

Item:

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## **Report to Partnership Meeting 16 September 2016**

### **PARTNERSHIP**

#### **Non Council Board Member Terms**

##### **Purpose of Report**

This report advises Members on the clarification recently provided by Transport Scotland on the term of Non Council Board Member appointments to RTPs and requirements in terms of seeking Ministerial Approval even to maintain the status of the three existing Non Council Board Members.

##### **Letter from Transport Scotland**

Transport Scotland wrote to regional transport partnerships clarifying the position of Scottish Ministers in terms of appointments of “other members” to RTP Boards. This followed a request from another RTP on clarification on whether it was necessary to seek Scottish Ministerial consent for the re-appointment of a non-Council member or whether the original approval would suffice. Having considered the issue and reviewed the Regional Transport Partnerships (Establishment, Constitution and Membership)(Scotland) Order 2005 and associated supporting guidance material Transport Scotland have written to RTPs in the terms set out in their letter dated 2 August 2016 which is reproduced as an Appendix to this report.

The new advice states that, “Having considered carefully both the legislation and the guidance, it is clear that the position on appointments is that consent is required. The Scottish Ministers give their consent to an appointment for a term that will last 4 years, unless a different term is specified. The member “holds office” for that period only, after which the appointment lapses. Once the term of the appointment has finished, Ministers consent also falls, thereby renewing the requirement to seek consent again, as if it were a new appointment.”

##### **HITRANS Non Council Board Members**

The role of the Non-Council Board Members provides valuable additional perspective, continuity in Board Membership particularly at times of local government elections and each Non Council Board Member over the years (five individuals have been appointed since the establishment of the RTP as a statutory body) has contributed greatly to the work and success of the organisation.

The three Non-Council Board Members of HITRANS have all served for longer than the 4 year term outlined above as the default period of office unless a different term is stated. No term was stated in HITRANS request for Ministerial approval of each appointment. The respective appointments of Non Council Board Members were approved on the following dates:

Mr Wilson Metcalfe – March 2006  
Mr Okain MacLennan – June 2009  
Prof David Gray – July 2010

This new advice would suggest as a minimum HITRANS should seek consent to extend their terms otherwise each of their terms would be considered to have lapsed. There is no

suggestion in the letter that this should be considered to be the case retrospectively and HITRANS Partnership Board can now collectively consider options moving forward albeit in the knowledge that any steps we take will still be subject to Ministerial consideration and approval.

In considering the options available to the Partnership the views of the three Non Council Board Members have been sought both to get their thoughts and to make them aware of the issue of Ministerial approval having emerged. All three Non Council Board Members have confirmed they are happy to continue their service to HITRANS which is not remunerated and represents a significant commitment from each Board Member.

In considering options for the continued make up of the Partnership Board a number of key issues need to be considered including:

1. Upcoming local government elections in May 2017 and the risk of there being significant change in Board representation from partner Councils.
2. Continuity of Board membership and of knowledge and awareness.
3. Important issues currently on the Partnership Business Plan including the RTS refresh and impending review of the National Transport Strategy and Strategic Transport Projects Review.
4. Gender Balance of Public Body Boards has been a feature of Government action.

Point 4 above may influence Ministerial thinking in terms of any request for an extension of Non Council Board Member term. As a public body HITRANS now has a statutory requirement to implement a Board Diversity Succession Plan under the 2016 Equality Duties Regulations.

Options the Partnership Board might consider include (but are not limited to):

- a) Seek Ministerial approval for a further four year term for all three Non-Council Board Members.
- b) Seek Ministerial approval for a two year extension for all three Non-Council Board Members to provide continuity of Membership for at least three Board Members beyond the 2017 Local Government elections covering a bedding in period of over 12 months for the new Board.
- c) Seek Ministerial approval for a one year extension for all three Non-Council Board Members to provide continuity of Membership for at least three Board Members beyond the 2017 Local Government elections.
- d) Advertise for one or more new Non Council Board Members.
- e) A mix of the options outlined in a) to d).

As senior accountable officer the Partnership Director has set out a range of options but considers it important that Board Members consider this issue and collectively agree the Partnership's preferred approach prior to seeking Ministerial approval of that preferred approach.

### **Recommendation**

The Board are asked to:

1. Discuss the options outlined within this report for the make up of the Partnership Board.
2. Agree a preferred approach for the Partnership in terms of the Non Council Board Members with a view to seeking Ministerial approval for the Partnership's agreed collective decision.

<b>Risk</b>	<b>Impact</b>	<b>Comment</b>
RTS delivery	√	Non Council Board Members bring specialist knowledge and skills and add a great deal of value to the development of the RTS and its delivery.
Policy	√	Non Council Board Members afford the Partnership the opportunity to bring additional knowledge and experience to support the work of HITRANS.
Financial	-	There are no financial implications from this report.
Equality	√	Equality might influence decision making particularly given the new statutory requirement to implement a Board Diversity Succession Plan under the 2016 Equality Duties Regulations

**Report by:** Ranald Robertson  
**Designation:** Partnership Director  
**Date:** 6<sup>th</sup> September 2016

## Appendix – Letter from Transport Scotland

Bus and Local Transport Policy  
**Transport Policy**

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Your ref:

Our ref:

Date:  
2 August 2016

Dear Ranald

I am writing to you to clarify the position of the Scottish Ministers in terms of appointments of “other members” to the RTP Boards.

The legislative basis for appointments to RTPs is set out in the Regional Transport Partnerships (Establishment, Constitution and Membership) (Scotland) Order 2005. This is supported by the RTP Guidance on Membership which provides additional support with the appointments process.

This letter follows being asked by another RTP whether it was necessary to seek the Scottish Ministers consent for the re-appointment of a non-councillor member (“other member”), or whether RTPs can simply rely on any initial approval given, essentially in perpetuity to allow a number of re-appointments.

Having considered carefully both the legislation and the guidance, it is clear that the position on appointments is that consent is required. The Scottish Ministers give their consent to an appointment for a term that will last 4 years, unless a different term is specified. The member “holds office” for that period only, after which the appointment lapses. Once the term of appointment has finished, Ministers consent also falls, thereby renewing the requirement to seek consent again, as if it were a new appointment.

I trust that this is helpful

Yours sincerely

JOANNE GRAY

RECEIVED  
10 AUG 2016

