

Draft Final Scheme for the Establishment of a Combined Authority for West Yorkshire

Background

The findings of the Review¹ of governance arrangements relating to transport, economic development and regeneration, pursuant to Section 108 of the Local Democracy, Economic Development and Construction Act 2009 (LDEDC) and Section 82 of the Local Transport Act 2008, are that for the area of West Yorkshire, the Integrated Transport Authority (WYITA) should be dissolved and a Combined Authority (CA) created both as the best option for the area going forward in terms of delivering the City Deal and because it would be likely to improve:

- the exercise of statutory functions relating to economic development, regeneration and transport in the area;
- the effectiveness and efficiency of transport; and
- the economic conditions in the area.

This document is the proposed Final Scheme prepared by the five West Yorkshire District Authorities (the 'constituent councils') and the WYITA pursuant to the LDEDC for approval by the Secretary of State by which it is proposed a CA be created.

Establishment of Authority

1. A Combined Authority for West Yorkshire shall be established pursuant to Section 103 of the Local Democracy Economic Development and Construction Act 2009 (LDEDC). It is intended that this shall come into existence from 1 April 2014.

Dissolution of West Yorkshire Integrated Transport Authority (WYITA)

2. The West Yorkshire integrated transport area shall be dissolved and the West Yorkshire Integrated Transport Authority (WYITA) shall be abolished, pursuant to Section 91 of the Local Transport Act 2008 (LTA).
3. Upon the abolition of the WYITA the functions powers and duties of the WYITA shall be transferred to the CA.

Area

4. The area of the CA shall be the whole area of each of the five constituent councils namely:
 - City of Bradford Metropolitan District Council

¹ The Review was authorised by the five WY District authorities and the ITA in November 2012.

- Borough Council of Calderdale
 - The Council of the Borough of Kirklees
 - Leeds City Council
 - The Council of the City of Wakefield
5. The evidence suggests that WY represents a self-contained functional economic market area (FEMA) in its own right and that there would likely be an improvement in economic prosperity should a CA for the area of West Yorkshire be established. Nevertheless, an area also covering York would be more representative of the City Region FEMA, however for the reasons discussed in the Review; this is not legally deliverable in the short term.

Name

6. The name of the CA shall be the West Yorkshire Combined Authority

Membership

7. Ahead of any legislative change which would enable York to become a constituent member, there is a strong case for including York in the meantime as a non-constituent (partner) member of the CA. Also there is a clear benefit in the Leeds City Region Local Enterprise Partnership (LEP) becoming a partner member in order to bring in broader City Region business perspectives.
8. The CA shall consist of a total of ten members comprised as set out below:-
9. Eight members of the CA shall be elected members of the constituent councils to be appointed in accordance with paragraph 10 below, and two additional members shall comprise an elected member from York City Council and a member of the LEP for the Leeds City Region² to be appointed in accordance with paragraph 11 below.
10. Each of the five constituent councils shall appoint a minimum of one of its elected members as a member of the CA, the remaining three members to be appointed by agreement of the constituent councils to provide cross party political representation, and which provides flexibility to adjust to the prevailing political representation across WY.³
11. York City Council (the non-constituent council) shall appoint one of its members to be a member of the CA. The LEP member shall be appointed by the constituent councils by agreement.

² Or such successor body or equivalent

³ Based on the current political balance and proportionality across WY this would equate in addition to the five leaders above, to two further appointees drawn from Conservative Group members and one additional Liberal Democrat member.

12. The constituent and non-constituent councils shall each appoint another of its elected members to act as a member of the CA in the absence of the member appointed in accordance with the terms above.
13. A council may at any time terminate the appointment of a member or a substitute member appointed by it to the CA.
14. Where a member or a substitute member of the CA ceases (for whatever reason) to be a member of the council that appointed them, (or in the case of the LEP ceases to be a member of the LEP) the member shall cease to be a member of the CA, and the relevant council shall appoint a replacement as soon as practicable.
15. All appointments shall be for a one year term.
16. No remuneration shall be payable by the CA to its members other than standard allowances for travel and subsistence.
17. Intention - Recognising that membership of the CA cannot be determined by reference to a particular office of an appointing council, it is nevertheless the intention that the most appropriate membership for the CA would be the five Leaders of the Constituent Councils with the remaining three elected members from opposition parties being appointed by agreement and having regard to the benefit of political representation across the Combined Authority area being reflected within the Combined Authority membership so far as reasonably practicable; and the leader of the City of York Council and the Chair of the LEP for the Leeds City Region would be the most appropriate non constituent members.

