

# North Yorkshire Council

## Joint Devolution Committee Meeting

24 July 2023

### Combined Authority Governance: Proposed Staffing Structure for the Combined Authority from November 2023 and the Mayoral Combined Authority from May 2024

#### Report of the City of York Council Head of Human Resources

#### Purpose of the Report

1. In order to ensure an effective and timely establishment of a fit for purpose Combined Authority for York and North Yorkshire (CA) should approval of the final terms of an Order to create the Combined Authority be given, the committee is asked to;
  - a. receive and approve the proposal for a staffing structure for the proposed Combined Authority (CA) from November 2023, and the additional posts required for the creation of the Combined Authority from May 2024, following the election of the Mayor. This comes with the caveat that there is still pending decisions in the Order associated with the PFCC's Statutory Officer status.
  - b. note the initial costs of the creation of the CA and that a review of its overall structure once established will be undertaken with a view to delivering the most cost-effective structure going forward.
  - c. agree an interim appointment of a Director of Transition to oversee the CA project in the lead up to the anticipated vesting day and the appointment of the Mayor. This role will ensure that appropriate resources and designated officers deliver the deal requirements and oversee and maintain a resilient workforce from November up to the appointment of the Mayor.
  - d. be presented with the proposals associated with the terms and conditions of employment for staff to be employed by the proposed new Combined Authority and approve the proposal of mirroring North Yorkshire Council's current terms
  - e. note the work of the HR workstream associated with the preparation for day one of the proposed Combined Authority.
  - f. note that this paper specifically outlines plans for the officer structures, and other work is happening in parallel on the defining governance structures and partnerships.

## Summary

2. This report looks at the work done to date in preparing for the potential creation of the new CA and considering the staffing issues in creating a new entity. This report focuses on the immediate issues of creating a staffing structure needed to enable the CA to operate prior to the election of the Mayor to ensure it can be effective and functional as soon as it is created. It is noted that there will be no transfer of any of the Office of the Police Fire and Crime Commissioner (PFCC) function until the election of the Mayor in May 2024. It is also noted that the draft statutory Order has not been completed and shared with the Councils and therefore, the report is based on assumptions of what has been asked in 'the Scheme' but subject to any changes that the Secretary of State determines to put in the Order.
3. The report, in its confidential annex, considers options for the staffing structure of the new CA, and the recommended option is the transfer of all the current LEP staff in addition to consideration of how the Statutory roles of the new organisation can be fulfilled.
4. It is recommended that after the election of the Mayor and the Mayor has identified their priorities, the CA will need to review its structure in full and review the overall costs, linked to priorities and funding.
5. It is proposed that the Chief Executive of the CA is not appointed until after the election of the Mayor.
6. It is proposed that North Yorkshire Council's terms and conditions and policies and procedures will be mirrored for the new CA and apply to any new appointments.

## Background

7. Following the decisions of both North Yorkshire Council and City of York Council to submit proposals to government to create a CA for York and North Yorkshire, work has been ongoing to prepare for the establishment of the Combined Authority, should the Secretary of State be minded to approve the proposals. Members will recall that the organisations had approved the submission of 'the Scheme' which set out the proposed governance structure of the Mayoral Combined Authority. The Secretary of State will now need to decide whether to make the relevant Order in considering the statutory tests of whether it could improve the exercise of

statutory functions of the region. If the Secretary of State is satisfied, details of the Scheme should then be embodied in the Statutory Order to create the MCA.

8. Work is currently being undertaken by officers of both Councils, the PFCC and officers from DLUHC and the DfT including consideration of the draft legislation which will be required to create the Combined Authority as a legal entity and lead to the election of a Mayor for York and North Yorkshire. It is currently anticipated that the draft Order will be laid before Parliament shortly after the summer recess with the Order, if approved, coming into effect in November 2023.
9. “The Scheme” as submitted to Government provide that the York and North Yorkshire Local Enterprise Partnership (LEP) will integrate into the CA. It is also intended that the responsibilities of the Police Fire and Crime Commissioner (PFCC) will be assumed by the elected Mayor when they take office in May 2023 and the Office of the PFCC will transfer into the CA at that time.
10. In order to ensure that the Combined Authority is fit for purpose on Day One and the York and North Yorkshire region can start benefitting from the agreed devolution deal it is necessary to ensure that the infrastructure is put in place to allow the new organisation to function efficiently as soon as it is legally constituted. In light of this, and in anticipation that Parliament will approve the draft Order in due course, officers have undertaken work to create and cost a structure for the proposed Authority.
11. The proposed structure ensures that the Combined Authority is resilient and sufficiently staffed in capacity terms from day one and in its early days to be able to attract new investment, be an attractive employer as well as deliver the agreed deal agenda and be ready to deliver new projects at pace.
12. The proposed structure follows the principle that the corporate core functions of transactional HR, finance, IT, legal, procurement and democratic services will be provided under Service Level Agreements (SLA) / contract agreements from City of York Council (CYC) or North Yorkshire Council (NYC) and this can be reviewed by the Mayor and their new leadership team when in place.

