



Report of: The City Solicitor
Report to: Corporate Governance & Audit Committee
Date: 8th January 2021
Subject: Governance Arrangements for Devolution

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|--|---|
| 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 checked="" type="checkbox"/> Yes <input 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

- 1.1 One of the three issues arising out of the outcome of the devolution deal consultation process was that Executive Board was asked to invite Corporate Governance and Audit Committee to consider the governance arrangements for the new West Yorkshire Combined Authority, which may enable the council to hold the mayoral authority to account. In particular:
- a) To consider whether agreement should be sought from the combined authority and Mayor, when they enter office, for an annual report to be provided to Full Council for debate.
 - b) To consider whether arrangements should be made to invite the Mayor to Full Council to answer elected members' questions at least once a year.
- 1.2 It is noted that it may be necessary to amend the council procedure rules, as set out in the constitution, to give effect to the recommendations of Corporate Governance and Audit Committee in this regard. Therefore any recommendations would be considered by General Purposes Committee prior to seeking Council's approval to the amendment.
- 1.3 It is further noted that whilst these amendments may be incorporated into the council's procedure rules, these can be amended again in the future; and whilst the

Mayor can be asked or invited to agree to both of the above, these provisions are not contained with the West Yorkshire Combined Authority Order, and the Mayor cannot be compelled to agree, once in office.

- 1.4 The Executive Board Report and Minutes which gives rise to this item, is available here, <http://democracy.leeds.gov.uk/mgAi.aspx?ID=79757>

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

- Leeds City Council continues to move towards achieving its long term objective of securing a good devolution deal for Leeds and the wider region.
- The devolution deal process has resulted in an order for a West Yorkshire Combined Authority being consented to, and laid before Parliament. It is expected that the order will be made before the end of February. The draft order can be found here <https://www.legislation.gov.uk/ukdsi/2021/9780348217674/contents>,
- A West Yorkshire Combined Authority 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, namely inclusive growth, health and wellbeing and climate emergency.
- It is also envisaged that the new authority will 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 devolution deal contained significant levels of new funding for West Yorkshire, including a £38m per year, 30 year, Gainshare Agreement.

Recommendations

- a) Corporate Governance & Audit Committee are asked to consider whether or not an agreement should be sought from the combined authority and Mayor, when they enter office, for an annual report to be provide to Full Council for debate.
- b) Corporate Governance & Audit Committee are also asked to consider whether or not arrangements should be made to invite the Mayor to Full Council to answer elected members' questions at least once a year.
- c) If Corporate Governance & Audit Committee are minded to find favour with these proposals, and make recommendations that they should be adopted; that they should then consider recommending that the General Purposes Committee be invited to consider these recommendations prior to seeking Council's approval to an amendment of the Council Procedure Rules to make provision for a) and b).

1. Purpose of this report

- 1.1 This report asks Corporate Governance & Audit Committee to consider the proposals surrounding mayoral accountability, and in particular whether the Mayor,

once elected, should be invited to Full Council once a year to answer elected members questions, and to prepare an annual report for the council's consideration.

2. Background information

2.1 The West Yorkshire “minded-to” Devolution Deal was announced as part of the Budget in March 2020. In accordance with the “minded to” process, including consultation, consent to an Order for a Mayoral Combined Authority was given in November 2020. The draft order was laid before Parliament on the 17 December 2020, and is to be made later next month.

2.2 The draft order can be found here
<https://www.legislation.gov.uk/ukdsi/2021/9780348217674/contents>,

2.3 The West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021 SI 2021 provides for,

- i. the election of a mayor for the area of the Combined Authority (“Mayor”) from May 2021,
- ii. the Mayor to exercise the functions of a Police and Crime Commissioner, and
- iii. the following functions to be conferred on the Combined Authority:
 - adult education functions of the Secretary of State (to be exercised instead of or concurrently with the Secretary of State),
 - functions of Homes England relating to housing and regeneration (to be exercised concurrently with Homes England),
 - functions relating to grants to bus operators,
 - functions in relation to the designation of a Mayoral Development Area (MDA) and establishing a Mayoral Development Corporation (to be exercised by the Mayor)
 - functions in relation to Business Rates Supplements (to be exercised by the Mayor),
 - functions of the Constituent Councils to be exercised concurrently by the Combined Authority relating to
 - education, skills and training,
 - housing, regeneration and planning, and
 - transport (including in relation to highways, traffic orders, traffic signs, pedestrian crossings, street works, permit schemes and bus lane contraventions).

2.4 New functions

Appended to this report is a table of the new functions that will be conferred on the Mayoral Combined Authority. The new functions have either been devolved or granted to the MCA by Government, or are functions which shall be exercised concurrently with the Constituent Councils. The Constituent Councils have not lost any of their functions. The Protocol for Concurrent Functions referred to below at paragraphs 2.6 onwards, aims to establish the process for how the Combined Authority will exercise those functions concurrently with the Constituent Councils.

