

North Yorkshire Council

Transition (LGR) Overview and Scrutiny Committee

4 December 2023

Mayoral Combined Authority Governance

Report of the Assistant Chief Executive Legal & Democratic Services

1.0 PURPOSE OF REPORT

- 1.1 To provide the Transition (LGR) Overview and Scrutiny Committee with an update on the progress of creating the Mayoral Combined Authority and governance issues.

2.0 BACKGROUND

2.1 On 1 August 2022 the Secretary of State for Levelling Up, Housing and Communities announced that the Government was minded to enter into a Devolution Deal with York and North Yorkshire under which the region would benefit from £540 million of new Government investment to spend on local priorities to produce growth, together with a range of devolved powers. This Devolution Deal is dependent upon the York and North Yorkshire Authorities establishing a Combined Authority for the area with an elected Mayor. The full detail of the Deal can be found here: <https://www.gov.uk/government/publications/york-and-north-yorkshire-devolution-deal/york-and-north-yorkshire-devolution-deal#summary-of-the-devolution-deal-between-the-government-and-the-local-authorities-of-york-and-north-yorkshire-comprising-city-of-york-council-and-north-yorkshire-council>

2.2 The Deal proposes the following benefits for the region:

- £18 million per year in Investment Fund/gainshare funding over 30 years to invest in local priorities (35% capital and 65% revenue). This will be subject to a five yearly gateway review assessment;
- Subject to a full business case, investment of up to £50 million to support and deliver the York Central brownfield regeneration scheme which would generate additional GVA and associated benefits for the whole York and North Yorkshire region;
- £7 million investment to enable York and North Yorkshire to drive green economic growth towards the ambition to become a carbon negative region;
- Investment of up to £2.65 million of projects to deliver affordable, low carbon homes;
- £13 million for the building of new homes on brownfield land across 2023/24 and 2024/25;
- A commitment to establish a working group to support the development of BioYorkshire;
- New powers from Government to drive regeneration and build more affordable homes;
- New transport powers to improve and integrate the regional transport network.

2.3 The Secretary of State stated:

“The York and North Yorkshire deal will unlock significant long-term funding and give local leaders greater freedom to decide how best to meet local needs and create new opportunities for the people who live and work there. The government recognises that devolution is a

journey, not a one-off event. This agreement is the first step in a process of further devolution. As institutions mature, they can gain greater responsibility, and York and North Yorkshire will be able to deepen their devolution arrangements over time, subject to government agreement. The government will continue to work with York and North Yorkshire on important areas of public service reform and infrastructure investment, to support inclusive economic growth in towns, cities and rural areas whilst tackling the climate emergency, on our journey to 2030.

As a mayoral combined authority, York and North Yorkshire will have an important role and voice across the Northern Powerhouse and will be a key partner of central government to drive regional growth and productivity, joining the existing mayoral combined authorities and engaging with the government as a mayoral combined authority from the date of this deal”

- 2.4 In September and October 2022, the two Councils agreed to publish a Scheme to describe the governance of a new Combined Authority and to consult upon the Scheme. A copy of the Scheme can be found at : [wtd4vzdl2sf8zsdaju0c.pdf \(cloudinary.com\)](#) The consultation was held for 8 weeks from October to December. Both Councils considered the responses to the consultation and agreed to submit the Scheme for Devolution and a summary of responses to Government to allow the Secretary of State to consider putting in place the legislation needed to enable the creation of the Combined Authority.
- 2.5 Following the Executive approval on 14 February 2023 and the subsequent full Council decision on 22 February 2023, North Yorkshire Council agreed to implement the proposed Devolution Deal for the region. Council agreed to “*The delegation of authority to the Chief Executive, in consultation with the Leader of the Council, to undertake any action necessary to provide consent to the Order facilitating the creation of the Combined Authority in line with the scheme submitted to Government*”.
- 2.6 Subsequently Civil Servants from the Department of Levelling Up, Housing and Communities have been working with officers from the two Councils to draft the relevant regulations which will implement the Devolution Deal. On 2 November 2023 the Department provided a copy of the final draft of the York and North Yorkshire Combined Authority Order 2023 to both Councils asking for consent from the constituent authorities to the making of the Order. Both Councils provided the requested consent on 3 November 2023. A copy of the decision record can be found at: [Decision - Granting consent for the York and North Yorkshire Combined Authority Order 2023 | North Yorkshire Council](#)