13. The programme team have had the benefit of lessons learnt from other combined authorities around the set up and creation of an CA structure and reflections have been built into the proposals.
14. The staffing structure options are attached at the private Annex. The structure options are subject to the final Order details and therefore, may be subject to change. If changes are made, a further report will be provided to the Joint Committee. This Annex is confidential as it contains information with regard to staffing matters and current and potential consultations and negotiations with staff. The public interest in maintaining the exemption whilst this is still being discussed is considered to outweigh the public interest in disclosing the information at this stage. In order to aid transparency, the overall financial implications are identified in this public report.

## **Implications**

### **Financial implications**

15. The LEP currently sits within North Yorkshire Council at a total cost of £3m and is funded by a combination of Government grants, contributions from local authorities, the use of reserves and project specific funding. "The Scheme" provides that "the Staff of the LEP will transfer to the Combined Authority pursuant to the TUPE Regulations (subject to eligibility under the legislation)". This report anticipates the transfer of the LEP in its entirety to the new Combined Authority, along with the creation of new posts to support the additional responsibilities that the Combined Authority will have over and above those that previously sat with the LEP. This will of course be subject to the final terms of the Order creating the CA and any legislation relevant at the time.
16. In developing the proposed structure, it has been recognised that the CA should be a lean, agile, outward facing organisation working closely with stakeholders to achieve the devolution deal asks. The new authority will draw on the expertise of the constituent councils to maximise opportunities for efficiencies, including the use of Service Level Agreements for key corporate functions.
17. The recommended option of the proposed structure costs £4.5m in a full year (this excludes the PFCC staff structure). Of this, £1.9m are LEP programme specific staff who are recharged into programmes, and the net cost is £2.6m. This means that, alongside the £1m of Mayoral Capacity Fund available, some £1.6m of gainshare will be used to support the CA

18. There will be a need for the new CA to review their costs to ensure that the gainshare can be maximised towards delivering on the key objectives and priorities for York and North Yorkshire. Work on the overall CA budget is ongoing and will be the subject of a future report to this committee. This report will consider the overall costs of the CA, including the need to create reserves for any potential future pension liability and other costs.
19. When the Combined Authority is formally created by a statutory order (expected in November 2023) this will release funding for the new organisation, which consists of an Investment Fund, Mayoral Capacity Fund and Transport Capacity Fund giving total funding of £10m in 2023/24 and £19.5m in 2024/25. There are other calls on this funding, including the costs of implementation (£1.6m) and the match funding requirement for Adult Education (£0.5m) both of which are referred to in separate reports elsewhere on this agenda. It is expected that of the £10m funding available for 2023/24 £7m will be carried forward into 2024/25.

## **Legal implications**

20. It is noted that, as yet, no formal government decision has been made as to the establishment of the CA. Final detail is also awaited as to the exact terms of the legal Order which is required to legally create the CA. However, it is deemed prudent to commence work to establish the relevant structures to ensure that there are no delays if and when Parliamentary approval is given to the Order which could prejudice the benefits to the region of the proposed devolution deal.
21. Transfer of Staff / TUPE : It is understood, although, this has still to be finalised that staff transferring to the CA would follow the regulation requirements as set out in the Transfer of Undertaking (Protection of Employment) Regulations 2006 where relevant and similar provisions where it is not. Specially, “the Scheme” submitted to Government provides the following with regard to the transfer of staff to the CA:
- (a). The staff of the LEP will transfer to the Combined Authority pursuant to the TUPE Regulations (subject to eligibility under the legislation)”
  - (b) “The staff employed by the PFCC as local policing body; and the staff employed by the PFCCFRA, will transfer to the Combined Authority under a statutory transfer order which will replicate the characteristics of a TUPE transfer.

