

# YORK AND NORTH YORKSHIRE COMBINED AUTHORITY

22 JANUARY 2024

## Combined Authority Governance: Proposed Statutory Officers Structure for the Combined Authority and the Mayoral Combined Authority

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

The Appendix to this report contains exempt information as described in paragraphs 1, 2 and 4 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) (information relating to any individuals or which is likely to reveal the identity of an individual and information relating to labour relations issues) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

#### Purpose of the Report

1. In order to ensure that the Combined Authority has appropriate statutory officers, the Committee is asked to:
  - i. Appoint interim Statutory Officers for the Combined Authority to be legally compliant with the Local Government and Housing Act 1989 and other legislation.
  - ii. Approve the interim structure of chief officer / senior posts ahead of the Mayoral election
  - iii. Approve the recruitment and appointment process for the roles of Statutory Officer posts as detailed in the **Private Appendix A**
  - iv. Approve, subject to consultation, the final structure for the Statutory Officers post the Mayoral election based on the options presented in the **Private Appendix A**
  - v. Appoint to the Combined Authority Returning Officer

#### Summary

2. The Joint Devolution Committee considered a structure for the Combined Authority at its meeting on the 24<sup>th</sup> July, 2023. This report had a number of caveats as the final Order creating the Combined Authority had not been passed. The Order was approved on 20<sup>th</sup> December 2023 and therefore, the Combined Authority needs to formally consider the position with regard to its Statutory Officers now that it is has been legally constituted and can make formal decisions.

3. The main Statutory Officers for the Combined Authority are:
  - a. Head of Paid Service
  - b. Section 73 Officer
  - c. Monitoring Officer
  - d. Scrutiny Officer
  - e. Data Protection Officer
  - f. Senior Information Risk Officer
  - g. Combined Authority Returning Officer
  
4. During the consideration of the Order, the PFCC asked Government for there to be 2 sets of statutory officers for the Combined Authority. This was declined and the Order clarified that there could only be one set of statutory officers for the Combined Authority as a whole. The Combined Authority is therefore, asked to consider approving the interim and future structure for the statutory officers. It is noted that whilst the Combined Authority has been legally constituted as a separate organisation, the PFCC functions will transfer at a later date namely 7<sup>th</sup> May 2024 and therefore it is appropriate to make interim arrangements and proposals for future arrangements at this stage.

### **The Interim Position**

5. The Joint Committee at its meeting on the 24<sup>th</sup> July 2023 appointed James Farrar as the interim Director of Transition and stated that the Chief Executive of the Combined Authority would not be appointed until after the Mayoral Election. The Combined Authority is asked to confirm this position and as the authority requires an interim head of paid service, is asked to confirm this post to that position until the Chief Executive is appointed.
  
6. The Joint Devolution Committee also approved the interim arrangements for the Section 73 Officer and Monitoring Officer. The Combined Authority is asked to confirm the formal appointments of the following on an interim basis until substantive appointments are made. It is anticipated that substantive appointment campaign timetables for these posts can be determined once the outcome / decision of the options presented in **Appendix A** are known;
  - a. Debbie Mitchell, Chief Finance Officer of City of York Council as the interim Section 73 Officer for the Combined Authority

- b. Barry Khan, Assistant Chief Executive Legal & Democratic Services of North Yorkshire Council as the interim Monitoring Officer for the Combined Authority
7. It is proposed to appoint the following on an interim basis and further options are detailed in the private Appendix for the substantive appointments for these roles, it may be these interim arrangements are likely to be until at least September 2024:
  - a. Paul Clark, currently the Governance and Assurance Manager for YNYLEP as the interim Scrutiny Officer
  - b. Veritau Limited (through a service level agreement) as the interim Data Protection Officer.
  - c. James Farrar, currently the interim Director of Transition and proposed appointed interim Head of Paid Service as the interim Senior Information Risk Owner

### **The Substantive Structure**

8. Now that the Combined Authority has been created, it should agree its substantive structure in order to be able to operate and to recruit and appoint the relevant officers needed to ensure that the statutory posts are filled on a permanent basis.
9. The Combined Authority has a number of options on how it would like to construct its permanent structure and these are detailed in the confidential **Appendix A.**
10. The Combined Authority is asked to determine its structure and delegate the consultation, recruitment and appointment accordingly to the interim Head of Paid Services in line with the Combined Authority's constitution.
11. The following post is not determinate on the options and therefore, it is recommended that the following post is assigned as the Returning Officer for the upcoming 2024 Mayoral Election,
  - a. Richard Flinton, Chief Executive Officer North Yorkshire Council (and the previous Police Authority Returning Officer) as the Combined Authority Returning Officer.
12. As a note for the Combined Authority, in addition to the Combined Authority Returning Officer, both City of York Council and North Yorkshire Council will designate two local Returning Officers and there will be

ongoing co-ordination between the two Councils regarding the delivery of the election. This preparation is already underway ahead of the Mayoral election in May.

