

Report of Chief Executive

Report to Executive Board

Date: 24 November 2020

Subject: Devolution Deal for West Yorkshire - Consent to Draft Order

Agenda Item 5

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. Main issues

- This paper provides Executive Board with an update on implementation of the 'minded to' West Yorkshire devolution deal agreed in March. It is intended to be the concluding report in this process and discusses providing the council's consent to the draft Order enacting the deal.
- The paper provides a reminder and highlights the benefits of the deal for Leeds and West Yorkshire, as well as updating on how feedback to the public consultation considered by Executive Board in September has been responded to.
- The draft Order which will enact the deal is attached at Appendix 2, and the paper highlights two areas of deviation in this from the 'minded to' deal or the Scheme which was put to public consultation – these focus on Spatial Planning, about which several elected members raised concerns through the public consultation and a further letter from the Chief Executive was sent to the Secretary of State following a Full Council motion in September, and Highways powers.
- The paper also updates Executive Board on arrangements for the transfer of Police and Crime Commissioner functions to the Mayor from May 2021, confirming that an external due diligence exercise undertaken has found no insurmountable barriers to the transfer in this timescale.
- Should Executive Board approve the recommendations contained in this report, then the process outlined within it confirms that the Secretary of State lay the Order in parliament in December 2020.

2. Best Council Plan implications (see the [latest version of the Best Council Plan](#))

- The information and recommendations in this report continue to move the council closer towards achieving its long term objective of securing a good devolution deal for Leeds and the wider region.
- If adopted the deal will play a central role in enhancing the council's ability to respond, working in partnership with others, to the three key pillars which underpin the Best Council Plan – inclusive growth, health and wellbeing, and climate emergency.
- Enacting the Deal in full will also provide the region with additional levers as part of efforts to achieve an inclusive economic recovery following the COVID-19 pandemic.

3. Resource implications

- The Deal contains significant levels of new funding for West Yorkshire, including a £38m per year, 30 year gainshare agreement.

Recommendations

Executive Board is asked:

- a) To consent in principle to the draft Order attached as Appendix 2, to establish a mayoral combined authority and associated changes as set out in the 'minded to' devolution deal.
- b) To delegate authority to the Managing Director of the combined authority, in consultation with the Leader and Chief Executive of each constituent council and the Chair of the combined authority, to finalise and consent to the final draft of the Order further to any technical issues which may arise.
- c) To note the updated timetable set out in Appendix 1 and the next steps, which are subject to consent being given by the constituent councils and combined authority to the Order, highlighting that the Secretary of State will lay the Order in parliament in December 2020.
- d) To note that amendments to the constitution necessary to reflect the inauguration of the mayoral combined authority will be made in accordance with Article 15 as necessary and appropriate.
- e) To resolve that this decision is exempt from call-in on the grounds of urgency, for the reasons set out in paragraph 4.5.2 of this report.

1. Purpose of this report

- 1.1 This report updates Executive Board on the latest stage of the process to implement the West Yorkshire Devolution Deal, agreed between the region and Government in March 2020. It is intended to be the final report to Executive Board in the formal implementation process.
- 1.2 The report details the final stage in the process and asks for Executive Board's consent to the draft Order which will establish a mayoral combined authority for West Yorkshire, along with other associated changes. The four other West Yorkshire councils and the West Yorkshire Combined Authority (WYCA) will also be asked to provide their consent through their own decision making processes.

2. Background information

- 2.1 The West Yorkshire 'minded-to' Devolution Deal was announced as part of the Budget on 11 March 2020. Subject to statutory processes, this will lead ultimately to the adoption of a mayoral combined authority (MCA) model with additional functions, and will require an Order of the Secretary of State.
- 2.2 This report is the latest in a series progressing the implementation of the Deal.
- 2.3 Following the Budget announcement, in March 2020 ([relevant report and decisions available here](#)), each of the five West Yorkshire councils and the West Yorkshire Combined Authority (WYCA):
 - Endorsed the 'minded-to' Deal.
 - Agreed to be party to a Review of the combined authority's constitutional arrangements and of the functions carried out by the combined authority.
 - Authorised the combined authority's Managing Director, in consultation with the five council Chief Executives, to prepare a draft Scheme for consideration by councils and the combined authority, subject to the outcome of the Review.
- 2.4 In May 2020 ([report available here](#)), the combined authority and each constituent council:
 - Endorsed the conclusions of the Governance Review.
 - Considered and endorsed the Scheme for the establishment of the mayoral combined authority.
 - Agreed that a public consultation exercise should be undertaken on the proposals contained in the scheme.
- 2.5 In September 2020 ([report available here](#)), the combined authority and each constituent council:
 - Considered the outcome of the public consultation on the Scheme, which has been undertaken jointly by constituent councils and the combined authority.
 - Resolved to submit the summary of the consultation responses to the Secretary of State.
- 2.6 Subsequently the consultation summary report, along with representations from both Leeds City Council and Kirklees Council, were submitted to the Secretary of State. The submission from Leeds was sent by the Chief Executive in response to a motion agreed by Full Council on 1 September which called for:

“...an agreement that provides firmer guarantees that each of the constituent authorities would have a veto over being part of any Mayoral spatial strategy”

2.7 The submissions noted above along with the Scheme have then been used to draft the Order attached at Appendix 2.

3. Main issues

3.1 Benefits of the Deal

3.2 As previously reported, the Deal will devolve a range of powers and responsibilities to WYCA. It will unlock significant long-term funding and give the region greater freedom to decide how best to meet local needs.

3.3 The ‘minded to’ devolution deal, the biggest ever of its kind, and establishing a mayoral combined authority for West Yorkshire will enable more:

- **Funding:** to invest in our people, businesses and communities.
- **Powers:** to shape West Yorkshire and take decisions closer to people.
- **Influence:** to shape Government policy and access further devolution and funds.

3.4 The ‘minded to’ devolution deal offers both investment and decision making which are crucial to fulfil West Yorkshire’s potential and meet current challenges. The deal brings:

- Control of £38m per year allocation of gainshare investment funding over 30 years, to drive growth and take forward our priorities.
- A five-year integrated transport settlement starting in 2022/23, and agreement to explore West Yorkshire Mass Transit.
- New powers relating to transport, including easier access to bus franchising and a regional approach to control of a Key Route Network.
- Devolution of Adult Education powers and the Adult Education Budget to shape local skills provision to respond to local needs.
- £25m Heritage Fund to support the establishing of a potential ‘British Library North’.
- New powers on planning, focusing on zero carbon.
- £3.2m to support development of a pipeline of housing sites across West Yorkshire.
- Transport infrastructure development and funding for the Bradford Station Masterplan and the Outline Business Case for Leeds Station redevelopment.
- Ongoing partnership with the Environment Agency on identifying and addressing flood risk management requirements with £101m allocated for West Yorkshire flood risk management schemes.
- £200,000 for the Yorkshire Leaders Board.
- £75,000 West Yorkshire Local Digital Skills Partnership.
- Piloting the new National Green Infrastructure Standards with Natural England and DEFRA.

- Transfer of Police & Crime Commissioner (PCC) functions to the new Mayor in 2021.
- Commitment to working in partnership to explore an “Act Early” Health Institute.
- Strengthened collaboration and partnership with Government.

3.5 Devolution and mayoral combined authority preparations are already having an impact on access to funding and increased opportunities for the region. These have been sought and secured through:

- £317m Transforming Cities Fund, the largest allocation to any region, to deliver transformational walking and cycling schemes across West Yorkshire while creating jobs.
- £67m funding for new homes on brownfield sites.
- A seat at the national table on economic recovery.

3.6 The initial gainshare funding for the financial year 2020/21 will be available prior to the first mayoral election, but subject to: the establishing legislation being in place; and a new revised Assurance Framework being approved.

3.7 ***Benefits of the Deal for Leeds***

3.8 The agreement of the ‘minded to’ devolution deal in March 2020 was a landmark moment for Leeds. Securing a good devolution deal which sees the transfer of significant additional powers and funding from central government has been an ambition set out in the Best Council Plan for several years which can be achieved through this process. The deal will provide a further boost to Leeds’s already strong and resilient economy helping to transform transport infrastructure, tackle the climate emergency and strengthen our skills and adult education offer – all of which have become even more important due to the impact of Covid-19 since the deal was agreed in the spring.

3.9 All of the highlights set out in 3.1 will support the city and over recent months we have already seen the benefits of becoming a mayoral devolved area with several national funding allocations being received which the city would not otherwise have had access to. This new access will help to ensure Leeds receives its fair share of funding in the future, in line with that which comparable cities have received since the agreement of their devolution deals.

3.10 The deal includes some bespoke arrangements, not included in other English regional devolution deals, which will help Leeds to meet long term ambitions. Perhaps the most prominent of these is the inclusion of the £25m Heritage Fund to support the work of Leeds City Council with the British Library to establish a ‘British Library North’ in the city.

