

# **Scheme setting out proposals for changes to the governance and functions of the West Yorkshire Combined Authority**

**Section 112 Local Democracy, Economic  
Development and Construction Act 2009**

## Preamble

### **This scheme has been jointly prepared by:**

- City of Bradford Metropolitan District Council,
- Borough Council of Calderdale,
- Council of the Borough of Kirklees,
- Leeds City Council,
- Council of the City of Wakefield, and
- West Yorkshire Combined Authority

This Scheme sets out proposals to change the governance arrangements of the West Yorkshire Combined Authority (the Combined Authority), by adopting a mayoral model (with the Mayor exercising the functions currently exercised by the Police and Crime Commissioner for West Yorkshire) and making related changes to constitutional arrangements.

It also sets out proposals for the Combined Authority to be delegated additional functions.

## Interpretation

In this Scheme:

“the 2008 Act” means the Housing and Regeneration Act 2008,

“the 2009 Act” means the Local Democracy, Economic Development and Construction Act 2009,

“the 2011 Act” means the Police Reform and Social Responsibility Act 2011,

“the 2014 Order” means the West Yorkshire Combined Authority Order 2014 (SI 2014/864),

“the Combined Authority” means the West Yorkshire Combined Authority,

“Constituent Councils” means

- City of Bradford Metropolitan District Council,
- Borough Council of Calderdale,

- Council of the Borough of Kirklees,
- Leeds City Council,
- Council of the City of Wakefield

“Deputy Mayor for Policing and Crime” means the deputy mayor for policing and crime for the Combined Area,

“Combined Area” means the area consisting of the areas of the Constituent Councils,

“LEP” means the Leeds City Region Enterprise Partnership,

“Mayor” means the mayor for the Combined Area,

“Mayoral Function” means any function which is the responsibility of the Mayor, other than a PCC Function,

“PCC Function” means any function carried out by a PCC, which is exercisable by the Mayor,

“MCA” means the mayoral combined authority,

“Non-Mayoral Function” means any function of the Combined Authority which is not a Mayoral Function or a PCC Function,

“PCC” means police and crime commissioner,

“Review” means the review carried out the West Yorkshire Authorities under section 111 of the 2009 Act in 2020, and

“West Yorkshire Authorities” means the Constituent Councils and the Combined Authority.

# Introduction

- 1.1 On 11<sup>th</sup> March 2020, the West Yorkshire Authorities agreed a “minded to” devolution deal with HM Government. The deal details £1.8bn of government investment (including £1.14bn over 30 years), which will be subject to local influence and decision making, enabling spend on local priorities, together with a range of devolved functions. This devolution deal is subject to adopting the model of a directly elected mayor (Mayor) over the Combined Area (West Yorkshire) that is, becoming a mayoral combined authority (MCA).
- 1.2 The West Yorkshire Authorities must also follow relevant statutory procedures to adopt the model of a directly elected mayor, and secure changes to the constitutional arrangements set out in the 2014 Order (which established the Combined Authority) and the additional functions set out in the deal.
- 1.3 The West Yorkshire Authorities therefore conducted a review under section 111 of the 2009 Act (the Review) in relation to:
  - changing constitutional arrangements of the Combined Authority, and
  - the delegation to the Combined Authority of additional functions under section 104 and section 105 of the 2009 Act (transport-related functions of the Secretary of State and functions concurrent to local authorities).
- 1.4 Having considered the findings of the Review, the West Yorkshire Authorities concluded that an Order by the Secretary of State to make the changes considered in the Review, including delegating additional functions to the Combined Authority, would be likely to improve the exercise of statutory functions in relation to the Combined Area. The West Yorkshire Authorities have therefore resolved to prepare and publish this Scheme under section 112 of the 2009 Act.
- 1.5 In addition, to secure the devolution of new government investment and the range of additional functions set out in the devolution deal, the West Yorkshire Authorities have included the following proposals in this Scheme:
  - to adopt the model of an MCA for the Combined Authority, and
  - for the Combined Authority to be delegated functions under section 105A of the 2009 Act (functions of a public authority).
- 1.6 It is also proposed that the functions currently exercised by the PCC for West Yorkshire (the PCC Functions) will be exercised by the Mayor from 2021. The postponement of the PCC elections to May 2021 has created a potential opportunity to transfer those functions to the Mayor by that time, subject to feasibility.
- 1.7 Proposals contained in the Scheme will be subject to public consultation from 25 May 2020 to 19 July 2020.

