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| **Cheshire & Warrington Local Transport Body** |

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| **Date of Meeting:** | Friday 6 April 2018 |
| **Report of:** | Roy Newton |
| **Subject/Title:** | Government’s Rail Market Led Proposals Guidance |
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1. **Report Summary**
	1. On 20 March 2018 the Department for Transport published “Rail market-led proposals Guidance” alongside “Rail Network Enhancements Pipeline A New Approach for Rail Enhancements” which is covered elsewhere on the agenda.
	2. Government wants to open up the development and delivery of transport infrastructure to take advantage of new and innovative ideas, create contestability in the market and reduce the burden on taxpayers and farepayers.
	3. The Department is keen to engage with promoters and investors of market-led proposals (MLPs) across all transport sectors and is looking to encourage new partners for infrastructure development, design and delivery. They are particularly interested in encouraging and facilitating proposals which promote new sources of funding and financing.
	4. The guidance is aimed at potential **promoters** who are considering bringing forward a proposal to enhance the railway; and at **investors** (including private companies, local authorities, LEPs and devolved transport bodies) who wish to consider funding or financing part, or all, of a proposal.
	5. The guidance provides a tool to help promoters and investors engage effectively with the department, navigate government processes and develop credible proposals. This guidance may be updated from time to time. It should be read alongside the Rail Network Enhancements Pipeline (RNEP) which sets out the new approach for enhancements.
2. **Recommendation**
	1. The Local Transport Body is asked to note the Government’s new Rail Market Led Proposals Guidance.
3. **Background**
	1. Government wants to open up the development and delivery of transport infrastructure to take advantage of new and innovative ideas, create contestability in the market and reduce the burden on taxpayers and farepayers. They want to work with the private sector to identify investment opportunities for transport needs where the schemes fit best with the Department for Transport and wider government’s priorities, and support the government’s strategic vision for rail.
	2. The Department is keen to engage with promoters and investors of market-led proposals (MLPs) across all transport sectors. Within the Department, some of the delivery bodies already have schemes in place to encourage MLPs such as the designated funds at Highways England. The intention of the rail market-led proposals guidance is to provide advice for rail MLPs.
	3. The Department acknowledges that promoters and investors need some assurances from government, for example a clear route to return for investors for the risk they are taking and certainty that any genuine intellectual property created by developers or promoters will receive the appropriate protection within the law. In turn, government needs to assure itself of the value for money of proposals and that they fit within the overall network objectives.
4. **Market-Led Proposals**
	1. A market-led proposal (MLP), also known as an “unsolicited bid”, is defined as a project promoted by the private sector which addresses an opportunity not necessarily identified or prioritised in a departmental programme or through the Network Rail-led long term planning process (LTPP). In the rail sector, an MLP could be developed or promoted by, for example, ports, train operators, freight operators, housing developers, financial investors or a consortium of such parties
	2. The guidance is aimed at potential **promoters** who are considering bringing forward a proposal to enhance the railway; and at **investors** (including private companies, local authorities, LEPs and devolved transport bodies) who wish to consider funding or financing part, or all, of a proposal.
	3. The Department recognises that central government does not have a monopoly on good ideas so they want to work with promoters and investors to identify where rail is the right answer for local transport needs and where rail schemes fit best with housing and other government priorities.
	4. The Government’s strategic vision for rail sets out the vision for the railways and the actions it is taking to create a more reliable, efficient and modern railway. It sets out how they would encourage new partners for infrastructure development, design and delivery and encourage and facilitate market-led proposals for rail enhancements and promote new sources of funding and financing.
	5. The Government’s **objectives** in encouraging market-led proposals are to:
* Increase overall investment in the railway;
* Relieve the burden on taxpayers and farepayers where possible;
* Open up the development and delivery of rail infrastructure to take full advantage of new and innovative ideas; and
* Create real contestability in the market.
	1. By identifying and leveraging new sources of funding and financing the Government is looking to increase overall investment in the railway and also relieve the burden on taxpayers and farepayers. The Rail Network Enhancements Pipeline process (see separate paper on the agenda) makes it clear that government will consider opportunities for alternative sources of funding and private finance options at each stage of the pipeline.
1. **Types of Market-Led Proposals**
	1. The Department’s approach to each MLP will be based on their likely funding and financing arrangements, balance sheet treatment and use of network assets. The government will prioritise MLPs that minimise the budgetary impact on government and maximise the use of alternative sources of funding.
	2. The guidance sets out two categories of MLP:

Category 1, which:

* Does not require public funding that is provided either directly or indirectly by central or local government such as government grants or public financing guarantees;
* Has no contractual requirements that involve government action such as changes to franchise agreements or usage guarantees;
* Involves no asset exclusivity requests, such as government guaranteed exclusivity for the scheme.

