

TRANSPORT FOR LONDON

AUDIT COMMITTEE

SUBJECT: REVIEW OF COMMITTEES AND PANELS

DATE: 10 JUNE 2009

1 PURPOSE AND DECISION REQUIRED

- 1.1 The purpose of this paper is to update the Audit Committee on the Review of Committees and Panels undertaken by Daniel Moylan, Deputy Chairman. The Committee is asked to endorse the recommendations of the Review and recommend that Members approve the recommendations at the meeting of TfL on 24 June 2009.

2 BACKGROUND

- 2.1 At the full meeting of TfL on 10 February 2009, Members were advised that the Mayor had asked Daniel Moylan to conduct a review of the operation of TfL's Committees and Panels to ensure that they operated effectively and that Members had a full opportunity to participate in TfL's work.
- 2.2 On 3 March 2009, Members were invited to comment on the current arrangements and to give consideration as to how they might be improved. The majority of Members provided written comments, others made comments during a round of meetings.
- 2.3 Appendix 1 to this paper is the Report arising from the Review.
- 2.4 A further paper on the agenda for this meeting proposes the changes to Standing Orders and practices that will be required to implement the proposals contained in the Report.

3 RECOMMENDATION

- 3.1 The Committee is asked to ENDORSE the recommendations in the Report for approval by Members at the full meeting of TfL on 24 June 2009.

4 CONTACT

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TRANSPORT FOR LONDON

Review of Committees and Panels

I. Legal background

Transport for London (TfL) is a statutory corporation (Greater London Authority Act 1999 as amended) consisting of not fewer than eight and not more than seventeen members, all appointed by the Mayor of London. The Mayor is required to designate a Chairman and a Deputy Chairman. TfL may form committees and sub-committees and may regulate its own conduct and that of its committees and sub-committees. TfL may appoint staff.

An individual member of TfL exercises no executive authority¹ (unless it is delegated to him or her by TfL), but collectively the (currently) seventeen appointees have full decision-making powers except where specifically limited by law. By statute, TfL may delegate these decision-making powers to a committee or sub-committee or to any wholly-owned subsidiary company or to any member or officer or to any body of members or officers (or of members and officers). Committees may further delegate decision-making to a sub-committee, or to any body of members or officers (or of members and officers) or to an individual. (The delegations that TfL has chosen to put in place pursuant to these statutory powers are contained in the Standing Orders of TfL and in discrete decisions made by TfL.)

The expressions “Board” and “TfL Board” have no basis in statute.

Comment

It is possible that members are not all wholly clear as to where the “Board” fits in to TfL. In law the “Board” is TfL and the staff are its employees. The impression may exist that the “Board” is advisory to the Mayor and that executive decision-making rests with him: that is not the case in law (other than in certain specified circumstances, for example with regard to fare-setting, a power reserved by statute to the Mayor) or indeed in practice. The use of the term “Board” can tend to create confusion in that members (and the public) sometimes perceive it as an adjunct to the organisation, with an ill-defined or largely consultative role.

Although not exactly in the same legal position as non-executive directors of Companies Act companies, the members of TfL carry out similar assurance and governance functions to those exercised by non-executive directors in such companies. While some members have considerable corporate governance experience, others have been recruited for different skills and may wish to have access to relevant training, which currently is not provided.

¹ The power of direction exercisable by the Mayor is proper to the office of Mayor, not to the office of Chairman of TfL, even when the two posts are held simultaneously by one person.