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- 1.8 As set out below, it is proposed that the Combined Authority will continue to exercise the functions conferred on the Combined Authority by the 2014 Order, as well as the new additional functions described in this Scheme.
  - 1.9 Any transfer to the Combined Authority, or to the Mayor, of existing functions or resources currently held by any Constituent Council must be by agreement with the Constituent Council.

## 2 Proposed MCA for West Yorkshire

- 2.0.1 The following part of the Scheme sets out how it is proposed that the Combined Authority will operate and discharge its functions as an MCA.

### 2.1 Geography

- 2.1.1 The area of the Combined Authority as MCA shall remain the Combined Area, as defined by the 2014 Order - that is, the area consisting of the areas of the Constituent Councils (West Yorkshire).

### 2.2 Name

- 2.2.1 It is proposed that the name of the Combined Authority as an MCA remains West Yorkshire Combined Authority.

### 2.3 Election of Mayor

- 2.3.1 It is proposed that the first Mayor will be elected in May 2021. The Mayor will be elected by the local government electors for the Combined Area (West Yorkshire).
- 2.3.2 As set out in the 2009 Act, the Mayor is to be returned under the simple majority system ('first past the post'), unless there are three or more candidates. If there are three or more candidates, the Mayor is to be returned under the supplementary vote system.
- 2.3.3 It is proposed that the initial term of the Mayor will be 3 years. Each subsequent mayoral term will be 4 years.
- 2.3.4 The 2009 Act provides that the Mayor will be entitled to the style of "Mayor" and the title of the Mayor will be the West Yorkshire Combined Authority Mayor.

## 2.4 Membership

- 2.4.1 It is proposed that the current membership arrangements for the Combined Authority are retained as set out in the 2014 Order, with the addition of the Mayor who by virtue of their office will be a member of the Combined Authority. The Combined Authority as MCA shall therefore comprise the following eleven members:
- the Mayor,
  - 5 elected members from Constituent Councils (one appointed by each Constituent Council),
  - 3 additional elected members for political balance jointly appointed by the Constituent Councils,
  - 1 elected member appointed by the City of York Council (the Non-Constituent Council), and
  - 1 person nominated by the Leeds City Region Enterprise Partnership (the LEP Member).
- 2.4.2 Of these, the elected member appointed by the City of York Council and the LEP Member are required by statute to be non-voting – see further below.
- 2.4.3 Other than in relation to the Mayor, no changes are proposed to the membership arrangements set out in the 2014 Order. These shall continue to apply to members of the Combined Authority other than the Mayor, in relation to:
- substitute arrangements (one for each member)
  - appointment arrangements and
  - terms of office.

## 2.5 Role of the Mayor

- 2.5.1 As provided by the 2009 Act, the Mayor by virtue of their office will be the Chair of the Combined Authority.
- 2.5.2 The Mayor will be responsible for functions of the Combined Authority which are Mayoral Functions, as set out below, and also exercise the PCC Functions.

## Deputy Mayor

2.5.3 The 2009 Act requires the Mayor to appoint one of the members of the Combined Authority as a Deputy Mayor, who will act in place of the Mayor if for any reason the Mayor is unable to act or the office of Mayor is vacant. Provisions within the 2014 Order relating to the appointment of a Chair and Vice Chair of the Combined Authority from amongst its members will therefore no longer apply, and will be omitted; the Deputy Mayor will chair meetings of the Combined Authority in the absence of the Mayor.

## Deputy Mayor for Policing and Crime

2.5.4 Where an Order provides for the Mayor to exercise PCC Functions, the Secretary of State must by Order authorise the Mayor to appoint a Deputy Mayor for Policing and Crime – see further paragraph 3.6 (PCC Functions).

## 2.6 Partnership Arrangements

2.6.1 As an MCA, the Combined Authority will continue to explore opportunities for further collaboration with partner councils, including Harrogate Borough Council, Craven District Council, Selby District Council, City of York Council and North Yorkshire County Council, and across the whole of Yorkshire through the Yorkshire Leaders' Board. The Combined Authority may invite representatives from any partner council to attend (and speak) at any meeting of the Combined Authority.

2.6.2 The Combined Authority may enter into joint arrangements with other local authorities in respect of Non-Mayoral Functions, under S101(5) Local Government Act 1972 and, it is proposed that arrangements for the Combined Authority as MCA provide that Mayoral Functions may also be carried out under joint arrangements – see paragraph 2.7.2.5.

