



# HUMBER BRIDGE

31 May 2019

## To consider the development of changes to the Standing Orders of the Board

**Report of the** Town Clerk of the Hull City Council

This item is not exempt

### 1. Purpose of the Report and Summary

- 1.1 This report has been prepared to support a review of the governance arrangements of the Board.

### 2. Recommendations

- 2.1 That the Board agree to a report being brought forward to the Annual General Meeting of the Board recommending changes to the Board Standing Orders.

### 3. Reasons for Recommendations

- 3.1 The governance arrangements of the Humber Bridge Board are recorded in two acts of Parliament, the Humber Bridge Board Act 1959 (the 1959 Act) and the Humber Bridge Board Act 2013 (the 2013 Act) and a statutory instrument, the Humber Bridge Board (Membership) Order 2012 and Standing Orders developed under the 1959 Act.
- 3.2 The financial provision related to the construction of the Bridge is articulated in the Humber Bridge Act 1971, the Humber Bridge Act 1973 and the Humber Bridge (Debts) Act 1996.
- 3.3 The Standing Orders of the Board presently are functional in nature and do not include the detail set out within the 1959 Act and the 2013 Act. Consequently, for the lay reader an understanding of the background and operation of the board is

not easily accessible.

- 3.4 While by reading the legislation alongside Standing Orders the governance arrangements are capable of being understood, the absence of an easily understood accessible document that articulates the governance arrangements creates a risk of misunderstanding.
- 3.5 Improving the form and layout of standing orders and capturing the key elements of the legislation within those standing orders is expected to support both those responsible for the management of the Board and the public to better comprehend its operation.

#### 4. Background

- 4.1 The Humber Bridge Board was created by statute through the Humber Bridge Board Act 1959. The Act provided the organisational structure through which a proposal to construct a bridge across the Humber could be put into effect.
- 4.2 Sections 6 to 26 of the 1959 Act provided the framework for the appointment and removal of Board members and their deputies from the constituent Local Authorities and arrangements for their meetings, the quorum for such meetings chairmanship, the arrangements for minuting of meetings and the appointment and remuneration of officers of the Board
- 4.3 The provisions also established the ability of the Board to form sub-committees with delegated powers to undertake the business of the board, excluding the power to issue a precept for a rate or to borrow money.
- 4.4 S22 of the 1959 Act provided the Board with a power to make standing orders for the regulation of their proceedings and business and to vary or revoke the same, subject to the provisions of that Act.
- 4.5 The standing orders complement and on occasion quote from these provisions, for example standing order 1.2 states: "The Humber Bridge Act, 1959 states that "to constitute a meeting of the Board there must be present at least one-third of the whole number of Directors of the Board"." However, they do not set the context for the standing orders as would, for example, arise with Articles of Association or Articles within a Constitution.
- 4.6 This report proposes improvements to the documentation that could be brought forward to the Annual General Meeting of the Board for consideration to improve and enhance the governance of the Board by providing a cohesive framework for the management of the Board's business.

## 5. Issues for Consideration

- 5.1 The Humber Bridge Board is neither a local authority nor is it a joint committee of local authorities. As such it does not have available to it the general power of competence established for local government pursuant to the Localism Act 2011. However, it has many features of a local authority.
- 5.2 The Board is in a position which is more appropriately considered in relation to the structures that preceded the Localism Act 2011. The Board can only do that which it has by statute been given powers to undertake. Those powers are articulated in the 1959 Act and the 2013 Act.
- 5.3 Changes introduced in the 2013 Act have a greater resonance with the wellbeing powers in the Local Government Act 2000 rather than the power of general competence within the Localism Act 2011.
- 5.4 The powers the Board now exercises derive primarily from the general powers articulated in s6 of the 2013 Act, namely:

### **General powers**

(1) Subject to the other provisions of the Humber Bridge Acts 1959 to 2013, the Board may:

(a) do anything which appears to the Board to be necessary or desirable for the purpose of, or in connection with, the maintenance, operation, management, improvement, repair and renewal of the bridge;

(b) promote, or participate with others in the promotion of, the economic development of the Humber area; and

(c) do any other thing (including the provision of facilities and the carrying on of any business) which in the opinion of the Board can usefully be undertaken by the Board by virtue of the Board's functions in relation to the bridge and which, in the opinion of the Board, is likely to provide economic, social, cultural or environmental benefits to all or some of the population of, or visitors to, the Humber area.

(2) In exercising the powers of this section, the Board must have regard to the desirability of minimising in the longer term the level of tolls to be levied in respect of vehicles passing over or on the bridge.

- 5.5 Setting the context for the standing orders through an appropriate pre-amble akin to formal Articles, referenced to the legislation would help articulate the purpose for which the Board originally came into existence, its revised purpose now and the powers available to the

Board and the constraints upon its decision making.