2.5 Concurrent functions

The table of new functions includes detail of those concurrent functions that will exist between the Combined Authority and the Constituent Councils. The table sets out each the detail of each function, including,

- which piece of legislation that it is derived from,
- whether it is a power or a duty,
- whether it is a mayoral or a combined authority function
- is it a concurrent function
- whether consent is required by the Constituent Council
- any other procedural requirement
- where the function can be found in the 2021 Order, and
- any other general comment.

2.5.1 Under the 2021 Order, there is,

- no transfer of any Concurrent Function to the Combined Authority from any Constituent Council; each Constituent Council may continue to exercise any Concurrent Function in relation to its area,
- no requirement for the joint exercise of any Concurrent Function by the Combined Authority with Constituent Councils – that is, that they are not required to act together, and
- no requirement for a Constituent Council to involve, consult or seek the consent of the Combined Authority in relation to the exercise of any Concurrent Function by a Constituent Council.

2.5.2 That is, each Constituent Council may continue to exercise any Concurrent Function within their area, and in the exercise of any Concurrent Function no Constituent Council is subject to any restriction or condition imposed by the 2021 Order.

2.6 Protocol for Concurrent Functions

The Combined Authority and the Constituent Councils are currently engaged in reaching an agreed draft of a Protocol for Concurrent Functions. This will not be a legally binding document, but aims to provide a co-operative and collaborative relationship between the Combined Authority and the Constituent Councils; and set out what process should be followed, including timescales, for when the Combined

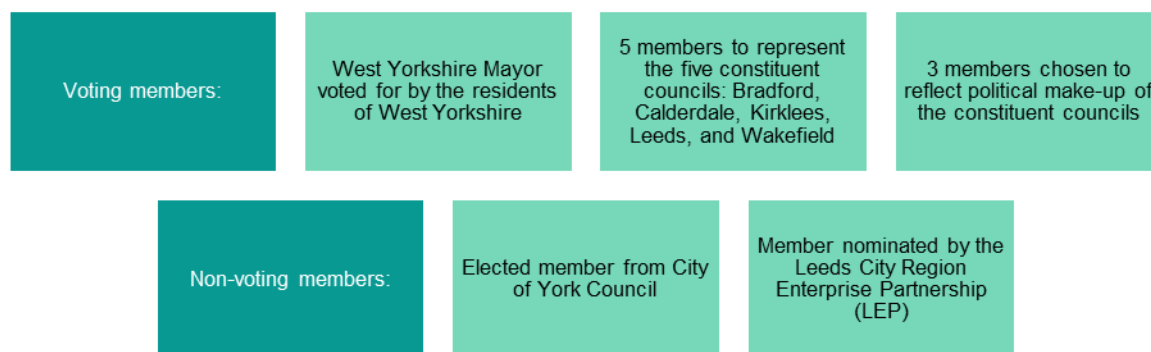
Authority is seeking to exercise a Concurrent Function, whether statutory consent is required or not.

2.7 The Protocol is not yet an agreed document, although it is anticipated that each of the Constituent Councils will seek approval upon it through their respective executive decision making arrangements at meetings in March 2021. Whatever consultation or notice arrangements are agreed in this Protocol, consideration will be given as to what internal systems will sit behind it, where consent is being exercised or not.

2.8 The Protocol does not address the scrutiny of the Combined Authority in relation to how it exercises any Concurrent Function, this will be the subject of separate arrangements, which are also currently under consideration.

2.9 Membership of the Mayoral Combined Authority

The following diagram sets out the 11 members of the MCA, how they are chosen, and whether they can vote on decisions taken by the MCA,



2.9 Decisions of the Combined Authority will be reached by consensus. Where this is not possible the matter will be put to a vote, and a simple majority vote will decide most but not all decisions.

Each voting member will have one vote, including the Mayor. No business of the Combined Authority can be transacted at a meeting unless the Mayor (or Deputy Mayor acting in place of the Mayor) and at least three members of the Combined Authority appointed by the Constituent Councils are present. This is the quorum, and it does not require any member appointed for political balance to be present.

The Mayor will not have a casting vote, nor the ability to veto any decisions. However, the Mayor (or Deputy Mayor acting in place of the Mayor) must be present as a part of the quorum.

Non-voting members could individually be given a vote on some or all issues voted upon, but that would be subject to agreement of the voting members.