2.6.3 It is proposed that the current governance arrangements of the Leeds City Region Enterprise Partnership (“the LEP”) will be revised to include the Mayor as a member of the LEP Board to ensure continued recognition of the LEP’s importance in the design and delivery of local economic strategies.

## 2.7 Decision-making arrangements



## 2.7.1 Decisions of the Combined Authority

2.7.1.1 The Combined Authority will be responsible for any function of the Combined Authority which is not the responsibility of the Mayor (any Non-Mayoral Function). Decisions on Non-Mayoral Functions will be taken by the Combined Authority, (that is, at a meeting of the members of the Combined Authority acting collectively), or taken in accordance with arrangements agreed by the Combined Authority, including:

- by a committee or sub-committee of the Combined Authority which has delegated authority for the function, or
- under joint arrangements agreed by the Combined Authority, or
- by an officer with delegated authority.

2.7.1.2 No business of the Combined Authority will be transacted at a meeting unless the Mayor (or the Deputy Mayor acting in place of the Mayor) and at least three members of the Combined Authority appointed by a Constituent Council who are not members appointed for political balance, are present at the meeting.

2.7.1.3 The following voting arrangements will apply at meetings of the Combined Authority:

- Un-weighted voting based on one member one vote,
- The Non-Constituent Member and the LEP Member must be non-voting (a requirement of section 85(4) of the Local Transport Act 2008) but could individually be given a vote on some or all issues voted upon, subject to agreement of the Voting Members (in accordance with section 85(5) of the Local Transport Act 2008),and
- The Mayor (or Deputy Mayor acting in their place) will not have a second or casting vote.

2.7.1.4 The Combined Authority aims to reach decisions by consensus. If it is not possible to reach a consensus on a matter that requires a decision, the matter will be put to the vote.

2.7.1.5 Any matter that comes before the Combined Authority will be decided by a simple majority of the members of the Combined Authority present and voting (whether a motion or an amendment), unless otherwise provided for in legislation or as set out below.

2.7.1.6 Where the decision relates to any new Non-Mayoral Function which the Combined Authority acquires pursuant to the Deal, or where otherwise

required by the Combined Authority's constitutional arrangements, that majority must include the vote of the Mayor.

2.7.1.7 For the following decisions, the simple majority of members must include three of the five members of the Combined Authority appointed by a Constituent Council (who are not appointed for political balance):

- approving the Combined Authority's budget (other than any decision which relates to the Mayor's budget, which is subject to the statutory provisions referred to in paragraph 4.3), and
- setting a levy.

## 2.7.2 Decisions of the Mayor

2.7.2.1 In accordance with the 2009 Act, any Mayoral Function will be exercisable only by the Mayor except where the Mayor delegates such a function to:

- the Deputy Mayor,
- another Member of the Combined Authority,
- an officer of the Combined Authority,
- under joint arrangements – see paragraph 2.7.2.4, or
- the Deputy Mayor for Policing and Crime, where provided for by Order.

2.7.2.2 It is proposed that any member or officer of the Combined Authority may assist the Mayor in the exercise of Mayoral Functions, but that the Mayor cannot delegate to their political advisor.

2.7.2.3 It is proposed that some decisions in respect of Mayoral Functions will require the consent of the member appointed by any Constituent Council directly affected by the decision, (who is not appointed for political balance). This consent requirement applies to the following:

- a) The designation of any area of land as a Mayoral Development Area leading to the establishment, by Order, of a Mayoral Development Corporation (the consent of the relevant national park authority is also required if the land falls within the designated national park area) (see paragraph 3.5.2);
- b) The compulsory purchase of land or buildings by the Mayor (see paragraph 3.5);
- c) Any decision that could lead to a financial liability falling directly upon that Constituent Council; and

- d) Such other matters as may be contained in the Combined Authority's constitutional arrangements and agreed with the Mayor.

2.7.2.4 The Mayor will be required to consult the Combined Authority on any policy or strategy, relating to the exercise of a Mayoral Function, and this will be subject to the following specific conditions:

- a) The Spatial Development Strategy will require the consent of each of the five members of the Combined Authority appointed by a Constituent Council (who are not appointed for political balance)
- b) The Combined Authority will be able to amend the Mayor's transport strategy if a majority of members agree to do so.

2.7.2.5 It is proposed that in relation to the Mayoral Functions, joint arrangements under S101(5) of the Local Government Act 1972 are provided for by Order, in accordance with S107E of the 2009 Act.