- 5.6 The document could helpfully also set out where the Board is subject to the powers, duties and liabilities of a local authority or deemed to be acting as a local authority. This would help remove any area of confusion in relation to the status and competence of the Board to act.
- 5.7 In addition, such a document could helpfully set out the role of the Board and the role of officers and the statutory authority from which these roles are derived.
- 5.8 The Procedural Orders set out how the Board undertakes its business. They are brief and to the point. While there is merit in this, it could be helpful to set out what should be included on the agenda of the Annual General Meeting and ordinary meetings within the year so that this is clear to both directors and officers.
- 5.9 In addition, some sections of the “general standing orders” could helpfully be re-ordered and brought within the Procedural Orders, for example the provisions at standing order 4, in particular 4.2 (variation or revocation of standing orders) and 4.3 (suspension of standing orders) appear to relate to the procedures within a meeting, however, they are separated from the procedural section of standing orders (section 1). This does not assist the reader to comprehend the arrangements.
- 5.10 The Contract Procedure Rules have fairly recently been updated and are in accord with legal requirements. They follow a structure found within local government standing orders. It is unlikely that significant changes will be required to these.
- 5.11 The Financial Procedure Rules fairly comprehensively set out the financial arrangements of the Board. However, they do not make reference to the powers from which they are derived. It would be helpful to articulate the links more clearly so that the user is clear upon why the rules are framed as they are.
- 5.12 Finally, the Board may consider that the scheme of delegation is worthy of review. In practice very limited powers are presently delegated to officers with the majority of decisions retained to the Board, meeting as a whole. It is understandable that decisions are required to be made by the Board as a whole as the membership of the Board comprises individual representation from across the Humber Area. Consequently, where the Board delegates decisions it is understandable that such delegation would ordinarily be to an officer.
- 5.13 Where individual decisions are made it is important that there is a clear approval process. Within a local authority context the

requirement to publish decisions arises from the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 which set out in detail the obligations to publish decisions made at meetings (Regulation 12) or by individual members and officers (Regulation 13). This requirement was followed by the implementation of The Local Government Transparency Code 2015

5.14 That Code set out “the Government’s desire to place more power into citizens’ hands to increase democratic accountability and make it easier for local people to contribute to the local decision making process and help shape public services. Transparency is the foundation of local accountability and the key that gives people the tools and information they need to enable them to play a bigger role in society. The availability of data can also open new markets for local business, the voluntary and community sectors and social enterprises to run services or manage public assets.

5.15 The principles that were articulated in the code were that transparency should be:

“ demand led – there are growing expectations that new technologies and publication of data should support transparency and accountability. It is vital that public bodies recognise the value to the public of the data they hold, understand what they hold, what their communities want and then release it in a way that allows the public, developers and the media to use it

open – provision of public data should become integral to local authority engagement with local people so that it drives accountability to them. Its availability should be promoted and publicised so that residents know how to access it and how it can be used. Presentation should be helpful and accessible to local people and other interested persons, and

timely – the timeliness of making public data available is often of vital importance. It should be made public as soon as possible following production even if it is not accompanied with detailed analysis.”

5.16 The Code provided a particular focus upon:

how money is spent

how assets are being used

decision making – how decisions are taken and who is taking them, including how much senior staff are paid, and

issues important to local people

5.17 The Board is comprised of Council members and members of the Local Enterprise Partnership appointed to the Board by the Council members. While the Code provides guidance to Local Authorities, those local authorities ultimately underwrite the Board’s activities and directors may consider it important to ensure that the arrangements

for publishing decision making are consistent with the principles within the Code.

## 6. Options and Risk Assessment

6.1 The Board could determine to invite no changes to the standing orders. While the standing orders would be on a strict view, broadly compliant with the legal requirements upon the Board, the opportunity to make the arrangements clearer and more accessible to directors, officers and the public would not be taken.

6.2 An alternative is to pursue the proposals articulated within this report with a focus upon clarity, openness and transparency rather than wholesale changes to content.

6.3 If the Board support the alternate approach articulated in paragraph 6.2 the Town Clerk would propose to develop the draft documentation for consideration by the Board at the Annual General Meeting of the Board in consultation with the Chair and Deputy Chair of the Board and the Acting Clerk to the Board.

## 7. Consultation

7.1 The local authority stakeholders have been consulted and support the proposed recommendations within this report.

## 8. Legal Advisor Assurance Statement

8.1 The Town Clerk of Hull City Council is the author of this report and the legal issues have been addressed within the body of the report.

## 9. Comments of the Acting Clerk to the Board

9.1 The Acting Clerk to the Board supports this report being brought forward to enable debate on the potential areas where the governance documents can be updated to assist the Board to undertake their role effectively.

Contact Officer: Ian Anderson, Town Clerk, Hull City Council the provider of legal advice to the Board

Officer Interests: None

Background Documents: -  
None

## Implications Matrix

**This section must be completed and you must ensure that you have fully considered all potential implications**

This matrix provides a simple check list for the things you need to have considered within your report

If there are no implications please state

|   |     |
|---|-----|
| I have informed and sought advice from HR, Legal, Finance, and Operations and any other key stakeholders.   | Yes |
| Value for money considerations have been accounted for within the report.   | Yes |
| I have included any procurement/commercial issues/implications within the report.   | Yes |
| I have considered the potential media interest in this report and liaised with the Board's PR advisors to ensure that they are briefed to respond to media interest.                              | Yes |
| I have included any equalities and diversity implications within the report and where necessary I have completed an Equalities Impact Assessment and the outcomes are included within the report. | Yes |
| Any Health and Safety implications are included within the report.  | Yes |
| Any human rights implications are included within the report.   | Yes |
| I have included information about how this report contributes to the Masterplan priorities.   | Yes |