3.11 ***Process for enacting the Deal***

3.12 The Local Democracy, Economic Development and Construction Act 2009 sets out statutory processes to be followed before any Order is made. Each aspect has a specific statutory procedure to be followed. In addition, the consent of each constituent council and the combined authority is required to any regulations giving WYCA powers to borrow for non-transport functions, however these are to be progressed separately and at a later date to the making of the Order.

3.13 The process to enact the deal is set out in the timetable at Appendix 1 to this report. This process addresses all statutory procedural requirements. Stages 1-4 are now

complete. The following sections of the report provide a summary of the draft Order. The full document is available as Appendix 2 to this paper.

3.14 ***Devolution consultation follow-up***

3.15 As previously reported, between 25 May and 19 July 2020 we asked the public and stakeholders for feedback on the devolution deal through a formal public consultation. We published a governance review and the Scheme which gave the detail of the 'minded to' devolution deal signed between West Yorkshire leaders and the Government in March 2020. A total of 4,413 responses were received, making it the largest ever public consultation on English regional devolution, despite the challenges of Covid-19. The feedback received was considered by the combined authority and constituent councils in September and then submitted to the Secretary of State.

3.16 A wide range of views were offered as part of the consultation responses. The high-level themes were included and responded to in the reports considered in September. Commitment was also made to reflect on the views expressed through the consultation and provide detailed responses where needed. To ensure it is clear how views have been reflected the combined authority has responded to the comments raised through the 'you said, we did' communications, which have been published on the YourVoice website. The themes covered include:

- General – cost, bureaucracy, decision making.
- Governance – decision making, local communities.
- Transport – ticketing, climate change.
- Employment and skills – unemployment, upskilling.
- Housing and planning – affordable housing, energy efficiency.
- Police and crime – accountability, politicisation.
- Finance – taxes, value for money.

3.17 In addition, during the process of taking the consultation responses through constituent council meetings, although support was received, some issues were raised. The main issues raised were in relation to: scrutiny of the devolution implementation; and local engagement and decision making regarding the agreement of the Spatial Development Strategy.

3.18 These issues were raised in the letters to the Secretary of State, which accompanied the consultation summary report.

3.19 As part of the work that the combined authority is undertaking to become a mayoral combined authority, scrutiny arrangements are being reviewed to ensure they are fit for purpose. As part of this work the combined authority's Overview and Scrutiny Committee are holding a range of working groups to discuss, review and make recommendations for change. The Chair of this committee has contacted Scrutiny Chairs from constituent councils – including Leeds – to offer them an opportunity to comment on this work, particularly any views on how scrutiny at West Yorkshire level can engage with local authority scrutiny in the future.

3.20 ***Draft Order***

3.21 The Secretary of State has now formally decided that the statutory tests have been met and that the implementation of the devolution deal should proceed. The Mayoral Order has therefore been drafted. Officers of the combined authority have

liaised closely with government officials in relation to the intended wording of the Order.

3.22 The Order is a technical document which will ultimately become legislation. It includes details of:

- When the functions will commence.
- The election of Mayor.
- The Mayor's political adviser.
- Education, skills and training functions.
- Housing, regeneration and planning functions.
- Mayoral Development Corporation.
- Transport functions.
- Mayoral functions.
- Funding.
- Police and Crime Commissioner (PCC) functions.

3.23 The draft Order, which is attached at Appendix 2, has been reviewed to ensure it reflects the 'minded to' devolution deal and Scheme and includes the expected functions and supporting legislation. Upon review there are two areas of deviation from the 'minded to' devolution deal or the Scheme, namely, Spatial Planning and Highways powers.

3.24 Functions relating to the Spatial Development Strategy (SDS) and Strategic Infrastructure Tariff (SIT) were a part of the 'minded to' deal and the Scheme. Throughout the implementation period several elected members have raised their concerns about the inclusion of the SDS in particular and discussions have taken place at all levels, including with Government, about this issue. In September Full Council passed a motion asking the Chief Executive to write to the Secretary of State once again raising the need for greater safeguards, particularly for the council to be given a 'veto' on approval of any SDS. This was fed back to the Secretary of State, and citing the ongoing national planning reforms that are underway through the Planning White Paper Government have decided to remove the SDS and SIT from the draft Order. A letter from the Minister for Regional Growth and Local Government, explaining these changes is included at Appendix 3.

3.25 Government officials have indicated that once the outcome of the planning reform is complete, the relevant equivalent functions will be conferred to West Yorkshire. It is currently unknown what this will look like, or the timescales associated. Further correspondence is expected from government.

