

ITEM 5. DRIVING GROWTH ACROSS YORK, NORTH YORKSHIRE AND EAST RIDING.

Annex A : Overview of Governance and Key Legal Issues

Objective: To ensure that local governance maximises the opportunities of devolution and attract investment into the York, North Yorkshire and East Riding area.

Background:

The Government will consider a range of factors when negotiating Growth Deals, including the strength of local partnerships. Strong partnerships should ensure that there is clear decision making over large areas, underpinned by a strong democratic mandate which simplifies the local government landscape for businesses so that important investment decisions can be made in one place.

YNYER LEP recognises that the governance arrangements will continue to strengthen and evolve to ensure strong, rigorous and properly accountable decision making and delivery on economic growth, infrastructure, skills and business development issues.

There are three models that are considered by government to be suitable models for strengthening governance in the area and ensuring that there is greater accountability for any public funding under the Growth Deal and for delivery of agreed projects and investments; namely:

- (A) A Formal Joint Committee
- (B) An Economic Prosperity Board (Similar to a Combined Authority but without the transport functions)
- (C) A Combined Authority

The purpose of this paper is to give a very brief summary of the different options and potential areas that a future heads of terms would need to cover.

JOINT COMMITTEE

In the Government's response to the Heseltine Review ("No Stone Unturned"), it was stated that they consider that a "Joint Committee of Leaders" is a minimum (with a Combined Authority being the strongest) governance arrangements to provide binding and long lived decision making structures in the area for devolving funding into the area.

Legally Councils can discharge their functions through Joint Committees and they can be comparatively easy to set up. How the Joint Committee is formed depends on

whether it is carrying out Executive/Cabinet Functions or non-Executive (Council or Committee) functions or a combination of both.

A Joint Committee has no corporate status and is not a separate legal entity. All of the committee's assets therefore must be held by one of the constituent Councils in trust for the others as the lead authority or held jointly by each authority.

The Constitution of a Joint Committee is generally contained in a formal agreement entered into by the authorities concerned. The Agreement should cover a number of areas:

- The number of members of the joint committee
- The number of members which each authority may appoint
- The terms of office and other related matters

MEMBERSHIP OF THE JOINT COMMITTEE

Normally if the Joint Committee is exercising Executive Functions, every member appointed to the Joint Committee must be a member of that authority's Executive/Cabinet.

Legislation provides that where a Joint Committee comprises five or more local authorities, the membership of the joint committee may be either Executive or Non-Executive members.

However it should be noted that the Government would expect that the Joint Committee in this case would consist of the Leaders of each constituent council.

DRAFT HEADS OF TERMS FOR A PROPOSED JOINT COMMITTEE

Draft heads of terms for a proposed Joint Committee are attached below.

If there is agreement to progress with the proposal to create a joint Committee, it is suggested that a meeting is arranged with the Chief Legal Officers from each constituent authority to produce a full Terms of Reference for the proposed Committee.

HEADS OF TERMS FOR A POTENTIAL JOINT COMMITTEE

Section 1 : Context and Purpose

- 1.1 The Joint Committee is set up under the provisions of Section 102 of the Local Government Act 1972.
- 1.2 The Joint Committee aims to bring local authority partners in the region in a robust, formally constituted arrangement which will drive future investment in growth and jobs in the region.

Section 2: Functions and Funding

2.1 The [insert name] Joint Committee will act as a Joint Committee under Section 9EB of the Local Government Act 2000 and pursuant to Regulation 11 of the Local Authorities (Arrangement for the Discharge of Functions)(England) Regulations 2012 *[if Joint Committee is delegated Executive Powers]* and section 101 and 102 of the Local Government Act 1972 *[if delegated Council/Committee Powers][or both]*

2.2. The [insert name] Joint Committee will comprise of the following local authorities:

- Craven District Council
- Harrogate Borough Council
- Selby District Council
- Ryedale District Council
- Scarborough Borough Council
- Hambleton District Council
- Richmondshire District Council
- City of York Council
- East Riding of Yorkshire Council
- North Yorkshire County Council
- Yorkshire Dales National Park Authority
- North York Moors National Park Authority

(the “Constituent Authorities”)

- 2.3 Political Proportionality rules will not apply to the Joint Committee
- 2.4 The overarching aim of the Joint Committee is to *[provide its constituent local authorities with a forum in which to address collaboratively issues relating to*

economic development, regeneration and strategic planning within its area and to enable collective decision making on a wider geographical area from the Constituent Authorities]

Membership and voting rights

- 2.4 The Joint Committee comprises the Leader of each of the Constituent Authorities. The term of office of each member shall be for as long as the member is the Leader of the appointing Council.
- 2.5 Non-voting advisers, including a representative from the LEP (and Associate Councils) may attend the Joint Committee from any or all of the Parties or from other organisations as agreed. These advisers may participate in the debate but may not vote.

