

North Yorkshire Council

Transition (LGR) Overview and Scrutiny Committee

11 March 2024

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 a Mayoral Combined Authority and governance issues.

2.0 BACKGROUND

- 2.1 At the meeting of the Transition (LGR) Overview and Scrutiny Committee, an update on the creation of the Mayoral Combined Authority was given. On 19 December 2023, the Secretary of State made the York and North Yorkshire Combined Authority Order 2023, which took effect from 20 December 2023. Consequently, on 20 December 2023 the York and North Yorkshire Combined Authority came into being.
- 2.2 The Combined Authority held its first meeting on 22 January 2024. At this inaugural meeting, the Combined Authority approved the constitution, with further amendments to be made throughout the year, including when the Office of the Police, Fire and Crime Commissioner and North Yorkshire Fire and Rescue Authority transition into the Combined Authority on 7 May 2024.
- 2.3 The intention of the Combined Authority has been to share the Constitution with Members of both constituent Councils (North Yorkshire Council and City of York Council) in order to provide an opportunity for further consideration.
- 2.4 City of York Council's Corporate Services, Climate Change and Scrutiny Management Committee and Audit and Governance Committee convened in January 2024 in order to review the contents of the Constitution, which at that time was in draft form. They have had a final review of the document in February 2024 and have provided feedback which the Combined Authority are in the process of considering.
- 2.5 North Yorkshire Council are also being given the opportunity to review the Constitution and provide any feedback they may have. A copy of the latest version of the Constitution can be accessed from the following link: [YNCAConstitutionJanuary2024.pdf.pdf \(yorknorthyorks-ca.gov.uk\)](https://www.yorknorthyorks-ca.gov.uk/yncaconstitutionjanuary2024.pdf). The feedback from the City of York Council meetings will be provided as soon as it is available.
- 2.6 It is important for both North Yorkshire Council and City of York Council's Scrutiny Committees to consider the proposed governance arrangements of how the new Combined Authority will operate and for its views to be taken into account in any future iterations of the Constitution and governance arrangements. The Order makes the following governance arrangements for the Combined Authority, which has been included within the Constitution:

Constitution

2.7 The constitution comprises of the following Parts:

- Part 1 – Introduction and Articles
- Part 2 – Functions of the Combined Authority
- Part 3 – Responsibility for Functions
- Part 4 – Committees of the Combined Authority
- 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

Membership

2.8 The York and North Yorkshire Combined Authority Order 2023 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 Authorities (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 provided 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. As the LEP functions transitioned into the Combined Authority on 1 February 2024, the LEP Board no longer exists and has become the Business Committee of the Combined Authority.

Voting

2.9 The Mayor and Combined Authority are the primary decision makers. The Order creating the Combined Authority specifies that certain decisions must be taken by the Elected Mayor and that some decisions rest with the Combined Authority. The Constitution will reflect these legal requirements. In addition, Schedule 1 of the Order sets out specific voting and consent requirements which must also be reflected in the Constitution.

2.10 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 Combined authority can therefore appoint portfolio leads from its membership.

2.11 The Mayor can exercise some 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;

- Housing and land acquisition powers 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.

2.12 Subject to the above, the Combined Authority will be responsible for any functions 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.

2.13 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 within the Order. 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.

2.14 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

2.15 The Mayor and the Combined Authority will be scrutinised and held to account by the Combined Authority's Overview and Scrutiny Committee. 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.
 - c). The Chair and Vice-Chair shall not be a Member of a registered political party of which the Mayor is also a Member.
- 2.16 Government have recently issued non-statutory guidance on a Scrutiny Protocol for Combined Authorities. This recognises that “Effective scrutiny is critical for ensuring that 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”.
- 2.17 Scrutiny for a Combined Authority can be through a single Overview and Scrutiny Committee or through multiple Committees. The 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 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:
1. Pool of Members – all Members and substitutes should have access to the same resources.
 2. Politically balance 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. Focussed Task and Finish exercises.
 15. Strong relationships with stakeholders.
 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.
- 2.18 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.
- 2.19 The Combined Authority have agreed 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. The first Meeting of the Overview and Scrutiny Committee will take place in March 2024.

Audit and Governance Committee

- 2.20 The Constitution includes the creation of an Audit and Governance Committee, which will have responsibility for the Standards function. The Audit and Governance Committee will focus on the audit, assurance and reporting framework underpinning the financial management and the governance arrangements and it will also undertake the functions of

the Standards Committee dealing with Member conduct and ethical standards. The Audit and Governance Committee shall be appointed by the Combined Authority and the Membership will be 8 Members. There will be 4 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.

2.21 The Audit and Governance Committee can include co-opted Members but they would be non-voting Members of the Audit and Governance Committee.

2.22 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. The Scheme proposed that there would initially be a separate Joint Independent Audit Committee for Policing and a separate Independent Audit Committee for Fire and Rescue.

2.23 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

2.24 The Scheme provided that the York and North Yorkshire Local Enterprise Partnership Board would 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. A considerable amount of work has been undertaken to aid the integration of the LEP into the Combined Authority.

Remuneration

2.25 The Combined Authority has established 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.

- 2.26 The Panel has been established, appointing 2 Panel Members from each of the Constituent Council's Panel with a view to making a recommendation in relation to the Mayor in March 2024, with consideration of remuneration for the remaining roles above at a later date.

PFCC Functions

- 2.27 The Mayor will exercise the PFCC functions for 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 is currently working diligently to ensure these functions are transferred to the Combined Authority in an appropriate manner.
- 2.28 The Mayor may appoint a Deputy Mayor for Policing and Crime and could have some Fire and Rescue Authority functions delegated to them.
- 2.29 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.

Statutory Officers

- 2.30 The Mayor and the Combined Authority has appointed four Statutory officers to discharge duties and obligations on behalf of the Combined authority. The Statutory Officers ensure that the Combined Authority is acting in accordance with its legal duties and responsibilities, operating with the financial regulations and receiving appropriate advice on the 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 Councils or the Combined Authority and will be kept under review as it may be necessary to permanently appoint certain roles earlier. The four statutory roles are:
- 2.31 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.
- 2.32 Section 73 Officer – it is proposed that the Director of Resources 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.
- 2.33 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.
- 2.34 Scrutiny Officer – the Scrutiny Officer provides independent and impartial advice to scrutiny Members in relation to their role, constitutional and governance issues.

3.0 FINANCIAL IMPLICATIONS

- 3.1 The financial implications of creating the Combined Authority has been considered in previous reports to North Yorkshire Council, including Executive and Full Council. This report looks at the governance structure for the Combined authority, including allowances that can be paid to Members, following a report from the Independent Remuneration Panel, which is currently underway.

4.0 LEGAL IMPLICATIONS

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

5.0 EQUALITIES IMPLICATIONS

5.1 There are no equalities implications arising from the recommendations within this report.

6.0 CLIMATE CHANGE IMPLICATIONS

6.1 The climate change implication of the Combined Authority and obtaining additional funding and powers have been considered in previous reports to the Executive and Full Council, articulated in the “asks” under the Devolution Deal which led to the Net Zero Fund. This report looks purely at the governance arrangements of the Combined Authority.

7.0 REASONS FOR RECOMMENDATIONS

7.1 To ensure there is appropriate Member oversight with regard to the governance issues in the creation of the Combined Authority.

8.0 RECOMMENDATION(S)

i) That the Transition (LGR) Overview and Scrutiny Committee considers the contents of the report, notes the proposals in relation to the proposed governance of the Combined Authority and makes recommendations on any comments they have on the proposals.

APPENDICES: NONE

BACKGROUND DOCUMENTS:

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