22. Government is currently considering implementing “the Scheme” into the draft Order.

22. Recruitment : All Chief Executive posts are politically restricted pursuant to the Local Government and Housing Act 1989.

23. The process of appointing Chief Officers is regulated by the Local Authority (Standing Orders) (England) Regulations 2001. In respect of the appointment to Chief Officer posts, the Council is required to comply with the Officer employment procedures as outlined in the council’s Constitution. These appointments will follow North Yorkshire Council’s Constitution.

### **Climate change Implications**

24. There are no significant and notable climate change implications arising from this report.

### **Equalities implications**

25. Recruitment where necessary will be carried out in a transparent and open recruitment process which will comply with the equality processes.

### **Crime and Disorder, Information Technology and Property**

26. There are no known crime and disorder, information and technology and property risks.

### **Reason for Recommendations**

27. Recommendations are presented to the committee to enable progress to be made with the staffing structure and HR elements of creating the CA on time with effective engagement and consultation with staff, trade unions and stakeholders.

### **Recommendations**

28. The Committee is asked to

- a. Approve *Option 2* of the recommended staffing proposal as detailed in the confidential annex, subject to any changes required through the drafting of the Order and any legislation

- b. Approve the decision to appoint a permanent Chief Executive, after the election of the Mayor in May 2024 as detailed in the confidential annex
- c. Approve the appointments and recruitment of the Director of Resources and the Head of Legal Services from September 2023 as detailed in the confidential annex, noting that any recruitment prior to MCA creation follows NYC's constitution and no recruitment will commence until all the legal requirements in relation to the establishment of the CA have been confirmed by Government and the two local authorities and confirmation of the status of the PFCC Statutory Officers.
- d. Approve the engagement of North Yorkshire Resourcing to carry out the external recruitment exercises, and support the Appointments Sub-Committee as detailed in the confidential annex
- e. Approve interim appointment of Director of Transition from 1<sup>st</sup> August as detailed in the confidential annex
- f. Approve and note interim appointment arrangements for the roles of Section 73 officer and Monitoring officer as detailed in the confidential annex
- g. Approve that terms and conditions for the MCA, mirror and are adopted on the basis of NYC given that LEP staff are already assigned NYC terms and conditions as detailed in the confidential annex
- h. Approve that HR / employment policies and procedures, including job evaluation mirror NYC as detailed in the confidential annex

## **Background Papers**

North Yorkshire County Council 22 February 2023 papers and minutes – Executive report (item 12 on the agenda) - [Agenda for Full Council on Wednesday, 22nd February, 2023, 10.30 am | North Yorkshire Council](#)

North Yorkshire County Council Executive meeting 14 February 2023 papers and minutes (item 7 on the agenda) - [Agenda for Executive on Tuesday, 14th February, 2023, 11.00 am | North Yorkshire Council](#)

North Yorkshire County Council Executive meeting 6 September 2022 papers and minutes (item 6 on the agenda) - [Agenda for Executive on Tuesday, 6th September, 2022, 11.00 am | North Yorkshire Council](#)

Joint Devolution Committee papers and minutes 30 November 2022 and 13 March 2023 - [Browse meetings - Joint Devolution Committee | North Yorkshire Council](#)

City of York Council 23 February 2023 papers and minutes (item 5 on the agenda) - [Agenda for Council on Thursday, 23 February 2023, 6.30 pm \(york.gov.uk\)](#)

City of York Council Executive meeting 14 February 2023 papers and minutes (item 5 on the agenda) - [Agenda for Executive on Tuesday, 14 February 2023, 2.30 pm \(york.gov.uk\)](#)

City of York Council Executive meeting on 6 October 2022 papers and minutes (item 5 on the agenda) - [Agenda for Executive on Thursday, 6 October 2022, 10.00 am \(york.gov.uk\)](#)

City of York Council (Extraordinary meeting postponed from 22 September 2022) 6 October 2022 papers and minutes (item 3 on the agenda) - [Agenda for Council on Thursday, 6 October 2022, 6.30 pm \(york.gov.uk\)](#)

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