3.26 Officers will develop proposals regarding how local collaboration on spatial planning will continue in the interim, particularly with regards to mass transit and the climate emergency, which were planned to be at the heart of any Spatial Development Strategy.

3.27 The operational highways functions within the Order are consistent with the 'minded to' devolution deal and Scheme. The highways functions conferred will cover the combined authority area of West Yorkshire. The functions can however only be exercised with the unanimous approval of the five combined authority members appointed by constituent councils.

- 3.28 The KRN and the roads which constitute it, in respect of which the concurrent powers of the combined authority will apply, will be defined locally at a subsequent time and agreed with the consent of the constituent councils. This model offers flexibility to define and change the KRN locally and over time by agreement.
- 3.29 Once the Order has been made the functions detailed within it will be conferred to the combined authority in line with the following timescales:
- Combined authority functions will be conferred once the Order has been made in parliament.
 - Mayoral functions, once the Mayor is in office.
- 3.30 Following the development of the Order there is still much work to be undertaken to implement and operationalise the Order. The combined authority and constituent councils will work closely together to develop and agree local protocols before the Order is made. These protocols will:
- Provide further clarity that no functions are taken away from the constituent councils.
 - Detail how any functions which are held concurrently between the combined authority and the constituent councils will be operated.
 - Details how consent functions will work in practice.
- 3.31 Building on the recommendations from Full Council in September, it is proposed that the council's Corporate Governance and Audit Committee be involved in the work outlined above.
- 3.32 **Next steps**
- 3.33 As part of the parliamentary process, in parallel to the consents sought through this paper, the draft Order is being considered by parliament's Joint Committee on Statutory Instruments (JCSI). Their role is to focus on the technical quality of the draft Order as opposed to the policy content, and any amendments at this point would be those required to ensure the Order is well drafted. The JCSI process may therefore lead to technical amendments being made to the Order. These will be non-negotiable.
- 3.34 In order to facilitate any technical amendments to the draft Order, following the consent of each constituent council and the combined authority, it is proposed that authority is delegated to the Managing Director of the combined authority, in consultation with the Leader and Chief Executive of each constituent council and the Chair of the combined authority to finalise and consent to the Order, further to any technical amendments which may arise.
- 3.35 The Order will then be laid in parliament in early December 2020.
- 3.36 Appendix 1 to this report sets out the timeline for implementing the deal.
- 3.37 **Police and Crime Commissioner**
- 3.38 To support understanding of the degree of work required to transfer the Police and Crime Commissioner functions to the Mayor in May 2021, an external due diligence exercise was commissioned by the combined authority through a competitive tender process. The scope of this critical exercise included an understanding of the scale of the transfer, the mechanisms necessary to transfer PCC functions, as well as the instruments and resourcing required to enable this.
- 3.39 An external due diligence exercise and risk assessment on the transferring of PCC functions has concluded that there are no insurmountable barriers to the transfer.

Key areas of risks have been identified including resourcing of the transfer work; staff transition; future changes to the funding model; the parliamentary timetable for agreeing the Order; and future funding and fleet replacement for the National Police Air Service (NPAS), all of which have identified risk mitigation actions assigned. A full project plan for the transfer of functions with appropriate resourcing is now in development.

- 3.40 The arrangements for the Police and Crime Panel (PCP), which provides scrutiny of the work of the PCC, will remain as per the current arrangements. That is, the PCP will be retained as a joint committee, supported by Wakefield Council as the Support Services Authority to the panel. This could be reviewed at a later date in light of potential changes arising from the Home Office's PCC review and subject to further discussion and agreement.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 As part of the statutory process public consultation has been undertaken, the results of which have been previously considered by Executive Board as outlined in paragraph 2.5.
- 4.1.2 The summary of the results was submitted to the Secretary of State and has been taken into account during the drafting of the Order.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 An Equalities Impact Assessment – attached as Appendix 4 – has been undertaken for implementation of the deal. The assessment has taken account of the obligations under Section 149 of the Equality Act 2010 (i.e. the public sector equality duty). It is not expected that the proposals described in this report will have any adverse impacts on people with protected characteristics. The combined authority will ensure that the equality impact assessments are reviewed throughout the devolution implementation process.