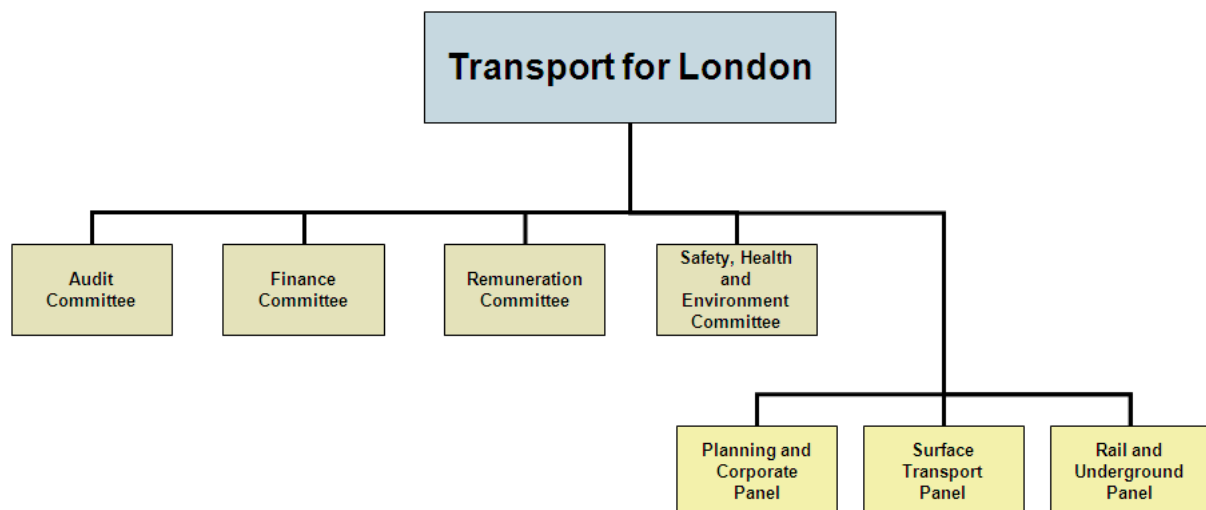
Recommendation 1

While the use of the term “Board” will no doubt remain in common use, officers should be encouraged in the future, where appropriate, to use more legally exact terms, such as “member of TfL”, “meeting of TfL” and so forth.

Recommendation 2

Officers should be asked to propose training sessions for members on their role and responsibilities, drawing on the GLA Act and Standing Orders and relevant best practice elsewhere. It may be appropriate to do this in collaboration with a body such as the Institute of Directors or a similar provider of such training. Such training would be entirely voluntary for members.

II. Committees and Panels as currently structured



Comment

The above chart is regularly used to illustrate the relations between TfL and its various Committees and Panels, but, as noted below, is not a wholly accurate reflection of established practice, especially as regards the Panels, which do not in fact report to full meetings of TfL.

III. The Committees

The Committees currently established by TfL follow good corporate practice. There is a Finance Committee, an Audit Committee, a Remuneration Committee and, of particular relevance to a transport operator, a Safety, Health and Environment Committee (SHEC). The Committees send summaries of their meetings to full meetings of TfL. They also make delegated decisions and make recommendations for decisions that are reserved to full meetings of TfL.

Committees express the dual role of the members of TfL: to make decisions on delegated matters and to offer assurance that robust governance processes are in place and are working well. The Audit Committee and SHEC are predominantly exercising an assurance function. The Finance Committee also has an assurance role but is predominantly a decision-making body, or one that recommends decisions to full meetings of TfL. This is because Standing Orders base the scheme of delegation in large measure on the quantum of finance committed by any particular decision. As the chart shows, however, all Committees are perceived as reporting into TfL on an equal or parallel footing, with no distinction as between assurance and decision-making functions.

Comment

The wide-ranging role of the Finance Committee has been a cause of confusion to members in the past, who have felt that it has been straying beyond a purely “financial” remit. This is in part because the Committee’s name fails to reflect its actual role in TfL’s decision-making structure.

SHEC includes the environment in its remit but in practice focuses its energies predominantly on the vital issues of health and safety. The Assembly and others would wish to see TfL give more prominent attention to environmental matters. The environment is at the heart of the Mayor’s agenda for London.

There is a standing invitation to all members to attend all Committee and Panel meetings, even those of which one is not a member.

Recommendation 3

The Committee and Panel arrangements at TfL should better reflect the distinction between those “bodies of members” exercising a predominantly assurance role and those with a heavier decision-making function. No substantive change is proposed to the Terms of Reference of the Committees.

Recommendation 4

To reflect its actual functions better, the Finance Committee should be renamed, possibly as the “Finance and Policy Committee”, though no substantive change is proposed to its Terms of Reference.

Recommendation 5

The name of SHEC should be changed to reflect better its assurance function (and to clarify its relationship with the new “Environment and Planning Panel” proposed below). The new name could be “Safety, Health and Environment Assurance Committee”. No substantive change is proposed to the Committee’s Terms of Reference.

Recommendation 6

The development and promotion of environmental policies for TfL should be enhanced by giving a Panel specific responsibility for this. Discussion with officers indicates that there is a high degree of overlap between environmental policy development and TfL's Planning function and it is proposed therefore that the Terms of Reference of the Planning and Corporate Panel be amended to cover environmental policy development; that its name be changed to "Environment and Planning Panel"; and that it act *inter alia* as a champion for visibly raising the environment's profile within the organisation. (A consequential recommendation on the place of TfL's Corporate functions within the Panel structure follows in the next section.)