Voting

18. The following voting arrangements will be applied:
 - Un-weighted voting based on one member one vote, with no casting vote for the Chair or Vice Chair.
 - Non-constituent members shall be non-voting (a requirement of S85 (4) of the LTA 2008) but could individually be given a vote on some or all issues voted upon, subject to agreement of the constituent members (in accordance with s85 (5) of the LTA 2008).
 - Simple majority voting shall apply eg:
 - West Yorkshire Plus Transport Fund and any Economic Investment Fund decisions;
 - accepting devolved powers from Government e.g. under future City Deals;
 - setting the transport levy and CA budget;
 - agreeing levels of borrowing; and
 - signing off the Local Transport Plan.

Executive Arrangements

19. Executive Arrangements (within the meaning of the Local Government Act 2000) shall not apply to the CA. However, the discharge of the functions of the CA will be subject to the scrutiny arrangements set out in this scheme.

Passenger Transport Executive

20. The West Yorkshire Passenger Transport Executive (WYPTE) shall be dissolved and the functions, powers and duties of the WYPTE shall be transferred to the CA.

Scrutiny arrangements

21. The CA shall appoint one or more overview and scrutiny committees which shall comprise members appointed to it by each of the constituent and non-constituent councils. In order to achieve this, it is intended to request the Secretary of State to apply Section 9JA of the Local Government Act 2000 to the CA as it does to a committee system local authority but with these amendments.
 - The Combined Authority shall appoint one or more overview and scrutiny committees under s 9JA(1); and
 - The Secretary of State will be requested to make regulations under s9JA(2)(b) with respect to their functions composition and procedure.
22. Intention - that any overview and scrutiny committee is chaired by an opposition member.

Functions, Powers and Duties

Transport Functions

23. The functions powers and duties of the WYITA and the WYPTE shall be transferred to the CA and shall be functions exercisable by the CA (see indicative list at Appendix A).
24. In the application of s101 of the Local Government Act 1972 any other transport functions delegated to the CA from time to time by the constituent and non-constituent councils (or any of them) shall be functions of the CA.
25. The Power of Wellbeing under chapter 3 of the LTA 2008 will apply to the CA by virtue of that Act.

26. The CA will have ancillary general powers pursuant to section 113A of the LDEDC 2009.
27. For the avoidance of doubt, where, in any legislation the functions and powers of an ITA or of a PTE are expressed to be subject to or dependent upon the prior approval of or a duty to consider the advice of the other, those legislative provisions shall not apply to those functions and powers of the CA.

Economic Development and Regeneration Functions

28. By virtue of sections 99 and 102A of the Local Transport Act 2008, the CA will have broad well-being powers to promote economic prosperity, which can be exercised together with general ancillary powers granted by section 113A of the LDEDC Act 2009 (as amended by the Localism Act 2011).
29. It is proposed that the CA will be focussed on strategic economic development issues such as:
 - co-designing with the LEP the LCR Plan;
 - setting and reviewing the objectives for strategic investment, such as the £1bn West Yorkshire Plus Transport Fund and £400m LCR Economic Investment Fund;
 - making decisions with regard to the WYTF and EIF; and
 - acting as the accountable body, eg for devolved major transport scheme funding (£182m over ten years) and the single pot for economic investment, including EU funds and the Single Local Growth Fund.
30. The primary focus of the CA will be to manage a significant programme of investment in transport and economic infrastructure, and to influence and align with government investment, in order to boost economic growth. The related interventions will have differential spatial impacts across the CA area but should aid delivery of key growth projects in the emerging and future local plans of constituent councils. Having regard to the duty to co-operate, effective alignment between decision making on transport and decisions on other areas of policy such as land use, economic development and wider regeneration will be a key aim.

Incidental Provisions

31. The CA shall exercise any function of the Secretary of State delegated to the CA by order of the Secretary of State pursuant to Section 86 of the LTA 2008 and Section 104(1) (b) of the LDEDC 2009. Such functions shall be exercised subject to any condition imposed by the order.

Funding

32. The CA shall be the levying body in relation to transport in the area covered by the constituent authorities, and apportioned on a per capita basis. The City Deal makes provision for the Government to consider proposals for the CA to assume precepting powers, to replace the transport levy.
33. The costs attributable to the CA in exercise of its functions relating to economic development and regeneration including economic investment (such as the Single Pot and European Funding) (together with any start up costs) will be apportioned between the constituent authorities (and non-constituent authorities where appropriate) on a per capita basis.
34. The Combined Authority shall have borrowing powers in relation to its transport functions only pursuant to s146 of the Local Government Act 1972
35. It is intended that the operation of the CA shall not of itself result in any increase in the cost of delivery of the functions ascribed to it over and above the current costs associated with the delivery of those functions by the WYITA, the WYPTE and the constituent councils.

