

York and North Yorkshire Council Combined Authority Meeting

22 January 2024

Combined Authority Governance.

Report of the Assistant Chief Executive Legal & Democratic Services.

1.0 PURPOSE OF REPORT

1.1 To approve the Governance Arrangements of the York and North Yorkshire Combined Authority.

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. The Devolution Deal is dependent upon the establishment of a Combined Authority for the area with an elected Mayor.

2.2 The Deal proposes to 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 Following the publication of a proposed Scheme to describe the governance of the Combined Authority and consultation on the proposals the Scheme for Devolution and a consultation summary was submitted to Government. This was to allow the Secretary of State to consider putting in place the legislation needed to facilitate the creation of the Combined Authority.

2.4 Officers from both Councils worked with Civil Servants from the Department of Levelling Up, Housing and Communities (DLUHC) to draft the regulations to implement the Devolution Deal. On 7 November 2023 the Order was laid before Parliament and the Order was made on 19th December 2023 [Statutory Instrument 2023 No 1432]. The Order legally created the York & North Yorkshire Combined Authority.

2.5 Once the Order is signed the Combined Authority is legally created. The Combined Authority now needs 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.

- 2.6 In addition the Combined Authority will need to consider and approve how the Statutory Officer functions are to be undertaken in the interim period until the election of the Mayor in May 2024 and the financial arrangements for the Combined Authority. These matters are the subject of other reports on this agenda.

3.0 THE COMBINED AUTHORITY CONSTITUTION

- 3.1 The Combined Authority is the legal and Accountable Body for the funding devolved and awarded to it. In addition, the Combined Authority is the Local Transport Authority for York and North Yorkshire. Attached at Appendix A is a draft constitution for approval by the Combined Authority. Members should note that the Constitution will be developed further pending the election of the Mayor and the transfer of the Police, Fire and Crime Commissioner functions to the Combined Authority. Further iterations of the Constitution will be brought to the Combined Authority for approval. The draft Constitution is in 9 Parts as follows:

Part 1 – Introduction and Articles

Part 2 – Functions of the York and North Yorkshire Combined Authority

Part 3 – Responsibility for Functions

Part 4 – Committees

Part 5 – Rules of Procedure

Part 6 – Financial Procedures

Part 7 – Codes and Guidance.

Part 8 – Members Allowances

Part 9 – Police and Crime Commissioner Functions – Governance Documents [To Follow]

Membership

- 3.2 The Order provides 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 “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 will be non-voting, unless the Combined Authority resolved to give them a vote on any issues.

Voting

- 3.3 The Mayor and Combined Authority Cabinet 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 Cabinet. The Constitution reflects these legal requirements. In addition, Schedule 1 to the Order sets out specific voting and consent requirements which are also reflected in the Constitution.

- 3.4 The Mayor, once elected, will provide overall leadership. 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 Combined Authority can therefore appoint portfolio leads from its membership.
- 3.5 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 (subject to consent requirements).
Housing and land acquisition powers (subject to consent requirements) 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).
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 of 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. 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 four members agree to do so.

- 3.9 The Mayor and the Combined Authority Cabinet will be supported by Committees and the Senior Management Team.
- 3.10 The Constitution will initially include an Overview and Scrutiny Committee, an Audit Committee (which will have responsibility for the Standards function) and a Business Committee. The Business Committee will undertake the functions that previously rested with the Local Enterprise Partnership that will transfer into the Combined Authority.

4.0 COMBINED AUTHORITY COMMITTEES

4.1 Audit & Governance Committee

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 controls 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.

4.2 The Audit and Governance Committee can include co-opted members but they would be non-voting members of the Audit & Governance Committee. Paragraph 14 of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 states that the Combined Authority must appoint its Audit & Governance Committee at least one independent person and that such person can only be appointed after the vacancy has been advertised in such manner as the Authority considers is likely to bring to the attention of the public and that person's appointment has been approved by a majority of the members of the Combined Authority.

4.3 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 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.

4.4 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 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 the PCC Functions and the 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.

4.5 Business Committee

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 for the purposes of relevant economic decisions. It is proposed will be comprised of five public sector members and ten private sector members. The LEP member will become a non-voting member of the Combined Authority (unless the Combined Authority resolves to give them a vote).

4.6 Overview and Scrutiny Committee

The Overview and Scrutiny Committee holds the Combined Authority and Mayor to account for all the decisions taken, including devolved powers and funding. The Committee can, at their discretion, produce reports and make recommendations for change or improvement. The Membership of the Committee will be:

- (a) Six Members nominated from each constituent Council reflecting the political balance of the two constituent authorities when membership is added together (12 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.

4.7 The draft Constitution includes a single Overview and Scrutiny Committee. The scrutiny of the Mayoral budget (and any Mayoral precept) will fall within the remit of the Combined Authority Overview and Scrutiny Committee.

4.8 Appendix B to this report sets out the Membership of the Overview and Scrutiny Committee and the Audit and Governance Committee. Approval is sought in relation to the membership of these two Committees as well as the appointment of the elected members to these Committees.

