

## Transport for Wales Board Meeting

10:30 – 16:00; 17 May 2018

Welsh Government Office, Picton Terrace, Carmarthen

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### **Minutes**

#### **Present:**

Nick Gregg (NED & Chair) (NG)

James Price (CEO) (JP)

Martin Dorchester (NED) (MD)

Brian McKenzie (NED) (BM)

Simon Jones (WG) (SJ)

Jenny Lewis (WG) (JL)

Kathryn Harries (TfW) (KH)

The following attendees were present for specific agenda items:

Geoff Ogden (Exec) (GO)

Jeff Collins (Exec) (JC)

Alan Edwards (Exec) (AE)

Tony Meacham (TfW) (TM)

#### **Apologies:**

Peter Kennedy (NED) (PK)

### **Part A: Full Board Meeting**

#### **Notice and Quorum**

1. A quorum being present the Chair declared the meeting open. The Chair confirmed that notice of the meeting had been given to each Director who was entitled to receive such notice. The Chair welcomed the attendees to the Welsh Government office in Carmarthen.

#### **Apologies**

2. PK sent his apologies. No further apologies for absence had been received.

### **Conflicts of Interest**

3. The Chair asked if there were any conflicts of interest to declare. No new or updated conflicts of interest were declared.

### **Safety Moment**

4. The Board discussed a recent incident in which a train struck a cable next to a pedestrian footbridge. The cable broke on impact, striking and injuring a pedestrian. An enquiry found that routine safety checks had not been carried out and no issues had been reported. The Board noted the importance of following safety procedures.

### **Minutes of the Previous Meeting**

5. It was agreed that KH would send the minutes of the meeting held on 19 April 2018 to the Board for approval. The Chair sought progress in relation to the open actions. Updates were received from Board members and it was agreed that a number of actions could be closed. MD queried how amendments to action due dates are being captured. It was agreed that an additional column would be added to the Actions and Decisions Log to capture any amendments to action due dates.

*Action:* KH to add an additional column to the Actions and Decisions Log to capture any amendments to action due dates.

### **Matters Requiring Consideration**

6. The Chair referred to the agenda items tabled for today's meeting:

#### **Item 3: Strategic/Development Update**

##### Item 3a: CEO's Report

JP provided an update on the CEO's Report and informed the Board of the key activities since the previous meeting. JP stated that there is a requirement to

mobilise TfW as a company. KH explained the actions that are being taken in relation to addressing the company's resourcing requirements. SJ asked what actions TfW is taking in relation to graduate and apprenticeship schemes. JP explained TfW's skills agenda and stated that, in due course, TfW will implement graduate and apprenticeship schemes. MD added that TfW should also consider providing support for individuals to gain relevant NVQs. KH added that it is also TfW's intention to work closely with schools to encourage individuals to consider a career in the transport sector.

JP provided an update on health and safety, and the actions being taken by TfW to create a safety culture. JP advised that he has asked Gareth Morgan to take up the role of Safety and Sustainability Director on an interim basis whilst a recruitment exercise is completed.

NG informed the Board that he has asked JP to appoint a project manager for the mobilisation of TfW as a company. NG added that an update on the mobilisation of TfW as a company will be provided at each Board meeting going forward.

*Action:* KH to add TfW mobilisation as a standard item on the agenda.

SJ stated that TfW needs to be in a position to receive additional functions from the Welsh Government if required. NG stated that TfW would require details on the Welsh Government's proposed timescales for considering, agreeing and transferring any additional functions. KH stated that, at the recent events that TfW held with Welsh Government staff, clarity was requested on which functions are likely to transfer and when. SJ provided an update on the proposed timescales. The Board discussed the proposed timescales.

JP provided an update on rail services and the Board discussed the progress that is being made. JP also provided an update on industrial relations and advised that he had recently met with RMT and ASLEF.

JL queried whether a finance update was being provided at the meeting. JP advised that the agenda for this particular meeting had been revised to ensure that sufficient time was available for agenda item Part C (2) relating to the procurement of the Wales and Borders Rail Service and South Wales Metro. NG asked when the Finance Director is due to start in post. KH confirmed that the Finance Director starts in post on 2 July 2018 and that she would be attending the Board meeting on that date. It was agreed that finance would be added as a standard agenda item for every Board meeting.

*Action:* KH to add finance as a standard item on the agenda.

The Board discussed TfW's financial position. JP stated that TfW does not yet have an agreed Business Plan for 2018/19 as the company is awaiting a Remit Letter from the Welsh Government. JL informed the Board that the Remit Letter is in the process of being approved by the Cabinet Secretary for Economy and Infrastructure. JL added that TfW is not required to submit a final Business Plan for 2018/19 to the Welsh Government until July 2018. The Board noted the agreement to publish the Remit Letter and the Business Plan for 2018/19.