2.7.2.6 Decision-making arrangements in respect of the Mayor's budget for Mayoral Functions are set out in paragraph 4.3 of this Scheme.

### 2.7.3 PCC Functions

2.7.3.1 Decision-making arrangements in respect of PCC Functions are set out in paragraph 3.6.

## 2.8 Scrutiny Arrangements

2.8.1 The Mayor and the Combined Authority will be scrutinised and held to account by the Combined Authority's Overview and Scrutiny Committee(s).

2.8.2 In accordance with the 2009 Act, the Combined Authority ensures that the Overview and Scrutiny Committee has power to:

- (a) review or scrutinise decisions made, or other action taken, in connection with the any functions which are the responsibility of the Combined Authority;
- (b) make reports or recommendations to the Combined Authority with respect to the functions that are the responsibility of the Combined Authority;

- (c) make reports or recommendations to the Combined Authority on matters that affect the Combined Area or the inhabitants of the Combined Area.
- 2.8.3 As an MCA, the Combined Authority’s arrangements must also ensure that the Overview and Scrutiny Committee has power to:
- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the Mayor of any Mayoral Functions,
  - (b) to make reports or recommendations to the Mayor with respect to the discharge of any Mayoral Functions,
  - (c) to make reports or recommendations to the Mayor on matters that affect the Combined Authority's Area or the inhabitants of the Combined Area.
- 2.8.4 The Committee’s power to “call-in” a decision (that is, direct that a decision is not to be implemented while it is under review or scrutiny by the Committee, and recommend that the decision be reconsidered) extends to decisions taken by the Mayor in connection with Mayoral Functions.
- 2.8.5 The overview and scrutiny arrangements currently established for the Combined Authority will be retained, subject to any amendments to reflect:
- the introduction of the Mayor (such as a requirement for the Mayor to respond to reports or recommendations made by any Overview and Scrutiny Committee);
  - the scrutiny of additional Mayoral and Non-Mayoral Functions; and
  - any statutory provisions
- 2.8.6 The Mayor and the Combined Authority may also seek to enhance scrutiny and develop wider conference with all elected members in the Combined Area (West Yorkshire) to engage on key issues.
- 2.8.7 There will be separate oversight and scrutiny arrangements in respect of PCC Functions, which will be carried out by a Police and Crime Panel – see further paragraph 3.6.

## 2.9 Audit

- 2.9.1 The Combined Authority will retain its current Governance and Audit Committee, which carries out the statutory functions of an audit committee in accordance with the 2009 Act, which include:
- 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.

2.9.2 It is proposed that membership of any audit committee may include co-opted members.

## 2.10 Appointments - political advisors

2.10.1 It is proposed that the Mayor may appoint one person as the Mayor's political adviser.

## 2.11 Standing Orders

2.11.1 It is proposed that the Combined Authority will continue to make standing orders for the regulation of its proceedings and business and may vary or revoke any such standing orders.

## 2.12 Remuneration

2.12.1 It is proposed to amend the arrangements in the 2014 Order (which provides that no remuneration is to be paid by the Combined Authority to members of the Combined Authority, other than for travel and subsistence) to provide that an allowance may be paid to:

- the Mayor,
- the Deputy Mayor, (provided that they are not a Leader of a Constituent or Non-Constituent Council, or the Chair of the LEP)
- the Deputy Mayor for Policing and Crime.

The Combined Authority shall approve a scheme for allowances, following consideration of a report from an Independent Remuneration Panel, which the Combined Authority may appoint.

## 3 Functions of the Combined Authority as MCA

- 3.0.1 The prime purpose of conferring functions on the Combined Authority is to improve the exercise of statutory functions in relation to the Combined Area. In pursuit of this prime purpose, the Combined Authority will take on those functions set out in the “minded to” Devolution Deal (and retain those functions which were previously exercised by the Combined Authority in respect of the Combined Area).
- 3.0.2 Mayoral Functions and PCC Functions will be the responsibility of the Mayor, and are exercisable only by the Mayor, unless delegated by the Mayor. Mayoral Functions are listed in paragraph 3.1, and PCC Functions addressed in paragraph 3.6.
- 3.0.3 All other functions of the Combined Authority will be Non-Mayoral Functions – see further paragraph 3.2.
- 3.0.4 Where any Mayoral or Non-Mayoral Function is concurrent with any Constituent Council, (that is, where Constituent Councils share any function), arrangements for their exercise will be a matter for agreement between the Combined Authority and a Constituent Council.
- 3.0.5 It is proposed that the Constituent Councils, Public Authorities and the Combined Authority will agree operating protocols for the exercise of concurrent functions by the Combined Authority where considered appropriate. These protocols will recognise the strategic role of the Combined Authority and safeguard the role of Constituent Councils in local decision making and delivery.

