

## WEST NORTHAMPTONSHIRE COUNCIL

### CABINET

13<sup>TH</sup> JULY 2021

### Cabinet Member with Responsibility for Environment, Transport, Transport, Highways & Waste: Councillor Phil Larratt

Report Title	West Midlands Rail Ltd – Changes to Collaboration Agreement
Report Author	Chris Wragg Transportation & Development Manager <a href="mailto:Chris.Wragg@westnorthants.gov.uk">Chris.Wragg@westnorthants.gov.uk</a>

Contributors/Checkers/Approvers		
West Deputy MO	Geoff Wild	22.6.21
West S151	Martin Henry	11.6.21
Other Director/SME	Stuart Timmiss	23.6.21
Communications	Becky Hutson	4.6.21
Legal	Debbie Carter-Hughes	7.6.21

#### List of Appendices

A – Revised Collaboration Agreement (CA2)

B – Executed Collaboration Agreement 2016 (CA1)

#### 1. Purpose of Report

---

- 1.1. To ratify changes to the Collaboration Agreement between West Midlands Rail Limited and the Department for Transport to reflect the forthcoming replacement of the West Midlands Rail Franchise by a new National Rail Contract.

#### 2. Executive Summary

---

- 2.1 The Council is one of the partner local authorities owning West Midlands Rail Ltd, who jointly manage the West Midlands Business Unit of the West Midlands Rail Franchise with the Department for Transport through a legally binding Collaboration Agreement.

- 2.2 Due to changes to passenger rail franchising in response to COVID, the existing West Midlands Rail Franchise will terminate on 19 September 2021 and be replaced by a directly awarded National Rail Contract. This requires changes to the Collaboration Agreement.
- 2.3 Changes to the Collaboration Agreement require approval by partner local authorities prior to a Special Resolution by the West Midlands Rail Limited Board of Directors. It is usual to do this by taking a report through internal governance.

### **3. Recommendations**

---

- 3.1 It is recommended that Cabinet ratify the proposed Collaboration Agreement between West Midlands Rail Ltd and the Department for Transport set out in Appendix A of this report in light of the forthcoming replacement of the West Midlands Rail Franchise by a National Rail Contract.
- 3.2 Reason for Recommendations:
- To reflect structural changes in the passenger rail industry involving the replacement of rail franchising by directly-awarded National Rail Contracts.
  - To ensure the Council is able to influence the management and development of rail services between Northampton and Birmingham through its involvement with West Midlands Rail Ltd.

### **4. Report Background**

---

- 4.1 West Midlands Rail Ltd (WMRL) is a company limited by guarantee, owned by the partner authorities, including West Northamptonshire Council, and created with the purpose of specifying and managing rail franchising for the West Midlands. This includes seeking to influence longer-distance services such as the Northampton – Birmingham line.
- 4.2 Through a legally binding Collaboration Agreement with the Department for Transport (DfT), WMRL has responsibility for overseeing the delivery of the West Midlands Business Unit of the West Midlands Rail Franchise. It also undertakes rail activity on behalf of Transport for West Midlands.
- 4.3 The 14 partner authorities owning WMRL are the seven Metropolitan Boroughs in the West Midlands, plus the seven Unitary and Shire local transport authorities that surround them, including West Northamptonshire Council.
- 4.4 The most senior layer of governance in WMRL is the Board of Directors. To provide local democratic oversight, the Board is made up of Leaders or senior cabinet members appointed by each of the Partner Authorities. The Board is chaired by the elected Mayor of the West Midlands in a non-voting, non-director capacity.

### **5. The Existing Collaboration Agreement and National Rail Policy**

---

- 5.1 The 2016 Collaboration Agreement (henceforth referred to as CA1) between WMRL and the DfT is the primary agreement by which WMRL's responsibilities for franchise management and government grant funding are set out and enshrined. CA1 was signed in April 2017 following Secretary of State and WMRL approval.



5.2 In summary, CA1 includes provisions for:

- i) A Strategic Board between WMRL and DfT officials;
- ii) Sharing of franchise management responsibilities;
- iii) The ability of WMRL to make changes and retain the benefits of those changes for reinvestment in the local rail network. This includes the powers to make adjustments to rail fares in the region;
- iv) Funding of WMRL by means of a £500,000 grant each year; and
- v) An annual meeting between WMRL Chair and Vice Chair and the Secretary of State or a Minister.