WORKING ASSUMPTION ON FUTURE TIMETABLE

- 2.7 The Order was laid before Parliament on 7 November 2023 and advice from DLUHC is that, subject to the debate timetable, the working assumption is that the Order is due to be made during the week commencing 8th January 2024. A copy of the draft Order can be found at: <https://www.legislation.gov.uk/ukdsi/2023/9780348253252/contents>
- 2.8 Once the Order is signed, the Combined Authority is legally created. It is therefore proposed that an agenda for the inaugural meeting of the new Combined Authority is published immediately the Order is made and the meeting will take place once the statutory publication period has expired. Certain funding will then become available to the Combined Authority at that stage, prior to the Mayor being appointed (namely Mayoral Capacity Funding, a proportion of the annual gainshare/Investment Fund, and, subject to the conditions being met, funding for the York and North Yorkshire Brownfield Housing Fund and Net Zero Funds). The Combined Authority will therefore operate with one of the constituent members chairing the meetings. It is then proposed for the Mayoral elections to take place on the 2nd May 2024 and additional funding and powers will be received once the Mayor is in place, who will then chair the meetings of the Combined Authority.

3.0 GOVERNANCE ISSUES

3.1 A draft constitution is being worked upon by officers and a draft is due to be considered by the Joint Devolution Committee on the 15th December 2023. A copy of the draft constitution will be circulated to members of the Transition (LGR) Overview and Scrutiny Committee as soon as it is available. However it is important for the Scrutiny Committee to consider the proposed governance arrangements of how the new Mayoral Combined Authority will operate and for its views to be taken into account in any future drafting of the Constitution and governance arrangements. The Devolution Deal proposed the following governance arrangements for the Combined Authority and this is being included within the proposed future Constitution of the Combined Authority:

Membership

3.2 The Order proposes to implement the Scheme to provide that the Membership of the Combined Authority will be:

- (a) The Mayor (who will Chair the Authority) (voting Member).
- (b) Two Members from each of the Constituent Authority (voting members).
- (c) The Constituent Authorities will nominate one of these Members as a “Lead Member” who gets special voting rights in certain circumstances.
- (d) Each Authority will nominate four substitute members.
- (e) The Secretary of State stated that one member would be appointed by the York and North Yorkshire LEP which would be non-voting, unless the Combined Authority resolved to give them a vote on any issues. The LEP Board would then become the Business Committee of the Combined Authority subject to the LEP integration process.

Voting

3.3 The Mayor and Combined Authority are the primary decision makers. The Statutory Order creating the Combined Authority specifies that certain decisions must be taken by the Elected Mayor and that some decision rest with the Combined Authority. The Constitution will reflect these legal requirements. In addition, Schedule 1 to the Order sets out specific voting and consent requirements which must also be reflected in the Constitution. Attached at Appendix A is a table which summarises the main parts of the Order and how decisions will be made.

3.4 The Mayor will provide overall leadership and chair Combined Authority meetings. The Combined Authority’s remit is the strategic economic development, housing, carbon reduction, skills, transport infrastructure and strategic and operational transport functions. The Mayor can choose to delegate certain functions to members of the Combined Authority. The Mayoral Combined Authority can therefore appoint portfolio leads from its membership.

3.5 As shown in Appendix A, the Mayor can exercise certain of their functions autonomously as these have been devolved directly from Central Government to that post, namely:

- Functional power of competence.
- Housing and planning:
 - Power to designate a Mayoral Development Area and then set up a Mayoral Development Corporation (see consent requirements in Appendix A).
 - Housing and land acquisition powers (see consent requirements in Appendix A) to support housing, regeneration, infrastructure and community development and wellbeing.
- Finance:

- Power for the mayor to set a precept on council tax to fund mayoral functions (resulting from the setting of the mayoral budget subject to the potential veto provisions set out in Appendix A).
- Power to charge business rate supplement (subject to ballot).
- Transport:
 - Power to draw up a local transport plan and strategies (the combined authority will be able to amend the mayor's transport strategy if 3 out of 4 constituent council members agree to do so).
 - Bus franchising powers.
 - The Mayor will be responsible for a devolved and consolidated integrated local transport budget, consisting initially of the local highways maintenance funding and integrated transport block.
- Police, Fire and Crime Commissioner functions.