### 3.1 Functions exercised by the Mayor - overview

3.1.1 It is proposed that the Mayoral Functions will be:

a) **Transport**

- I. Power to draw up a local transport plan and strategies

- II. Power to request local regulations requiring large fuel retailers to provide Electric Vehicle charging points
- III. Bus franchising powers
- IV. Ability to pay grants to operators.

**b) Housing and planning** (see further paragraph 3.5 below)

- I. Housing and land acquisition powers to support housing, regeneration, infrastructure and community development and wellbeing
- II. Power to designate a Mayoral Development Area and then set up a Mayoral Development Corporation
  
- III. Statutory spatial planning powers to produce a Spatial Development Strategy

**c) Finance** (see further paragraphs 4.2 and 4.5 (Finance))

- I. Power for the Mayor to set a **precept** on council tax to fund Mayoral functions (resulting from the setting of the Mayoral budget)
- II. Power to charge **business rate supplement** (subject to ballot)

3.1.2 For the purposes of the discharge of Mayoral Functions it is also proposed that the Mayor may exercise the ancillary power set out under section 113A of the 2009 Act (general power of combined authority). By law, the Mayor may not exercise this power to borrow money.

3.1.3 As stated above, it is also proposed that the Mayor exercises **PCC Functions** – see paragraph 3.6.

## 3.2 Non-Mayoral Functions - overview

3.2.1 Non-Mayoral Functions to be exercised by the Combined Authority include any function conferred on the Combined Authority by the 2014 Order, with the exception of specified functions relating to the local transport plan only (see paragraph 3.3.1).

3.2.2 In addition to the functions of the Combined Authority conferred by the 2014 Order, it is proposed that the Combined Authority exercise the following additional Non-Mayoral Functions:

- a) **Transport-related powers** to set up and coordinate a Key Route Network on behalf of the Mayor (unless otherwise agreed locally, all operational responsibility for Key Route Network roads will remain with the Constituent Councils) (see further paragraph 3.3.3)
  - b) **Transport-related powers** to collect contributions from utility companies for diversionary works needed as a result of highways works carried out on the Key Route Network (see further paragraph 3.3.3)
  - c) Powers to operate a permit scheme designed to control the carrying out of works on the Key Route Network (see further paragraph 3.3.3)
  - d) **Adult education and skills functions** (see further paragraph 3.4)
  - e) **Housing functions** relating to compulsory purchase, plus provision of housing and land, land acquisition and disposal, and development and regeneration of land. (see further paragraph 3.5)
  - f) **Economic development** – duty to prepare an assessment of economic conditions (see further paragraph 3.5.3.2)
  - g) **Finance** – power to borrow up to an agreed cap for non-transport functions (see further paragraph 4.4).
  - h) The power to seek consent to raise a **Strategic Infrastructure Tariff** (see further paragraph 4.6).
- 3.2.3 Notwithstanding the above, any Constituent Council and the Combined Authority may, enter into arrangements under Section 101 of the Local Government Act 1972 and/or Section 9EA of the Local Government Act 2000 and the Local Authorities (Arrangements for Discharge of Functions) (England) Regulations 2012 to allow the delegation of functions from a Constituent Council to the Combined Authority. Any such delegation arrangement will require the agreement of the Combined Authority and the relevant Constituent Council.
- 3.2.4 The Combined Authority may also enter into joint arrangements with any Constituent Council or other local authority, in respect of Non-Mayoral Functions, in accordance with S101(5) of the Local Government Act 1972.



## 3.3 Transport

3.3.1 The Mayor will be given the functions in Part 2 of the Transport Act 2000 to produce a Local Transport plan and strategies. Members of the Combined Authority will be able to amend the Local Transport Plan and strategies if a majority of members agree to do so.

### 3.3.2 Consolidated Transport Budget

3.3.2.1 The Mayor will be responsible for a devolved and consolidated multi-year local transport budget for the Combined Area (West Yorkshire) including all relevant devolved highways funding, to enable greater surety of funding, more effective and efficient long-term asset management and procurement arrangements. This budget will be fully devolved and provide a firm funding settlement for a five-year period starting in 2022/23. This Mayoral budget is separate from the existing 20-year transport funding (West Yorkshire plus Transport Fund) that has already been agreed with Government.