5.3 The executed version of CA1 is included as Appendix B for reference.

5.4 CA1 is coterminous with the West Midlands Franchise Agreement, originally intending to endure until March 2026. However, the changes to passenger rail contracting by the DfT in response to the COVID crisis now mean that the Franchise Agreement is expected to terminate on 19 September 2021 and be replaced by a directly awarded National Rail Contract (NRC). As such it has been necessary for WMRL to negotiate and enter into a successor agreement with the DfT to take effect from the terminating of the existing Franchise Agreement.

## **6. Revised Collaboration Agreement**

---

6.1 Discussions between WMRL and DfT officials have concluded that in general CA1 has worked effectively and is a solid foundation on which to build. Consequently, the revised Collaboration Agreement (henceforth referred to as CA2), represents an evolution of its predecessor. CA2 is included as Appendix A to this report.

6.2 The main areas of amendment in CA1 reflect the changing landscape of rail franchising and the meeting structure. The latter was based on the model used by Transport for the North for the Northern and Trans Pennine Franchises, but experience has shown that is not as effective for the West Midlands Franchise. The proposed meeting structure changes are designed to better align the governance of the new NRC with DfT's internal governance arrangements. This should improve decision making, build WMRL's profile within DfT, and grow WMRL's capacity.

6.3 There are no proposed changes to the grant WMRL receive from DfT, or to the arrangements in place for the savings account held jointly between WMRL and DfT.

6.4 WMRL and DfT are also using this opportunity to incorporate a change to CA1 that was made by side letter in March 2019. This was a technical amendment to permit the West Midlands Combined Authority to hold any monies earned or saved by WMRL and DfT from the Franchise.

## **7. Implications for WMR Partner Authorities**

---

7.1 In accordance with the WMRL Articles of Association, paragraph 8.3, any change to the WMRL Relationship with the DfT or substantial changes to that agreement must gain the prior approval of WMR 'Member' authorities by Special Resolution. WMR Member authorities are the West Midlands Combined Authority and the Shire and Unitary Local Transport Authorities.

- 7.2 The Special Resolution requires a 75% majority to pass. If a 75% majority is reached without all eligible Members' approval, there is no need to wait for all responses.
- 7.3 Although it is not a requirement under the Articles, it is usual for all WMRL partner authorities to take proposals which will be subject to a Special Resolution through their internal governance. This ensures that each partner authority has the chance to consider the proposals.

## **8. Options**

---

- 8.1 There are no obvious alternatives to the approach proposed if joint management of local rail services in the West Midlands is to continue as the Collaboration Agreement needs to reflect the replacement of rail franchising by National Rail Contracts.
- 8.2 It would be possible for West Northamptonshire Council to resign the membership of WMRL which has been inherited from the County Council, but this would remove a route for influencing the development of rail services for Northampton and Long Buckby.

## **9. Implications (including financial implications)**

---

### **9.1 Resources and Financial**

- 9.1.1 There are no financial or resource implications of this report for the Council.
- 9.1.2 The Council pays an annual contribution of £14,200 from within existing budget towards the costs of WMRL, the same as for other Shire and Unitary Authorities, which will be unchanged.

### **9.2 Legal**

- 9.2.1 The CA2 draft has been reviewed by Pannone Corporate, the WMRL external legal advisors, and LGSS Law Ltd on behalf of the Council. The document mirrors the previous CA1, reflecting the amendments made in 2019, and provides suitable opportunity for the WMRL (of which the Council is a partner) and Secretary of State to work collaboratively.

### **9.3 Risk**

- 9.3.1 There are no obvious risks with the approach proposed. The risk of not accepting the proposal is that if the Collaboration Agreement were not to be revised, joint management with the Department for Transport would effectively end with the current West Midlands Rail Franchise on 19 September 2021.

### **9.4 Consultation**

- 9.4.1 As explained in section 6, this proposal has originated with West Midlands Rail Ltd, and the Council is essentially being consulted on the proposal.

### **9.5 Consideration by Overview and Scrutiny**

- 9.5.1 Overview and Scrutiny Committee has not considered this report.

## 9.6 **Climate Impact**

9.6.1 There is no direct climate/environmental impact from the recommendations in this report.

## 9.7 **Community Impact**

9.7.1 There is no direct community impact from the recommendations in this report.

## **10. Background Papers**

---

10.1 None