## Implications

### Financial implications

10. The salaries for the senior Statutory Officers is included in the separate financial update reports for this Committee's information. The salaries of the key Statutory Officers are as per the presentation in the 24<sup>th</sup> July 2023 report (*with updated 2023 pay award*). At this stage, salaries marked <sup>1</sup> below remain indicative grades subject to final job evaluation assessment:

Post	Salary	Salary & Oncosts
Chief Executive	£124,656	Approx. £159,560
Director of Resources <sup>1</sup> (Section 73 Officer)	£95,050 to £105,438	Approx. max £134,960
Head of Legal Services and Monitoring Officer <sup>1</sup>	£55,056 to £82,065	Approx. max £105,043

### Legal implications

11. The York and North Yorkshire Combined Authority Order 2023 came into force on 20<sup>th</sup> December 2023 and formally creates the York and North Yorkshire Combined Authority as a separate legal entity. During the month preceding the creation of the Combined Authority, the constituent councils created a Joint Devolution Committee in an anticipation of the Order to consider appropriate arrangements. These arrangements need to be formally approved by the new Authority. Following the Government's decision as part of the Spring 2023 Budget consultation to cease funding of Local Enterprise Partnerships from April 2024 and transfer their functions to local authorities or Combined Authorities; the York and North Yorkshire Local Enterprise Council ceases to exist on the creation of the York and North Yorkshire Combined Authority. As such, relevant staff transfer to the Combined Authority from 1<sup>st</sup> February 2024 under 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. In addition, the rules relating to political restrictions within the Local Government and Housing Act 1989 apply to the relevant officers of the Combined Authority.

12. The Order further provides that there will be Mayoral elections on 2<sup>nd</sup> May 2024 and the PFCC functions will transfer on 7<sup>th</sup> May 2024 to the

Combined Authority. TUPE will apply to those staff on that date and formal consultation will take place prior to this.

13. TUPE applies to the establishment of the Authority and the transfer of functions by virtue of the Order. Subject to this, the Combined Authority may appoint such officers as they consider necessary to carry out the Authority's functions. There are a number of statutory officers that need to be appointed and this report seeks to make the necessary appointments.
14. Now that the Combined Authority has been created, formal consultation can take place with the relevant staff that will transfer on 7<sup>th</sup> May 2024. This will include staff that work for the OPFCC and Fire and Rescue Authority.
15. With regard to the elections in May, the Combined Authorities (Mayoral Elections) Order 2017 provides that each Combined Authority must appoint one of its officers or one of the officers of a constituent council to be the Combined Authority Returning Officer (CARO). The CARO will have overall responsibility for running the election of the Mayor and be responsible for accepting nominations and co-ordinating the regional result. It is proposed to make the appointment which mirrors the arrangements that were put in place for the Police, Fire and Crime Commissioner elections that would have covered the same electoral area.

### **Climate change Implications**

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

### **Equalities implications**

17. 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**

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

## Reason for Recommendations

19. Recommendations are presented to the committee to enable statutory appointments to be made and confirm senior structures. This will also allow for the commencement of effective engagement and consultation with OPFCC and PFCC FRA staff and trade unions ahead of their transfer to the Combined Authority in May 2024.

## Recommendations

20. The Committee is asked to

- a. Appoint interim Statutory Officers as part of the interim structure for the Combined Authority including;
  - i. James Farrar - Director of Transition as the Interim Head of Paid Services (*as detailed in paragraphs 5 above and paragraphs 8 to 10 in the confidential Appendix A*)
  - ii. Debbie Mitchell - Chief Finance Officer of City of York Council as the interim Section 73 Officer for the Combined Authority (*as detailed in paragraph 6a above*)
  - iii. Barry Khan - Assistant Chief Executive Legal & Democratic Services of North Yorkshire Council as the interim Monitoring Officer for the Combined Authority (*as detailed in paragraph 6b above*)
  - iv. Paul Clark - Governance and Assurance Manager for YNYLEP as the interim Scrutiny Officer (*as detailed in paragraph 7a above*)
  - v. Veritau Limited (through a service level agreement) as the interim Data Protection Officer (*as detailed in paragraph 7b above*)
  - vi. James Farrar - Director of Transition and Interim Head of Paid Services as the interim Senior Information Risk Owner for the Combined Authority (*as detailed in paragraph 7c above*).
- b. Approve the recruitment and appointment process for the permanent roles of Statutory Officers for the Combined Authority as detailed in the *Private Appendix A (as listed in paragraph 30a to f of the private Appendix)*. This includes the appointment of the Chief Executive to be undertaken after the Mayors election and the Mayor can then be involved in the appointment process.
- c. Appoint to the Combined Authority Returning Officer;
  - i. Richard Flinton, Chief Executive Officer North Yorkshire Council (and the previous Police Authority Returning Officer) as the Combined Authority Returning Officer for the 2024

election (*as detailed in paragraphs 11a above*) and noting that both City of York Council and North Yorkshire Council will designate two local Returning Officers and there will be ongoing co-ordination between the two Councils regarding the delivery of the election.

## **Background Papers**

Public paper - 24<sup>th</sup> July 2023

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

<https://edemocracy.northyorks.gov.uk/mgCommitteeDetails.aspx?ID=1471>

<https://edemocracy.northyorks.gov.uk/documents/s20960/Combined%20Authority%20Governance%20-%20Proposed%20Staffing%20Structure.pdf>

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