3.6 Subject to the above, the Combined Authority will be responsible for any function of the Combined Authority which is not the responsibility of the Mayor. Proposed decisions can be put forward by the Mayor or any Combined Authority member. Generally the Mayor will have one vote as will other voting members. Examples of Combined Authority functions (which are non-Mayoral functions) are:

- Local Transport Authority functions.
- Transport-related powers to set up and co-ordinate a Key Route Network on behalf of the Mayor (operational responsibility for Key Route Network roads will remain with the constituent councils subject to local agreement or national legislation).
- To operate a permit scheme on the Key Route Network.
- Housing and land functions.
- Economic development – duty to prepare assessment of economic conditions etc.

3.7 Any matters that are to be determined by the Combined Authority are to be determined by a simple majority and that majority must include the vote of the Mayor, except as identified in Appendix A. When approving the Combined Authority's budget (but not the Mayor's budget) and setting a levy, the lead member from each constituent council must be in the majority vote.

3.8 The Mayor will be required to consult the Combined Authority on their strategies and the Combined Authority will be able to amend the Mayor's budget and the Mayor's transport strategy if three out of the four members agree to do so.

Overview and Scrutiny Committee(s)

3.9 The Deal provides that the Mayor and the Combined Authority will be scrutinised and held to account by the Combined Authority's Overview and Scrutiny Committee(s). The Membership of each such Committee will be:

- (a) Six Members nominated from each constituent Council for each committee, reflecting the political balance of the constituent authorities (therefore 12 members in total),
- (b) The Chair and Vice-Chair will be appointed by the Combined Authority, following a proposal by the Overview and Scrutiny Committee,
- (c) The Chair and Vice-Chair shall not be a member of a registered political party of which the mayor is also a member.

3.10 Government have recently issued non-statutory guidance on a Scrutiny Protocol for Combined Authorities which can be found at: [Scrutiny Protocol - GOV.UK \(www.gov.uk\)](http://www.gov.uk). This recognises that "*Effective scrutiny is critical for ensuring there is appropriate*

accountability for the decisions made by local decision makers. When done well, local scrutiny should drive understanding, enhance the performance of services and improve the outcomes for those people affected by those decisions.”

- 3.11 Scrutiny for a Combined Authority can be through a single Overview and Scrutiny Committee or through multiple committees. This guidance recommends that “a single committee model” for Scrutiny should be considered for Combined Authorities so that Scrutiny Committee members can develop a strategic overview across all portfolio areas and an understanding of the interconnection of key policies to effectively scrutinise cross cutting issues. In addition the guidance provides that authorities with devolution deals should look to incorporate the scrutiny of any new activity arising from the devolution deal into their existing scrutiny arrangements. The Guidance sets out 18 Key Principles for Good Scrutiny within a Combined Authority that the new authority may wish to consider:
1. Pool of Members – all members and substitutes should have access to the same resources
 2. Politically balanced membership
 3. Geographically balanced membership
 4. Chair to be seen as an independent voice
 5. Sustained appointments made on interest and skills
 6. Well resourced training
 7. Inviting Technical expertise where appropriate
 8. Remuneration and Status – through the use of an Independent Remuneration Panel
 9. Holding the Mayor and the Combined Authority to account
 10. Participation in pre-policy and pre-decision scrutiny – with a forward plan of key decisions
 11. Provision to ‘call in’ decisions
 12. Regular Performance monitoring
 13. Robust Work Planning
 14. Focused Task and Finish Exercises
 15. Strong Relationships with Stakeholder
 16. Regular Self-evaluation and reflection
 17. Access to Data, research and analysis for committees to improve their knowledge
 18. Strong relationship with Audit Committees.
- 3.12 The non-statutory guidance also recommends having additional scrutiny through the implementation of a question time process where the mayor takes questions from the public and for it to be chaired by an independent person.
- 3.13 It is therefore proposed to be recommended to the Combined Authority to create a single Overview and Scrutiny Committee, in line with the above guidance. The scrutiny of the Mayoral budget (and any Mayoral precept) will fall within the remit of the Overview and Scrutiny Committee.