#### Item 3b: Strategic Issues for Future Board Meetings

NG requested that the mobilisation of rail services is also added to the agenda for future meetings.

*Action:* KH to add mobilisation (rail services) to the agenda for future meetings.

NG added that additional strategic issues are likely to be added to the agenda as this mobilisation progresses. SJ requested to add the future remit of TfW, and Key Performance Indicators (KPIs) for the rail service and TfW as a company as strategic issues for future Board meetings.

*Action:* KH to add the future remit of TfW and Key Performance Indicators for the rail service and TfW as a company as strategic issues for future Board meetings.

JL stated that the 2018/19 Business Plan does not yet include the required level of KPIs to provide assurance to the Welsh Ministers of TfW's performance. SJ confirmed that high level KPIs on TfW's performance are required. It was agreed that the Welsh Government would provide TfW with details of the high level KPIs that are required.

*Action:* SJ/JL to provide TfW with details of the high level KPIs that the Welsh Government requires from TfW to provide assurance to the Welsh Ministers of TfW's performance.

### Item 3c: Key Risks & Mitigations – Business

JP provided an update on the key risks and mitigations relating to TfW as a company. NG requested more detail on the business risks, including the likelihood and the impact of each risk.

*Action:* GO to ensure that the business risks are reviewed and additional detail provided, including the likelihood and the impact of each risk.

JL asked JP to confirm the outcome of the recent Gateway Review. JP confirmed that TfW received an amber rating.

Item 3d: Trade Union Recognition

JP informed the Board that he received a letter from the Welsh Government's Trade Union Side requesting that TfW recognises three trade unions – PCS, Prospect and FDA. The Board discussed the request for recognition and noted that requests from other trade unions are also likely to be received. MD stated that TfW needs to agree a strategy in relation to the trade unions. SJ highlighted that the letter from the Welsh Government's Trade Union Side requests that recognition is 'transferred and accepted.' SJ queried whether this statement means that the agreements that the Welsh Government has in place would transfer to TfW. NG stated that TfW would develop its own arrangements with regards to trade union recognition. The Board welcomed the general approach of recognising the trade unions; however, the Board requested further information on trade union recognition, including what it means in practice for TfW and what rights recognition grants the trade unions, before agreeing the approach to be taken with regards to trade union recognition.

*Action:* JP to present a paper to the Board on trade union recognition, including what it means in practice for TfW and what rights recognition grants the trade unions.

**Item 4: Governance Policy**

Item 4a: Articles of Association and Item 4b: Management Agreement (Framework Agreement)

The Board discussed the remit of TfW and the current Articles of Association. It was noted that some of the details contained in the Articles of Association should be transferred to the Management Agreement (Framework Agreement). It was agreed that further amendments are required to the Articles of Association.

*Action:* JP, JL and Gareth Morgan to progress the review of the Articles of Association.

The Board reviewed the draft Management Agreement (Framework Agreement). It was agreed that the Board would review the document outside of the meeting and provide any comments to JL.

*Action:* Board members to review the draft Management Agreement (Framework Agreement) and provide any comments to JL.

NG queried who should sign the Management Agreement (Framework Agreement) as approved. NG stated that the Board or the Chair should sign the document to ensure that the CEO is held to account to deliver its requirements. It was agreed that JL would confirm the required signatory.

*Action:* JL to confirm the required signatory for the Management Agreement (Framework Agreement).

#### **Item 5: Any Other Business**

SJ provided an update on the appointment of the Chair of the Transport for Wales Board. JL confirmed that an advert will be published by 31 May 2018. JL added that the Cabinet Secretary has confirmed that a Register of Interests for the Board will also be published on the TfW website by 31 May 2018.

*Action:* KH to ensure that a Register of Interests for the Board is published on the TfW website by 31 May 2018.

The Board discussed whether a Register of Interests should also be published for the Executive Team. The Board agreed that an updated Register of Interests would be developed for the Executive Team but that it would not be published at this stage.

*Action:* KH to ensure that a Register of Interests is completed for the Executive Team.

NG stated that a process is being completed to appoint three new Non-Executive Directors. NG informed the Board that PK and BM would be resigning as Non-Executive Directors once the new Non-Executive Directors had been appointed. SJ queried whether any of the new Non-Executive Directors have a finance background. NG stated that MD has finance knowledge and experience. NG also stated that, once the new Non-Executive Directors have been appointed, a number of committees will be established – including an Assurance and Risk Committee, a Safety Committee and a Customer Committee.