Recommendation 7

The standing invitation to attend all Committee and Panel meetings could be offered more actively to members. Members should be given an opportunity to place a "standing order" to receive automatically the agenda, the papers and/or the minutes of all Committees and Panels in which they express an interest. This would keep them better in touch with developments at TfL and would alert them to matters of interest being brought before a Committee or Panel that they might wish to attend.

IV. The Panels

There are currently three Panels: Planning and Corporate Panel, Rail and Underground Panel and Surface Transport Panel. They are "bodies of members" as contemplated by the GLA Act but no decision-making powers are delegated to them: they offer an opportunity for members and officers to go more deeply into the business of TfL. The absence of decision-making powers means that they can be more relaxed as to the implementation of the strict requirements on conflicts of interest imposed on members by the GLA Act.

Although the Panels are shown on the above chart as reporting into TfL, in fact they do not provide reports to full meetings of TfL. Nor in practice would it be possible for them to do so, given time and other practical constraints.

Comment

A wish has been expressed by a number of members that Panels should take on a more strategic role than they currently exercise.

The lack of clear reporting lines from the Panels means there is a risk that their work shape and influence the development of TfL without any involvement by or opportunity for comment from the wider membership. There is also a lack of clarity as to how insights and suggestions made by members in these fora are in practice taken forward given that the Panels by definition have no decision-making powers. Both of these concerns could be remedied if the Panels provided summaries of recommendations arising from their meetings that had a possible financial consequence to a re-branded "Finance and Policy Committee", which could then

formulate any necessary decisions and make recommendations, if required, to a full meeting of TfL. On other occasions, it would be appropriate for Panels to refer matters to the Audit Committee or to a re-branded "Safety, Health and Environment Assurance Committee". This would bring recommendations arising from Panel work into the decision-making structure of TfL.

The expansion of the remit of the (current) Planning and Corporate Panel to cover environmental policy development would lead to a heavy workload that could best be met by moving the coverage of TfL's Corporate functions to a new "Corporate Panel".

Complaints have arisen in the past that papers have come to a full meeting of TfL without any indication that the subject matter has already been considered by a Panel or what the Panel's views were.

Recommendation 8

Reflecting Recommendation 6 in relation to the proposed "Environment and Planning Panel", it is recommended that a new "Corporate Panel" be established which would have as its terms of reference those matters within the remit of the current Planning and Corporate Panel that related to TfL's corporate affairs.

Recommendation 9

The Panels should shape their own agendas so as to give greater prominence to strategic matters, without losing touch with the operations side of the business.

Recommendation 10

The Panels should send a summary of recommendations arising from their meetings with possible financial consequences to the re-branded "Finance and Policy Committee", which could then formulate any necessary decisions and make recommendations, if required, to a full meeting of TfL. When appropriate, Panels should refer matters to the Audit Committee or to a re-branded "Safety, Health and Environment Assurance Committee". As is the case now, this would not preclude any member of TfL (including a Panel Chairman) requesting consideration of a matter by a full meeting of TfL. This might particularly be appropriate if a matter raised by a Panel could not be satisfactorily resolved at a meeting of the relevant Committee.

Recommendation 11

Any paper going to a full meeting of TfL, the subject matter of which has been considered by a Panel, should explicitly state the fact and reflect any views expressed by that Panel. Any declaration of interest made by a member of a Panel at the meeting at which the subject in question was discussed should be disclosed in any paper going to a Committee or a full meeting of TfL, for the sake of transparency.

Recommendation 12

Those chairing Panels should normally also be members of the “Finance and Policy Committee”.

V. Leadership of Committees and Panels

A member is appointed by TfL to chair each Committee and Panel but there is no deputy appointed. No formal training is offered to members beyond a degree of induction training.

Comment

The advantage of deputies is not only clarity as to who is to chair meetings in the absence of the Chairman, but also the opportunities created for mentoring and for succession-planning.

As members acquire experience of TfL (many of the current members were appointed within the last nine months), it is right that they should have an opportunity to exercise a leadership role within the organisation, bringing to bear the skills for which they were appointed (insofar as no conflict of interest thereby arises).

Recommendation 13

Each Committee and Panel should have a Deputy appointed to the Chairman.

Recommendation 14

As far as possible, each member of TfL should be given an opportunity to exercise a leadership role within the organisation.

Recommendation 15

Over and above the corporate governance training proposed in Recommendation 2, members should be made aware of other training opportunities that can be made available to them from TfL’s own resources and elsewhere and should be enabled to attend relevant training sessions.