Transfer of property, rights and liabilities

36. All property, rights and liabilities of the WYITA and the WYPTE existing at the transfer date shall be transferred to the CA, including any rights and liabilities (if any) in relation to contracts of employment.

Sub structures

37. The CA will act as a strategic decision making body. Therefore in order to fulfil the significant range of operational duties, powers and functions transferred which are currently delivered by the WYITA and WYPTE (see Appendix A), the constituent councils intend to put in place appropriate arrangements to ensure fit for purpose sub structures. For example, it is the intention that a Joint Committee of the CA and constituent councils could be put in place (under section 101(5) of the Local Government Act 1972) to support the CA with the following tasks:
 - to carry out operational transport functions;
 - advise the CA on: the annual budget and transport levy, borrowing limits, major transport policies, LTP, and WYTF operation; and
 - any functions which the District authorities might subsequently choose to delegate to the CA, e.g. Local Transport Body functions; management of urban traffic control systems; or management of the road network to improve the flow of freight across the area.

38. Additionally, a separate Joint Committee may be required to include wider LCR District authorities, such as Harrogate, in relation to investments in Economic Infrastructure.

Leeds City Region Local Enterprise Partnership (LEP)

39. The Review sets out the importance of a strong LEP which effectively brings together the private and public sector in driving the economic prosperity of the City Region.
40. By making provision for direct LEP representation on the CA, as well as working to a common Single Appraisal Framework and shared LCR Plan, investment decisions taken by the CA, for example major transport decisions, will more fully reflect business views. These views, both in terms of shaping prioritisation and scheme design, will ensure that public investment is targeted to maximise local business benefit which is key to economic growth. The CA will also directly support the LEP, and LCR Leaders Board, by:
- making recommendations on the LCR Plan; and
 - acting as the accountable body for funding, for example:
 - Single capital pot funding, including the Single Local Growth Fund
 - European funding
 - RGF and GPF
 - Any Future Skills Investment Fund
 - HCA funding
41. The outline schematic diagram at Annex B shows the intended functional relationship between the CA and the LCR partnership, and their related supporting functions and structures.

6 June 2013

Annex A – Indicative Information

STATUTORY DUTIES OF THE ITA:-

These are duties (the ITA must do them) common to Local Transport Authorities. The ITA is the LTA throughout West Yorkshire.

- To procure that the public passenger transport requirements of the people of West Yorkshire are met, which would not otherwise be met, and in so doing:
 - to take any action to promote the availability of transport services and the convenience of the public;
 - have regard to the advice of the PTE; and
 - consider the requirements of the elderly and the disabled.
- To develop policies for the promotion of safe integrated efficient and economic transport to meet the needs of the people living, working and travelling through their areas, and the transport of freight.

NB – the ITA is the sole body responsible for procuring public transport services in West Yorkshire. Principally, this relates to buses, but ALL forms of transport are covered by this duty, subject to other legislation dealing with rail and air services and inland waterways.

- To take such steps as the Authority considers practicable and desirable to promote:-
 - research into matters affecting or arising out of the exercise of their functions, and
 - Turning the results of that research to account
- In relation to any expenditure on passenger transport, in the interests of the ratepayers of West Yorkshire, to secure the best value for money from its expenditure as a whole and to work with other Authorities where possible to achieve this. In relation to subsidised transport services:
 - to have regard to economy, efficiency and effectiveness;
 - the reduction of or limitation of traffic congestion, noise and air pollution;
- not to inhibit competition between providers of transport services.

NB – The ITA is the sole body in West Yorkshire that can tender for the provision of public transport services. In relation to school transport, there is significant overlap with the duties of education authorities, with whom Metro works closely, to deliver and assess eligibility for home to school services.

- To prepare and publish the Local Transport Plan for West Yorkshire in consultation with all appropriate authorities and bodies in accordance with guidance. The ITA receives and is responsible for the transport allocation from DfT.
- To implement and enforce the statutory concessionary travel scheme (ENCTS) and make payments to operators providing concessionary travel.
- To prepare an annual report, together with the PTE, on the expenditure and performance of the ITA.
- To set the levy payable by the District Councils of West Yorkshire.
- To provide information to the public in relation to public transport.