3 Main issues

- 3.5 During the “minded-to” process the consultation highlighted a number of issues including the governance arrangements for the new West Yorkshire Combined Authority.
- 3.6 At the meeting of the Executive Board in September 2020, the Board was asked to invite Corporate Governance and Audit Committee to consider the governance arrangements for the new West Yorkshire Combined Authority, including those which enable the council to hold the mayoral authority to account. In particular:
- a) To consider whether agreement should be sought from the combined authority and Mayor, when they enter office, for an annual report to be provided to Full Council for debate.
 - b) To consider whether arrangements should be made to invite the Mayor to Full Council to answer elected members’ questions at least once a year.
- 3.7 It is further noted that whilst these amendments may be incorporated into Leeds City Council’s procedure rules, these can be amended again in the future; and whilst the Mayor can be asked or invited to agree to both of the above, these provisions are not contained with the West Yorkshire Combined Authority Order, and the Mayor cannot be compelled to agree, once in office.
- 3.8 It is very much anticipated, that, as a result of the ongoing work with the Combined Authority and the constituent councils, in anticipation of the making and implementation of the order, that there is likely to be an agreement that the Mayor will consent to these provisions.
- 3.9 In any event the Mayor and the Combined Authority will be scrutinised and held to account by the Combined Authority’s Overview and Scrutiny Committee(s). Existing arrangements are currently under review by a working group of the Overview and Scrutiny Committee, which is exploring what additional scrutiny arrangements might be put in place to reflect the introduction of the Mayor, the scrutiny of additional Mayoral and Non-Mayoral Functions, and any statutory provisions.

4 Corporate considerations

4.5 Consultation and engagement

- 4.5.1 A public consultation of the Scheme for the Mayoral Combined Authority was open to members of the public, businesses and other stakeholders. The consultation exercise was co-ordinated by the combined authority alongside each council in their own local authority area.
- 4.5.2 In addition the council promoted the consultation and co-ordinated its own regional activity, including email correspondence to Leeds Citizens’ Panel, key partners and businesses in the city, items in the Climate Emergency and Connecting Leeds newsletters, and via staff network groups, mailing lists, chief executive’s updates and via InSite. The council also undertook targeted work to strengthen engagement with underrepresented groups.

4.6 Equality and diversity / cohesion and integration

- 4.6.1 An Equalities Impact Assessment was 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). The combined authority has had oversight of this assessment and been responsible for its review throughout the devolution implementation process. A copy of the assessment was appended to the report that went to Executive Board and Full Council in November 2020.
<http://democracy.leeds.gov.uk/ieListDocuments.aspx?CId=102&MId=10231&Ver=4>

4.7 Council policies and the Best Council Plan

- 4.7.1 Securing a devolution deal for Leeds and the wider region has been a significant priority for the council for a number of years, as set out in the current and previous versions of the Best Council Plan.
- 4.7.2 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.
- 4.7.3 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. It continues to be highly challenging as the council works through these over the coming weeks and months in advance of the first mayoral election scheduled to take place in May 2021.

Climate Emergency

- 4.7.4 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.
- 4.7.5 There are, however, no immediate climate emergency implications arising as a direct result of this report.

4.8 Resources, procurement and value for money

- 4.8.1 The 'minded to' Devolution Deal includes a number of flagship funding arrangements including £38m per year 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.
- 4.8.2 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.
- 4.8.3 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.

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

4.9.1 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.

4.9.2 This report is not subject to call-in.

4.10 Risk management

4.10.1 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.

4.10.2 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

5.5 Corporate Governance & Audit Committee have been asked by the Executive Board to consider the governance issues of additional mayoral accountability, and whether or not these requests to the Mayor should be put to him or her, once they are in office. If the Committee is minded to make these recommendations, then it is noted that it may be necessary to amend the council procedure rules, as set out in the constitution, to give effect to these recommendations.

5.6 Therefore any recommendations should then be considered by General Purposes Committee prior to seeking Council's approval to the amendment.

5.7 Whilst the requests can be put to the Mayor, these are not contained with the Order, and therefore the Mayor cannot be compelled to agree. And any amendments to the council procedure rules or constitution, may be further amended in the future.

6 Recommendations

6.5 Corporate Governance & Audit Committee are asked to consider whether or not an agreement should be sought from the combined authority and Mayor, when they enter office, for an annual report to be provide to Full Council for debate.

6.6 Corporate Governance & Audit Committee are also asked to consider whether or not arrangements should be made to invite the Mayor to Full Council to answer elected members' questions at least once a year.

6.7 If Corporate Governance & Audit Committee are minded to find favour with these proposals, and make recommendations that they should be adopted; that they

should then consider recommending that the General Purposes Committee be invited to consider these recommendations prior to seeking Council's approval to an amendment of the Council Procedure Rules to make provision for a) and b).

7 Background documents

7.5 Appendix 1, MCA Table of New Functions.