Sub-committees

- 2.6 The Joint Committee may establish sub-committees as it may determine.

Voting

- 2.7 [Voting will be weighted in accordance with the existing rules of voting – to be drafted]

New Membership and cessation of membership

- 2.8 New Councils may join the Joint Committee provided that the Executive and full Council of the joining parties *[if delegating Executive and Council functions]* and of all the Parties to the agreement

Chair and Deputy Chair

- 2.9 The Chair and Deputy Chair of the Joint Committee will be appointed from its members annually

Quorum

- 2.10 The Quorum of the Joint Committee will be [insert number] members

General Remit

[this is purely a draft and will need to reflect the combined ambitions of the partners]

2.11 The general remit of the Joint Committee is to :

(a) act as the local public sector decision making body for strategic economic development across the region

(b) to develop and subsequently monitor investment plans utilising Government and EU funds

(c) To be the Accountable body for decision making on the Local Growth Fund and EU funding streams as allocated by the YNYER LEP

(d) to own, monitor and review the emerging economic strategies and associated investment plans

(e) to hold to account relevant bodies whose work impacts on the economic well-being of the region

Specific delegated Functions:

[Local Authorities can choose which specific functions they wish to delegate to the Joint Committee. A number of similar Joint Committees have been set up across the country which include having the following powers delegated to it]:

- Powers with regard to setting and reviewing objectives for strategic infrastructure investments across the area
- Transport Functions
- Economic Development and Regeneration Functions
- Funding
- [other specific legislative powers]
- Creation of jobs/houses etc

HIGH LEVEL COMPARISON OF DIFFERENT GOVERNANCE MODELS

	Existing Structure	Joint Committee	Combined Authority
Achievability	Already in Place and has functioned to date.	Easy to set up with agreement by each authority.	Takes time to set up: 1. Review of existing and future arrangements 2. development of a scheme 3. approval of Secretary of State followed by draft order being laid before Parliament.
Governance	Not recognised by Central Government as a secure way to make decisions across the region	Recognised by Central Government as the minimum required to ensure suitable governance arrangements are in place Decisions can be formally delegated to a joint committee.	Recognised by Central Government as the highest form of governance with the ability to last in the long term.
Flexibility	Completely flexible	Each Authority delegates its powers to the Joint Committee – could be different for each authority. Each authority, subject to any agreement, can then revoke those delegations. The Committee can easily flex to accommodate more powers as time develops.	A new Combined Authority is created by Order and cannot be disbanded or altered without the approval of the Secretary of State. This model provides the least flexibility in terms of change as the structure is more secure and harder to amend. In addition, Local Authorities are not allowed to be constituent members of more than one

		<p>There is a concern that that such a model would not have the permanence and accountability that exists within a Combined Authority to attract, for example longer term infrastructure funding.</p> <p>Provides a flexible approach to the current position where there are overlapping LEP Boundaries.</p>	combined authority.
Funding	Least likely to attract the most funding	Gives Government some assurance that governance arrangements are in place	Provides the model that Government is promoting to secure the most confidence in attracting funding.
Administration	Least burdensome administratively.	<p>Relative lack of bureaucracy – joint committee will require officer support.</p> <p>The Committee will need an authority to host the Committee and provide all necessary secretarial, legal and financial support (including Section 151 and Monitoring Officer Roles).</p>	Creates a completely new authority that needs to be administered.
Decision making	Has no formal decision making power	Has some decision making powers that are delegated from each authority. Each authority can choose what powers and functions to delegate either exclusively or mutually to the Joint Committee..	Has full decision making powers that are given to it through an Order from the Secretary of State. Functions can be exercised exclusively or mutually with each local authority.
Legal Basis	Informal arrangement	Section 101(5) Local Government Act	The Local Democracy, Economic

		<p>1972 enables two or more local authorities to discharge any of their functions jointly and arrange for the discharge of those functions by a Joint Committee.</p> <p>If Executive Functions are being delegated to the Joint Committee, the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012/1019 states the Committee should contain Executive Members.</p> <p>Regulations further state that the Committee would not allow for any co-option.</p>	<p>Development and Construction Act 2009 provides the legal basis for creating Combined Authorities and Economic Prosperity Boards.</p> <p>A Statutory Order needs to be passed to set up a new Combined Authority/Economic Prosperity Board.</p> <p>A Combined Authority can attract additional functions and powers in their own right, including the general power of competence.</p> <p>The Localism Act 2011 allows ministers to devolve powers to Councils, but ministers have consistently stated that they would prefer to devolve powers to combined authorities because the types of powers that can be devolved would affect whole regions and across Council boundaries.</p>
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