VI. Transparency

TfL is not required by law to meet in public. Good governance of a public corporation requires, however, that, as far as possible, decisions be taken in the public domain. The current practice is that TfL, its Committees and Panels meet in an open session, followed immediately by a closed session. Papers for the open sessions are published on the website, but not until after the meeting. (Copies of the open agenda papers are given to Assembly Members in advance.) There are no published criteria for the placing of items on the closed agenda. The Assembly has recently called for greater transparency in TfL’s decision-making processes.

Comment

There is a striking contrast between TfL and local government, where there is a legal presumption in favour of all decision-making being carried out in the public domain, with only specific statutory exemptions being available to overturn this presumption.

Clearly there are some items coming before Committees and Panels that need to be kept confidential, for example relating to commercially sensitive matters and named individual persons. It is also invaluable that TfL members can meet informally for “away-days” and the like, to discuss particular matters, although such meetings are not empowered to make decisions.

Recommendation 16

TfL should establish and publish a list of criteria for placing items on the closed agenda at its meetings and those of its Committees and Panels and each paper so designated should cite the applicable criterion. All other items should be on the open agenda.

Recommendation 17

Items on the open agenda should be published on the website soon after they are despatched to members and certainly no later than they are made available to Assembly Members. The current practice of providing advance hard copies to Assembly Members should continue if requested by Assembly Members.

Recommendation 18

The practice of occasional informal “away-days” and other opportunities for confidential discussion by members should continue, it being understood that such gatherings cannot make decisions.

VII. Frequency of meetings

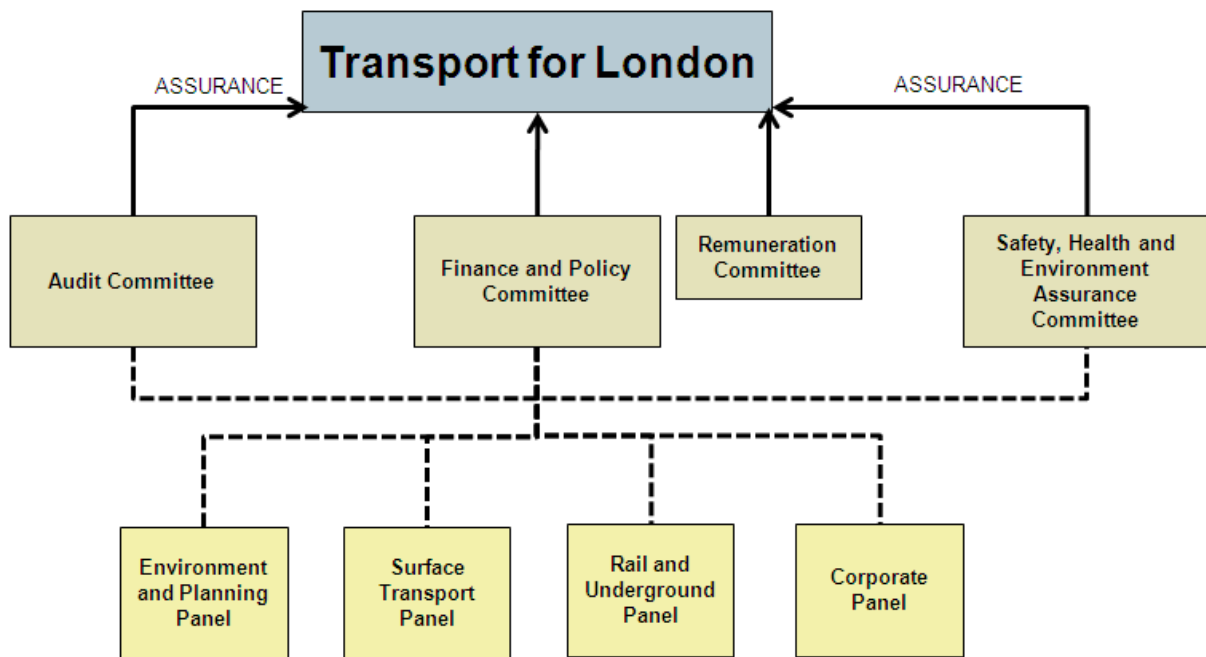
Members have expressed views about the frequency of meetings of Committees and Panels and some consider that a greater frequency may have merit for some Committees and Panels.

Recommendation 19

The Chairmen of the new Committees and Panels, once established, should consult the members of their Committees and Panels and recommend an appropriate frequency of meetings, understanding that a final decision on this will need to be taken by a full meeting of TfL in the light of the resource demands placed on the organisation as a whole.

VIII. Proposed structure of Committees and Panels

If the recommendations in this review were all implemented the revised structure of TfL’s Committees and Panels would be:



Daniel Moylan
Deputy Chairman
May 2009