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**Meeting of the Cabinet – 14<sup>th</sup> December 2016**

**West Midlands Rail Limited – Change to the Draft Collaboration Agreement with Department for Transport**

**Purpose of Report**

1. The purpose of this report is to advise Cabinet of a change to the drafting of the Collaboration Agreement between West Midlands Rail Limited (WMR Ltd) and the Department for Transport (DfT), in order to progress the rail devolution process in the West Midlands.

**Background**

**Change of Ministerial Approach to Rail Devolution**

2. On 28<sup>th</sup> October 2015, Dudley MBC approved that West Midlands Rail (WMR) should be established, with Dudley MBC a partner authority and that Collaboration Agreement with the DfT be agreed. This was agreed and signed by WMR and DfT in July 2016. However, since that time, the 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 Secretary of State for Transport reflects his concern about the benefits of full devolution of rail responsibilities across the UK, and has resulted in the Collaboration Agreement draft that has been approved by all WMR Member authorities being amended to remove reference to full devolution.
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 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 will be

meeting with 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 was not a 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 will also be presented at the WMR Board meeting on 9 December 2016.

### **Implications for WMR Partner Authorities**

10. In accordance with the WMR Ltd Articles of Association, paragraph 8.3, any change to the WMR Ltd relationship with the DfT or substantial changes to that agreement must gain the prior approval of WMR 'Member1' authorities by special resolution. As such, the change to the Collaboration Agreement drafting must be endorsed by a minimum of 75% of Member authorities.

### **Finance**

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

### **Law**

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

### **Equality Impact**

13. None arising directly from this report.

### **Recommendations**

14. It is recommended that Cabinet:
  - a. **Note** the change of position to rail devolution being adopted by the new Secretary of State for Transport; and
  - b. **Approve** that Dudley MBC continues to support the signing of the revised Collaboration Agreement (included with this report as appendix A).

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<sup>1</sup> 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



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**List of Background Papers**

Appendix A – Collaboration Agreement relating to rail operation in the West Midlands