SJ and JL excused themselves from the meeting.

### **Part B: Confidential Session**

#### **Item 1: Confidential HR Matters**

This agenda item is minuted separately.

#### **Item 2: Senior Team Performance**

This agenda item is minuted separately. The Chair formally closed the Board meeting.

### **Part C: Open Session**

GO, JC, AE, TM, SJ and JL joined the meeting. The Chair declared the Open Session open and welcomed the attendees to the meeting.

**Item 1: Safety Update**

AE provided an update on safety. AE confirmed that consultancy arrangements have been put in place to provide health and safety advice to TfW. AE informed the Board that a behavioural safety workshop is arranged for week commencing 21 May 2018. GO advised that ‘town hall’ meetings are in place to ensure that the TfW team focuses on safety. JP added that TfW is meeting its statutory health and safety requirements, and that further action is being taken to ensure that TfW has exemplar policies, procedures and systems in place with regards to health and safety. AE stated that the consultancy arrangements that have been put in place will address these matters. NG asked the Executive Team to provide an update on safety at the next meeting.

*Action:* Executive Team to provide an update on safety at the meeting on 2 July 2018.

**Item 2: Procurement Update**

NG confirmed that the purpose of this agenda item is to ensure that the Board is updated on the procurement of the Wales and Borders Rail Service and South Wales Metro. NG added that, if the Board is content, a resolution of the Board would be taken at the meeting to confirm the Board’s approval of the procurement process and the proposal to recommend award to the current highest scoring bidder. NG stated that, as PK sent his apologies, should a decision or input be required from PK then a decision may need to be deferred until after the meeting.

JC provided an update on the procurement of the Wales and Borders Rail Service and South Wales Metro. [Redacted]. TM explained that a number of minimum requirements and policy priorities have been set out as part of the procurement process and that these have been met by both bidders. TM

added that it is not possible in reality to score 100% in this type of evaluation model and informed the Board that the Welsh Government has no obligation to award a contract if the bids do not meet requirements.

NG asked how closely the bid put forward by the current highest scoring bidder met the expectations of the Welsh Government in terms of service delivery. SJ explained that a detailed specification was not developed for this procurement exercise and that bidders were asked to develop their proposed solutions within a set budget. SJ added that bidders were required to meet minimum service requirements. SJ confirmed that these minimum requirements have been met in the bid of the current highest scoring bidder.

The Board discussed the general queries that are likely to be received following the award of the contract. [Redacted].

*Action:* JC to ensure that [redacted] evaluation is reviewed to ensure that any queries can be addressed.

The Board discussed the difference between the scores of the two bidders. MD queried whether there are any fundamental differences between the two bids. JC explained the differences between the two bids. [Redacted]. MD queried whether there was any risk of challenge in relation to the evaluation process. TM stated that the evaluation sessions were audio-recorded and that the necessary checks were completed to ensure that the evaluation process was appropriately completed. GO added that the audio-recordings have been sampled and no areas for concern have been raised. GO informed the Board that the evaluators were trained prior to taking part in the evaluation process. JC added that all individuals involved in the evaluation process completed a Confidentiality and Conflict of Interest Statement prior to commencing the evaluation process.

TM informed the Board that, in terms of delivering value for money, Welsh Government officials had calculated that an 18% saving would be achieved against continuing with the current franchise arrangements. TM provided an update on the Final Business Case and explained that a draft version has been shared with colleagues in TfW and the Welsh Government for review and comment.

TM provided an update on the current highest scoring bidder's solution. NG asked whether the technology proposed in the solution has been tested and readily available. The Board discussed the proposed technology. JP stated that innovative solutions have been requested as part of the procurement exercise. NG raised the issue of ticketing and the process for ensuring that tickets are readily available to customers. JC provided an update and confirmed that the Board will be kept updated on the mobilisation of the rail services. MD queried whether the current highest scoring bidder would be able to meet its commitments in relation to fleet. JC confirmed that the commitment would be contractually agreed, including the implementation dates for new rolling stock. The Board discussed the proposal to remove the pacers by December 2019 and the associated risk that new rolling stock may not be available by this date.

TM informed the Board that the necessary checks are being completed in relation to the financial status of the current highest scoring bidder. TM explained that this process will be completed prior to the contract being signed. NG queried on which date the contract is due to be signed. TM confirmed that the contract will be signed on 4 June 2018. NG asked whether TfW is confident that the current highest scoring bidder has completed all of their internal governance procedures to enable the contract to be signed. TM

responded that the current highest scoring bidder is holding internal governance meetings on a regular basis.