Audit & Governance Committee

- 3.14 The Constitution will include the creation of an Audit & Governance Committee (which will have responsibility for the Standards function). The Audit & Governance Committee will focus on the audit, assurance and reporting framework underpinning the financial management and governance arrangements and it will also undertake the functions of the Standards Committee dealing with member conduct and ethical standards. The Audit & Governance Committee shall be appointed by the Combined Authority and the Scheme provided that the membership would be not less than eight members. It stated that there would be four members from each constituent council and at least one independent person appointed by the Combined Authority. The role of this Committee will be:

- reviewing and scrutinising the Combined Authority's financial affairs;
- reviewing and assessing the Combined Authority's risk management, internal control and corporate governance arrangements;
- reviewing and assessing the economy, efficiency and effectiveness with which resources have been used in discharging the Combined Authority's functions; and
- making reports and recommendations to the Combined Authority in relation to reviews the Committee has conducted.

3.15 The Audit & Governance Committee can include co-opted members but they would be non-voting members of the Audit & Governance Committee.

3.16 The governance arrangements for Policing, Fire and Rescue will need to be in place by May 2024 when those functions will be transferred upon the election of the Mayor and therefore there is potentially more time to resolve the governance structures for that part of the Combined Authority functions. However the Scheme did propose that there would initially be a separate Joint Independent Audit Committee for Policing and a separate Independent Audit Committee for Fire and Rescue.

3.17 It is proposed that the Committees referred to above shall in practice be the Committees already established by the PFCC and the Chief Constable of North Yorkshire Police (in respect of the Joint Independent Audit Committee for Policing) and the PFCCFRA (in respect of the Independent Audit Committee for Fire and Rescue) and that those Committees in place for the time being shall be adopted by the Combined Authority; and that the terms of reference of those Committees shall be amended so as to provide for their remit to extend to PCC Functions and FRA Functions, respectively, exercisable by the Mayor. It is then proposed that these arrangements can be reviewed during the initial term of the Mayor by the Combined Authority.

Business Committee

3.18 The Scheme provides that the York and North Yorkshire Local Enterprise Partnership Board will transition into the Business Committee of the Combined Authority which will be an advisory committee of the Combined Authority for the purposes of relevant economic decisions. The LEP member will become a non-voting member of the Combined Authority (unless the Combined Authority resolves to give them a vote). Considerable amount of work has been done in preparing the integration of the LEP into the Combined Authority.

Transport Committee

3.19 The Combined Authority is the Local Transport Authority for York and North Yorkshire. Given the remit of the Combined Authority consideration needs to be given as to whether there to establish a separate Transport Committee under the Combined Authority.

3.20 It is possible keep such functions within the main Combined Authority meeting or to create a number of thematic boards which can deal with specific areas such as transport, climate, energy and environment etc. As the Scheme was silent on the governance structure of considering transport matters through a committee, the Combined Authority has flexibility in determining on what would work best for York and North Yorkshire and the ability to review the operation of any proposals.

Remuneration

- 3.21 The Combined Authority may establish an Independent Remuneration Panel to recommend allowances payable to the Mayor and others as appropriate. Following a recommendation by the Panel an allowance may be paid to:
- (a) the Mayor;
 - (b) the Deputy Mayor (provided that they are not a Leader of a constituent council);
 - (c) the Deputy Mayor for Policing and Crime (provided that they are not a Leader of a constituent council);
 - (d) Independent Persons.
- 3.22 A constituent council, following a recommendation of its own Independent Remuneration Panel, may make a special responsibility allowance to a member of the Combined Authority.

The First Meeting of the Combined Authority

- 3.23 At the inaugural meeting of the Combined Authority, it will need to approve the Governance Arrangements to put in place the framework which will set out how the Combined Authority is to operate, how decisions are to be made and the procedures to be followed to ensure that decisions are transparent. At this meeting it is envisaged the Combined Authority will be asked to approve the Constitution, appoint External Auditors, appoint to the Combined Authority Committees and approve the Budget.

4.0 PFCC FUNCTIONS

- 4.1 The Mayor will exercise the PFCC functions for York and North Yorkshire once elected. Any PFCC function is to be taken to a function of the Combined Authority exercisable by the Mayor acting individually, or as delegated in accordance with the Scheme. The Office of the Police, Fire and Crime Commissioner are currently working diligently to ensure these functions are transferred to the Combined Authority in an appropriate manner.
- 4.2 The Mayor may appoint a Deputy Mayor for Policing and Crime and delegation of certain Fire and Rescue Authority functions.
- 4.3 The scrutiny of discharge of the PFCC functions will continue to be performed by the Police, Fire and Crime Panel. The Panel will scrutinise the actions and decisions of the Mayor and the Deputy Mayor for Policing and Crime and assist in supporting them in the effective exercise of PFCC functions and to enable them to be scrutinised in public. There will be some consequential changes in the operation of the Panel to reflect their role in scrutinising the Mayor and Deputy Mayor for Policing and Crime and opposed to the Police, Fire and Crime Commissioner.

