

# West Yorkshire Devolution: Consent to Non-Transport Borrowing Powers

Date: 15 December 2021

Report of: Chief Executive

Report to: Executive Board

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

## What is this report about?

### Including how it contributes to the city's and council's ambitions

- The West Yorkshire 'minded-to' Devolution Deal was announced as part of the Budget on 11 March 2020. Statutory processes were completed in January 2021, and the mayoral combined authority model was adopted along with additional functions.
- This report brings forward the next steps for the devolution of powers to West Yorkshire, seeking in-principle consent to an Order which would enable the West Yorkshire Combined Authority to borrow for non-transport related functions. The intention to do this was highlighted in previous reports as part of the statutory process, but it was noted this would happen later due to separate legislation being required.
- The information and recommendations in this report continue to move the council closer towards its long-term objective of securing stronger powers and resources for the region through devolution. The report is being received as a late item by Executive Board due to late notification from Government of its intention to lay a draft Order in parliament on this matter in January 2022.

## Recommendations

Executive Board is asked:

- a) To consent in principle to the regulations to provide the combined authority with the power to borrow for non-transport related functions, 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 regulations further to any technical issues which may arise.
- c) To approve that all decisions taken by Executive Board from this report are exempt from call-in on the grounds of urgency, for the reasons set out in paragraph 12.

## Why is the proposal being put forward?

- 1 The West Yorkshire Devolution Deal included provisions for the West Yorkshire Combined Authority to be given powers for non-transport borrowing functions.
- 2 When the draft Devolution Order was considered and approved by the combined authority and the five West Yorkshire councils in November 2020, it was reported that the consent of each would be required to any regulations giving the combined authority powers to borrow for non-transport related functions, but that this would progress separately at a later date to the making of the Order, as separate legislation is required.
- 3 This report asks Executive Board to provide Leeds City Council's consent in principle to such regulations now, following indications from Government that they intend to lay a draft Order conferring these functions to the combined authority in January 2022.

## What impact will this proposal have?

**Wards affected:** All

Have ward members been consulted?

Yes

No

- 4 In preparation for this decision, the combined authority in October 2021 approved a debt cap of £248.326 million for 2021/22, as offered by HM Treasury. This was the first stage of the process to enable the non-transport borrowing powers to be agreed.
- 5 Government is now finalising the legislation to enable the combined authority to borrow in this way. The legislation will be in line with powers already held by other combined authorities – the legislation for which can be [read here](#), and there is no facility to make amendments to this. It is expected that the legislation will be laid in parliament in January 2022, but the specific date is not yet known.
- 6 In order to proceed, the consent of all five West Yorkshire councils is needed. The combined authority agreed to provide its consent on 9 December 2021.
- 7 Once the combined authority has received the powers, it will enable borrowing to be undertaken as part of the budget process for non-transport functions, such as housing or tackling the climate emergency. Further details on specific proposals will proceed through the normal channels in which Leeds City Council is represented as agreed through the original devolution deal and accompanying arrangements.
- 8 The combined authority has previously undertaken an equality impact assessment for the devolution deal and process, as previously reported to Executive Board. It will also undertake an equality impact assessment relating to any activity that may be supported by the use of the borrowing powers, and all services provided by the combined authority consider how to ensure equality and diversity in their delivery. Should any specific borrowing require decisions from Leeds City Council, then the council too would undertake the appropriate equality impact assessments at that time.

## What consultation and engagement has taken place?

- 9 As part of the statutory process, a public consultation was previously undertaken and the results were considered by Executive Board in September 2020 – [report available here](#). The summary of the results was submitted to the Secretary of State and has been taken into account during the drafting of the Order.

### **What are the resource implications?**

- 10 There are no finance, staffing or other resource implications arising directly from this report. However, the legislation once complete will allow the combined authority to use non-transport borrowing powers in future budgets, within the debt cap outlined in paragraph 4.

### **What are the legal implications?**

- 11 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.
- 12 This report is being received as a late item and is recommended to be exempt from the call-in process on the grounds of urgency. As noted in paragraph 16, unanimous approval of all five West Yorkshire councils is required for this matter to proceed, and Government has indicated its intention to lay a draft Order in parliament in January 2022. Therefore this decision cannot be deferred to the next scheduled Executive Board meeting, and any delay caused by the call-in process would risk prejudice to the council's interests (and those of the combined authority and other constituent councils).
- 13 It was not possible for the decision recommended in this report to be taken earlier or included in the original agenda due to notice of the Government's intention to lay the draft Order in January 2022 being received after the agenda for this meeting had already been published. The decision will now be taken under Special Urgency Rule 2.6 in the Executive and Decision Making Procedure Rules. Agreement of the Chair of Strategy and Resources Scrutiny Board that the matter is urgent and should proceed to Executive Board under rule 2.6 has been secured following consultation with him. The matter will be published on the List of Forthcoming Key Decisions at the earliest opportunity.
- 14 The appendix mentioned below at paragraph 22 is exempt from publication with the report on the basis of confidentiality and will be circulated during the private part of the meeting, should Members resolve to go into private session to consider it.
- 15 The appendix contains detail of the wording in the draft order, which has not yet been published by Government, and publication of the draft order has been vetoed at this stage. The wording of the draft order resembles the legislation linked in paragraph 5 of this report.
- 16 The appendix is exempt on the basis that it contains confidential information pursuant to Rule 9 of the Access to Information Procedure Rules. The information has been given to the council by a government department on terms which forbid its public disclosure in accordance with Rule 9.2 (a).

### **What are the key risks and how are they being managed?**

- 17 There are no risk implications for the council arising from this report.

### **Does this proposal support the council's three Key Pillars?**

Inclusive Growth       Health and Wellbeing       Climate Emergency

- 18 There are no direct implications of this decision for the council's three key pillars. However, the receipt of non-transport borrowing powers for the combined authority has the potential to impact on West Yorkshire's ability to deliver activity positively affecting all three. Any decisions, options or proposals will be considered separately as appropriate in the future.

## **Options, timescales and measuring success**

### **What other options were considered?**

19 The council is able to refuse to provide its consent to these powers being conferred on the combined authority. However, in order for the powers to be devolved unanimous consent from all five West Yorkshire councils and the combined authority is required.

### **How will success be measured?**

20 It is anticipated that all five West Yorkshire councils will add their consent to that already provided by the combined authority, thereby enabling non-transport borrowing powers to be conferred on the combined authority.

### **What is the timetable for implementation?**

21 Government has indicated it intends to lay a draft Order in parliament in January 2022, although an exact date is not yet known. This late report and decision are being progressed with urgency to enable this timetable to remain viable.

## **Appendices**

22 Appendix 1 of the report has been designated as confidential under the provision of Access to Information Procedure Rule 9.2 (a) and will be provided at the meeting.

## **Background papers**

23 None.