TM informed the Board of the risk of challenge in relation to the procurement of the Wales and Borders Rail Service and South Wales Metro. [Redacted]. NG stated that the only grounds for challenge is the evaluation process.

[Redacted] GO added that the relationships between the bid teams has been positive.

NG emphasised that two bidders remain in the procurement process until the Cabinet decision on 22 May 2018. The Board discussed the point at which the unsuccessful bidder will be informed of the outcome. It was agreed that the unsuccessful bidder would be informed in the afternoon (after 4.30 pm GMT) of 22 May 2018. TM added that it is proposed that Arriva Trains Wales and Network Rail will also be informed in the afternoon (after 4.30 pm GMT) of 22 May 2018 to allow the organisations to prepare lines for their staff in advance of the press release on 23 May 2018. SJ confirmed that the Welsh Government is content with this approach on the basis that the outcome is issued under embargo until 7am GMT on 23 May 2018 (the same approach that is being taken with the media). The Board was content with the proposed approach to inform the unsuccessful bidder, Arriva Trains Wales and Network Rail of the outcome of the procurement.

TM informed the Board that there is a risk that the Core Valley Lines (CVL) asset will not transfer. [Redacted]. JC stated that the Department for Transport guidelines are being followed for demobilisation and mobilisation. NG stated that the mobilisation of the rail services will be reviewed at each Board meeting going forward until at least October 2018.

JP raised the issue of pensions. [Redacted]. The Board agreed that this matter would be closely monitored and, if required, the Board would reconvene if there are any significant developments.

NG stated that, [redacted], the Board is in a position to review and agree whether it is content to proceed with the final stages of the procurement of the Wales and Borders Rail Service and South Wales Metro. JP asked JC and TM whether any further information or issues needed to be brought to the attention of the Board. TM stated that the risk of challenge from the unsuccessful bidder is an important risk for the Board to note. The Board confirmed that this risk has been noted. JC raised the issue of the practicalities of the mobilisation of the rail services, which will include ensuring that the invoices for the new contract can be paid, the development of the required ICT systems and the engagement of the necessary resources. NG confirmed that the Board will receive updates on the mobilisation process at each Board meeting until at least October 2018. NG asked the Board members for their final queries or comments. MD and BM confirmed that they had no further queries or comments. The Board was unanimously content for the following resolution of the Board to be taken:

“The directors of the Company resolve pursuant to article 3.1 of the Articles of Association of the Company that:

1. the Board of Directors is content to approve the procurement process and the proposal to recommend award to the current highest scoring bidder, as approved by the Executive Team, for the Wales and Borders Rail Service and South Wales Metro.
2. the Board of Directors authorises the Executive Team to forward the Procurement Report together with its recommendations to the Welsh Government for final approval by the Cabinet.”

The Board expressed its thanks to everyone involved in the procurement process. NG stated that the next step is to ensure the successful mobilisation of both the rail services and TfW as a company.

Referring to an issue that was raised earlier in the meeting in relation to the CVL, NG asked for a paper to be presented to the Board on the CVL (including likely timings, costs and risks).

*Action:* JC to ensure that a paper is presented to the Board on the Core Valley Lines (including likely timings, costs and risks).

JP raised the issue of rolling stock. The Board discussed the potential purchase of rolling stock and it was agreed that a paper would be presented to the Welsh Government on the potential acquisition of rolling stock.

*Action:* JC to ensure that a paper is presented to the Welsh Government on the potential acquisition of rolling stock.

### **Item 3: Modern Slavery Statement**

The Board reviewed and agreed the Modern Slavery Statement. MD asked whether a Supply Chain Champion has been appointed. AE confirmed that a Supply Chain Champion has been appointed.

### **Item 4: Publication of Documents (including Board minutes)**

The Board discussed the commitment made at the Economy, Infrastructure and Skills Committee on 25 April 2018 to publish the Register of Interests for the Board, the Business Plan, Remit Letters and the minutes of the Board meetings. The Board was content for the minutes of the Board meetings to be redacted as appropriate and published on the TfW website going forward. MD stated that TfW needs to ensure that it uses appropriate privacy markings on its documents.

*Action:* KH to determine the privacy markings to be used by TfW and ensure that the TfW team are informed.

**Item 5: Any Other Business**

SJ raised an item relating to the role of the Board in the provision of advice of the Welsh Ministers. The Board discussed the internal governance of TfW and the required level of approvals. NG stated that a number of committees, including an Approvals Committee, are also being established.

**Item 6: Date of the Next Meeting**

The next meeting is scheduled for 2 July 2018. The Chair thanked everybody for attending and closed the meeting.