SIGNIFICANT POWERS OF THE ITA – Matters that the ITA may decide to do:-

- To develop policies for the promotion and encouragement of safe integrated and economic transport facilities and services to, from and within West Yorkshire, to meet the needs of people living and working within it, pedestrians and the movement of freight. In so doing,
 - to have regard to Government Policy and Guidelines in respect of adaptation to and mitigation of climate change or improvement of the environment.
- To establish, enforce and publicise travel concession schemes (in addition to the statutory ENCTS) which may benefit the elderly, disabled, school children amongst other categories of travelling public.
- To direct a rail network operator to provide a new rail facility, with the consent of the Secretary of State
- To make grants for the provision of vehicles, facilities and transport services.
- To make Quality Partnership Schemes and Quality Contract Schemes in accordance with the Transport Act 2000 and the Local Transport Act 2008.
- To take any action the Authority determines is likely to achieve the promotion or improvement of the economy, social and environmental **well-being** (Local transport Act 2008) of its area or the people resident or passing to or through it.
- Jointly with eligible traffic authorities, to make a road-user charging scheme within or partly within the area of the ITA.

- To procure transport services without tender to meet unexpected transport needs without delay.
- To secure certain information from bus operators relevant to service provision.
- To lend money to the PTE.

SIGNIFICANT FUNCTIONS OF THE ITA – roles that the ITA carries out:-

- To approve any change to the basic level of charging for transport services or to the terms of any concessionary travel scheme.
- To approve any substantial capital expenditure by the PTE.
- To approve any substantial amendment to rail franchise agreements.
- To direct the PTE to take appropriate steps to reorganise its functions to be most efficient or to approve any such proposal by the PTE.
- To appoint the Director General of the PTE, and between 2 and 8 other directors of the PTE
- To approve the carrying out by the PTE of most of its significant functions.
- To approve borrowing by the PTE.

STATUTORY DUTIES OF THE PTE

Transport Acts 1968, 1985, 2000 and LTA 2008; Railways Acts

- To secure the provision of the public passenger transport services that the ITA considers should be provided to meet the needs of the public in West Yorkshire, which would not otherwise be provided.
- To ensure the delivery of the general policies of the ITA relating to the availability of public passenger transport services and the convenience to the public of those services.
- To give advice to the ITA on the nature of public passenger transport services that it would be appropriate to provide in the ITA area.
- Not to inhibit competition between parties providing or seeking to provide public passenger transport services and to have regard to combination of efficiency effectiveness and economy.
- To tender for all public passenger transport services that are required in accordance with the Transport Act 1985 and associated regulations.
- To have regard to the needs of the elderly and the disabled when exercising their functions under the transport act 1968.
- To keep under review the railway passenger services provided within its area by passenger service operators.
- To give advice to the Secretary of State, on request, on any matter relating to railways and rail services.
- Make proper charges to revenue account, particularly in respect of depreciation, and to capital account in respect of interest on expenditure of a capital nature
- To provide the Authority at the request of the Authority with accounts and information regarding its operations and planned capital and revenue expenditure.

Powers and Functions of the PTE

- To carry out any of the actions set out in Section 10 of the Transport Act 1968 including, by way of examples:
 - Carrying passengers.
 - The letting of passenger vehicles and rolling stock.
 - Provision of amenities for the travelling public.

- Acquiring land and developing it for the business of the Authority.
 - Lending money to third parties for the purposes of the Business of the Authority.
 - Laying or opposing a Bill before Parliament.
 - Making anything required for the purposes of its business.
 - operate ferries under the Ferries Act.
 - borrow monies with the approval of the ITA.
 - Acquire interests in land via compulsory purchase.
- To provide bus stations and associated facilities within or in the vicinity of their area and to operate and maintain them.
 - Power to provide and maintain on any public highway, on a public service vehicle route, bus shelters or other accommodation for passengers, and to erect signs and barriers for the regulation of passengers.
 - Power to make grants to persons providing, maintaining or improving vehicles, facilities and equipment for facilitating travel by disabled persons.
 - To enter into agreements with the Secretary of State to pay for the provision of rail passenger services and facilities. With the consent of the Secretary of State, to be party to rail franchise agreements.
 - To establish, publicise and pay for travel concessions schemes (in addition to the Statutory ENCTS).
 - Subject to any restrictions in other legislation, To do anything that the PTE considers appropriate for carrying out any of its functional purposes or incidental to those purposes, whether directly or indirectly, and for commercial purposes.
 - Well-Being Powers under the Local Transport Act 2008
 - To keep specific and general reserves, which shall be spent only for the purposes of the PTE.

LCR Plan and Single Appraisal Framework

Annex B