4.9 Independent Persons for Standards

The Localism Act 2011 provides that an Authority must also have at least one Independent Person who has a statutory duty to be consulted when complaints against councillors are made. This Independent Person must be appointed after the vacancy has been advertised in such manner as the Authority considers is likely to bring it to the attention of the public. Therefore it is recommended that delegation is given to the Interim Monitoring Officer to publicise the vacancy/vacancies and to make a recommendation for appointment at a future Combined Authority meeting. Consideration should be given in appointing potentially two Independent Persons to provide appropriate cover for the Authority.

5.0 WORKING GROUPS

5.1 The Combined Authority has the power to set up working groups to focus on specific issues and report to the Combined Authority. Approval is sought to setting up a Skills and Employability Working Group to undertake the work of the Local Enterprise Partnership Skills and Employability Board to continue the preparation work to draw down the Adult Education Budget.

6.0 REMUNERATION

- 6.1 The Combined Authority will need to 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 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.
- 6.2 The York and North Yorkshire Combined Authority Order 2023 provides that an Independent Remuneration Panel must consist of at least three members, none of whom can be a member of the Combined Authority or one of its committees/sub-committees or a member of a constituent council or is disqualified from being a member of the Combined Authority.
- 6.3 The Order provides that the Combined Authority may only pay an allowance if the Combined Authority has considered a report published by the Independent Remuneration Panel and does not allow for an allowance in excess of the amount recommended by the Panel. Separately constituent councils may agree the payment for its members who sit on the Combined Authority after consideration by its own Independent Remuneration Panel.
- 6.4 It is recommended that the Combined Authority approves the creation of its own Independent Remuneration Panel. This could consist of members of the constituents' Independent Remuneration Panel members or through separate recruitment. Authority is sought to delegate to the Interim Monitoring Officer the ability to implement the most appropriate methodology to appoint to the Panel so that recommendations can be considered as quickly as possible.

7.0 PFCC FUNCTIONS

- 7.1 The Mayor will exercise the PFCC functions of York and North Yorkshire once elected. Any PFCC function is to be taken to be 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.
- 7.2 The Mayor may appoint a Deputy Mayor for Policing and Crime and delegation of certain Fire and Rescue Authority functions.
- 7.3 The scrutiny 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 as opposed to the Police, Fire and Crime Commissioner.

8.0 ALTERNATIVE OPTIONS CONSIDERED

- 8.1 The report sets out the governance arrangements for contains the proposals for the Combined Authority which is legal requirement. There are a number of ways of creating committees that sit under the Combined Authority to assist the discharge of the Combined Authority functions. It is proposed to adopt 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.

9.0 FINANCIAL IMPLICATIONS

9.1 The financial implications of creating the Combined Authority and the additional funding that the Devolution Deal provides have been considered in previous reports to the constituent authorities. This report sets out the proposed governance structure for the operation of the Combined Authority and notes that allowances can be paid to members.

10.0 LEGAL IMPLICATIONS

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

11.0 EQUALITIES IMPLICATIONS

11.1 None

12.0 CLIMATE CHANGE IMPLICATIONS

12.1 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 constituent authorities. This report looks purely at the governance arrangements for the Combined Authority.

13.0 REASONS FOR RECOMMENDATIONS

13.1 To ensure the York and North Yorkshire Combined Authority has a governance framework to facilitate its operation in accordance with the legal requirements.

14.0 RECOMMENDATION(S)

- i) That the Combined Authority approves the Draft Constitution at Appendix A.
- ii) That the Combined Authority approves the membership of the Committees as set out in Appendix B.
- iii) That the Combined Authority appoints members to the Overview and Scrutiny and the Audit and Governance Committees in accordance with the membership of these Committees as set out in Appendix B.
- iv) That the Combined Authority approves the setting up of a Skills and Employability Working Group.
- v) That the Combined Authority delegates responsibility for determining the membership and drafting the Terms of Reference of the Skills and Employability Working Group to the Interim Monitoring Officer in consultation with the Interim Head of Paid Service and the Lead Member for each constituent authority.
- vi) That the Combined Authority delegates authority to the Interim Monitoring Officer to make amendments to the draft Constitution to reflect the wishes of the Combined Authority and ensure the Constitution is consistent with the provisions of the 2023 Order.
- vii) That the Combined Authority delegates to the Interim Monitoring Officer the power to:

- (a) constitute an Independent Remuneration Panel so that they can consider making recommendations to a future Combined Authority meeting;
- (b) advertise the vacancy for the Independent Person on the Audit & Governance Committee and to make recommendations for appointment at a future Authority meeting;
- (c) advertise the vacancies for Independent Persons under Section 28 of the Localism Act 2011 for standards and to make recommendations for appointment at a future Authority meeting.

APPENDICES:

Appendix A – Draft Constitution for the York & North Yorkshire Combined Authority
Appendix B – Committee Places for the Overview & Scrutiny Committee and the Audit & Governance Committee.

BACKGROUND DOCUMENTS:

[The York and North Yorkshire Combined Authority Order 2023 \(legislation.gov.uk\)](https://legislation.gov.uk)

[The Combined Authorities \(Overview and Scrutiny Committees, Access to Information and Audit Committees\) Order 2017 \(legislation.gov.uk\)](https://legislation.gov.uk)

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