4.3 Council policies and the Best Council Plan

- 4.3.1 Securing a devolution deal for Leeds and the wider region has been a significant priority for the local authority for a number of years, as set out in the current and previous versions of the Best Council Plan.
- 4.3.2 Once implemented the powers, funding and freedoms to be devolved from Government to the region, as part of the deal that has been agreed, will enhance the council's ability to meet many of its Best Council Plan objectives, including the strong economy, compassionate city vision.
- 4.3.3 Devolution continues to be a highly complex and dynamic policy agenda with a number of potential short, medium and long term implications for citizens, communities and businesses in Leeds. We will continue to work through these over the coming weeks and months in advance of the first mayoral election scheduled to take place in May 2021, pending Executive Board's decisions.

Climate Emergency

- 4.3.4 As part of the 'minded to' Devolution Deal text, the Government welcomed West Yorkshire's commitment to becoming a net zero carbon economy by 2038, with significant progress by 2030. Locally, the council remains committed to achieving net zero carbon emissions by 2030, as set out in the March 2019 climate emergency declaration.
- 4.3.5 There are, however, no immediate climate emergency implications arising as a direct result of this report.

4.4 Resources, procurement and value for money

- 4.4.1 The 'minded to' Devolution Deal includes a number of flagship funding arrangements including £38m for 30 years into the West Yorkshire Investment Fund, £317m from the Transforming Cities Fund and control over the £63m annual Adult Education budget. The implications of these and the other funding provisions contained within the 'minded to' Deal will be subject to future reports.
- 4.4.2 There are no staffing implications arising directly from this report. The establishment of the mayoral combined authority will have staffing implications, primarily for WYCA, in terms of additional resources to deliver the ambition of the Deal and these will be considered separately as required. There remains a possibility that at a later stage there may be some limited staffing implications for the council.
- 4.4.3 Discussions between councils and the combined authority regarding future partnership arrangements and ways of working are ongoing, and any future changes would be subject to discussion and engagement with elected members in the normal way.

4.5 Legal implications, access to information, and call-in

- 4.5.1 S101(5) Local Government Act 1972 provides that two or more local authorities (defined to include a Combined Authority) may discharge any of their functions jointly and may arrange for the discharge of those functions by an officer of one of the authorities.
- 4.5.2 It is recommended that this report be exempt from the Call In process on the grounds of urgency. Any delay caused by the Call In process would prejudice the council's interests (and those of the combined authority and other constituent councils), by delaying the consent to the draft Order. This would in turn have a significant detrimental impact on the timetable (as set out in Appendix 1) which would need to be achieved for the successful implementation of a devolution deal for the region. It was not possible for the decisions recommended in this paper to be taken earlier due to the time required by the Secretary of State to approve the draft Order and share this with the combined authority.

4.6 Risk management

- 4.6.1 The council maintains a risk regarding devolution on the corporate risk register. This takes account of the need to secure a good deal and the opportunities this presents for the city. The risk ensures that any deal to be considered is in the best interests of the people of Leeds.
- 4.6.2 This risk will remain under review as the deal implementation process moves forward to provide assurance that any new or emerging opportunities are effectively assessed and acted upon.

5. Conclusions

- 5.1 The agreement of a devolution deal for West Yorkshire presents a significant opportunity for Leeds and the wider region to use new powers, funding and freedoms to make progress on some of our long-term shared priorities.
- 5.2 Should the recommendations in this report be approved, the Secretary of State will lay the Order enacting the deal agreed in March 2020, and West Yorkshire's first mayoral election will follow in May 2021.

6. Recommendations

- 6.1 Executive Board is asked:
- a) To consent in principle to the draft Order attached as Appendix 2, to establish a mayoral combined authority and associated changes as set out in the 'minded to' devolution deal.
 - b) To delegate authority to the Managing Director of the combined authority, in consultation with the Leader and Chief Executive of each constituent council and the Chair of the combined authority, to finalise and consent to the final draft of the Order further to any technical issues which may arise.
 - c) To note the updated timetable set out in Appendix 1 and the next steps, which are subject to consent being given by the constituent councils and combined authority to the Order, highlighting that the Secretary of State will lay the Order in parliament in December 2020.
 - d) To note that amendments to the constitution necessary to reflect the inauguration of the mayoral combined authority will be made in accordance with Article 15 as necessary and appropriate.
 - e) To resolve that this decision is exempt from call-in on the grounds of urgency, for the reasons set out in paragraph 4.5.2 of this report.

7. Background documents¹

- 7.1 None.

8. Additional information

- 8.1 The 'minded to' West Yorkshire Devolution Deal (the Deal) referenced throughout the report is [available here](#).

9. Appendices

Appendix 1 – Timetable for implementation

Appendix 2 – Draft Order

Appendix 3 – Letter from Minister for Regional Growth and Local Government

Appendix 4 – Equality Impact Assessment

¹ The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.