5.0 STATUTORY OFFICERS

- 5.1 The Mayor and the Combined Authority will appoint four Statutory Officers to discharge duties and obligations on behalf of the Combined Authority. The Statutory Officers ensure that the Combined is acting in accordance with its legal duties and responsibilities, operating with the financial regulations and receiving appropriate advice on policy and governance. Until the Mayor is elected in May 2024 these roles may be undertaken on an interim basis by officers appointed by the Constituent Authorities or the Combined Authority and this will be kept under review as it may be necessary to permanently appoint certain roles earlier. The four statutory officers are:

- 5.2 Head of Paid Service – It is proposed that the Chief Executive fulfils the role of Head of Paid Service who discharges the functions in relation to the Combined Authority as set out in section 4 of the Local Government and Housing Act 1989.
- 5.3 Section 73 Officer – Fulfils the role of Section 73 Officer in accordance with the Local Government Act 1985. The Section 73 Officer administers the financial affairs of the Combined Authority. The Section 73 Officer is equivalent to a Section 151 Officer.
- 5.4 Monitoring Officer – The Monitoring Officer discharges the functions in relation to the Combined Authority as set out in section 5 of the Local Government and Housing Act 1989.
- 5.5 Scrutiny Officer – The Scrutiny Officer provides independent and impartial advice to scrutiny members in relation to their role, constitutional and governance issues.

6.0 ALTERNATIVE OPTIONS CONSIDERED

- 6.1 The report contains the proposals for the setting up of the Combined Authority which is legal requirement. There are a number of ways of creating committees and thematic boards that sit under the Combined Authority to assist the discharge of the Combined Authority functions. It is proposed to create a “safe and legal” approach in creating a governance structure for day 1 of the Combined Authority and then to review the initial structure on a periodic basis; in a similar approach as that taken in creating the governance structure for North Yorkshire Council after Local Government Reorganisation.

7.0 FINANCIAL IMPLICATIONS

- 7.1 The financial implications of creating the Combined Authority and the additional funding that the Devolution Deal provides has been considered in previous reports to the Executive and full Council. This report looks at the proposed governance structure for the operation of the Combined Authority and notes that allowances can be paid to members following a report from the Independent Remuneration Panel.

8.0 LEGAL IMPLICATIONS

- 8.1 The legal implications of the proposed Constitution are contained in the body of this report.

9.0 EQUALITIES IMPLICATIONS

- 9.1 None

10.0 CLIMATE CHANGE IMPLICATIONS

- 10.1 The climate change implications of creating the Combined Authority and obtaining additional funding and powers under the Devolution Deal have been considered in previous reports to the Executive and full Council. This report looks purely at the governance arrangements of the Combined Authority.

11.0 REASONS FOR RECOMMENDATIONS

- 11.1 To ensure there is appropriate member oversight with regard to the governance issues in the creation of the Combined Authority.

12.0 RECOMMENDATION

That the Overview and Scrutiny Committee consider the contents of the report, notes the proposals in relation to the proposed governance of the Combined Authority and make recommendations on any comments they have on the proposal.

APPENDICES:

Appendix A – Decision Making of the Mayoral Combined Authority

BACKGROUND DOCUMENTS:

York and North Yorkshire Combined Authority Scheme: [wtd4vzdl2sf8zsdaju0c.pdf \(cloudinary.com\)](#)

Executive Report – 6 September – Agree the Devolution Deal and commence consultation
[Agenda for Executive on Tuesday, 6th September, 2022, 11.00 am | North Yorkshire Council](#)

Executive Report – 14 February 2023 – York and North Yorkshire – Outcome of Consultation
[Agenda for Executive on Tuesday, 14th February, 2023, 11.00 am | North Yorkshire Council](#)

Executive Report to Council – 22 February 2023 - York and North Yorkshire Devolution – Outcome of Consultation
[Executive Report to Council.pdf](#)

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Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.