**Illustrative example of a Category 1 MLP**

The owner of a port funds the gauge clearance of a line providing an additional/diversionary route for freight services operating to and from the port. It does not charge freight operators for using the gauge cleared route, but benefits from a more reliable service for its customers and an increase in rail freight capacity from its port.

Category 2, in which one or more of the following is true:

* Public funding is provided either directly or indirectly by central or local government such as government grants or public financing guarantees;
* Contractual requirements involve government such as changes to franchise agreements or guarantees, such as usage guarantees; and
* Asset exclusivity is required, such as government guaranteed exclusivity for the scheme.

**Illustrative example of a Category 2 MLP**

A company reopens a branch-line and station to connect an isolated community to areas of commerce. The company recovers its capital costs by taking a portion of the track access charges paid by the train operating company for running over the renewed line.

* 1. Category 2 MLPs are competing with other unfunded government projects for capital and therefore require a compelling business case to demonstrate value for money. Category 2 MLPs are subject to procurement and should address the priorities set out in the guidance and follow the framework for MLPs
	2. Chapter 2 of the guidance describes the priorities Category 2 MLPs should address when demonstrating value for money and Chapter 4 provides further detail on the framework for MLPs.
1. **Roles and responsibilities**

How are roles and responsibilities shared?

* 1. The Department for Transport, Network Rail and the Office of Rail and Road (ORR) are working closely together to ensure promoters and investors can access the support and expertise they need to progress their proposals. In relation to MLPs, each organisation has different responsibilities. The roles and responsibilities below will guide promoters and investors to the right stakeholder.

Promoters

* 1. Promoters are responsible for submitting well developed proposals that meet the priorities set out in Chapter 2 of the guidance, and will be responsible for developing their proposals at risk.

Investors

* 1. Investors are responsible for financing proposals. Investors should be confident that their proposal provides an appropriate commercial return as the government will not necessarily be committing to provide any funding, repay costs, etc.

Department for Transport

* 1. In most circumstances, the department will have decision-making responsibility on the progression of an MLP. However, where an MLP is in Category 1 and does not require anything from government, the department will delegate decision making to Network Rail or the ORR to ensure all the relevant safety tests have been passed, necessary licences obtained, etc.
	2. Once a proposal has been accepted into the Develop stage, a departmental point of contact will be appointed. This will be the main point of contact in the department throughout the development of the MLP. This will not constitute formal support for the proposal nor does it guarantee the proposal will be progressed.

Network Rail

* 1. Network Rail’s role is to deliver a safe and reliable railway. They have a vital role in providing analysis and advice to support work by promoters, developers or investors and we welcome their commitment to encourage and enable investment. Network Rail have committed to providing timely responses to enquiries from promoters and will shortly be producing a guide on “How to do business with Network Rail”.
	2. Network Rail may also provide advice to the department on engineering and technical viability of projects.
	3. Network Rail has established route businesses to devolve responsibility to a local level. These are strategic geographic routes which allow Network Rail to work with local stakeholders to provide the optimal service for its customers. Route Business Development Directors (BDDs) were established to support contestability and should be the first port of call for Network Rail advice on MLPs. BDDs are tasked with advocating contestability and are responsible for increasing the use of private funding, private finance and third party delivery of projects within their route.

Network Rail System Operator

* 1. The System Operator is a distinct but connected part of Network Rail providing a range of services for route businesses, train operators and funders while delivering its own accountabilities. The System Operator provides a whole-system, long term view informed by detailed knowledge gained from planning and timetabling the network, and from the industry-wide interfaces it has with every customer, route and infrastructure manager. The operating model highlights the role the System Operator plays in the planning, development, and allocation of capacity on the railway network:
* Coordinating the strategic planning of the network to identify the most effective and economic way to enhance capacity and meet future needs;
* Planning how these needs can be efficiently met; and
* Making best use of today’s capacity by creating a national timetable for routes and other infrastructure managers to operate. 5.10 The System Operator advises Network Rail as Infrastructure Manager as to the suitability of proposals and their potential impact on the network. The System Operator will consider the wider system impacts, the relative strategic fit and the importance of these proposals to the development of the railway.

Office of Rail and Road (ORR)

* 1. The ORR regulate and license all companies that operate trains, stations and light maintenance depots along with the network as a whole.
	2. They have published information for investors which sets out how the regulatory framework can provide certainty to investors and the supply chain.
	3. The ORR is in the process of updating its suite of track access guidance10 which contains a number of modules used by applicants seeking access rights to use the network.





