaningful engagement with regional and local stakeholders, including community engagement, would lead to transport schemes which are better positioned to respond to local needs and challenges. This was seen as empowering for both local leaders and communities. It was suggested that this could help maximise the opportunity for rail to enable local regeneration, stimulate growth and ensure long-term planning is in line with Local Plan development, and result in efficiencies."

10. Next steps

- 10.1. The consultation period ends on 4 August.
- 10.2. Subject to Board comments, the EEH business unit will prepare a formal response.
- 10.3. It is recommended that the EEH Chair be delegated to approve the response prior to submission.

Fiona Foulkes
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