3.3.2.2 It is proposed that the Combined Authority will be able to exercise the functions of a minister of the Crown contained in Section 31 of the Local Government Act 2003 to pay grants to the Constituent Councils for exercising highway functions. This function is a Mayoral Function exercisable concurrently with a Minister of the Crown.

### 3.3.3 Roads

3.3.3.1 The Combined Authority will take on highways powers to set up and coordinate a Key Route Network (KRN) on behalf of the Mayor. The strategy for the KRN will be developed, agreed and coordinated by the Combined Authority on behalf of the Mayor. The Combined Authority will be the Highway Authority for the KRN for the purposes of exercising the powers of the Highways Act 1980 and the relevant other primary and secondary legislation.

3.3.3.2 In partnership with Constituent Councils, the Combined Authority and the Mayor will develop a single strategic asset management plan, and where practical, work towards streamlined contractual and delivery arrangements across the Combined Area (West Yorkshire).

3.3.3.3 It is proposed to grant the Combined Authority functions in relation to the KRN as more particularly set out below. These will enable the KRN to be defined and allow the KRN roads to be strategically managed and

coordinated at the West Yorkshire level by the Combined Authority on behalf of the Mayor. However, unless otherwise agreed locally, all operational responsibility for highways will remain with the Constituent Councils. As such the specific functions of the Combined Authority which relate to operational management of the roads within the KRN will only be exercised with the unanimous approval of the five members of the Combined Authority appointed by a Constituent Council (who are not appointed for political balance).

#### 3.3.3.4 The Combined Authority will be granted the following powers:

- a) Powers equivalent to those contained within the Road Traffic Regulation Act 1984 in relation to traffic orders (including sections 1, 2(4), 9, 23 and 65) and the power to enter into agreements as if it were a traffic authority pursuant to section 121A. The Combined Authority will only exercise such functions with the unanimous approval of the five members of the Combined Authority appointed by a Constituent Council (who are not appointed for political balance);
- b) Powers contained in the New Roads and Street Works Act 1991, the Traffic Management Act 2004 and the Traffic Management Permit Scheme (England) Regulations 2007 to enable the Combined Authority to manage street works and issue permit schemes to manage disruption and bid to the Secretary of State for Transport to seek approval to operate a lane rental scheme in relation to KRN roads, including seeking contributions from utility companies through lane rental and exercising the power to create an updated lane rental scheme as needed (subject to the Secretary of State's agreement) together with powers relating to moving traffic offences. The Combined Authority will only exercise such functions with the unanimous approval of the five members of the Combined Authority appointed by a Constituent Council (who are not appointed for political balance).
- c) The Combined Authority will be granted, in respect of the KRN, powers in relation to the enforcement of bus lane contraventions pursuant to the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005. The Combined Authority will only exercise such functions with the approval of the five members of the Combined Authority appointed by a Constituent Council (who are not appointed for political balance). The outcome will be to ensure a consistent approach to the enforcement, application of penalty charges etc. of bus lanes.

#### 3.3.3.5 The Combined Authority will be granted functions equivalent to the below, concurrently with the relevant Constituent Council, unless otherwise stated:

- a) Section 6 of the Highways Act 1980 (enabling the Secretary of State or Highways England to delegate or enter into an agreement with a county council, metropolitan district council or London borough council in relation to the construction, improvement or maintenance of trunk roads). It is proposed that the section should be modified to include the Combined Authority amongst the authorities to which such functions may be delegated, to support better integration between local and national networks, or the equivalent legislative provision in order to achieve the aim of better integration.
  
- b) Section 8 of the Highways Act 1980 (enabling local highway authorities and Highways England to enter into agreements with other such authorities in relation to the construction, improvement, maintenance etc. of a highway for which any party to the agreement is the highway authority). It is proposed that the section be modified to allow the Combined Authority to be a party to such agreement as if it were a local highway authority, with the consent of any affected highway authority, or the equivalent legislative provisions in order to allow the Combined Authority to be party to such agreements.

3.3.3.6 Under the Automated and Electric Vehicles Act 2018, the Mayor will have the power to request from the Secretary of State local regulations requiring large fuel retailers to provide electric vehicle charging points within the Combined Area.

### 3.3.4 Buses

3.3.4.1 The Combined Authority will be granted powers under section 154 of the Transport Act 2000 to make grants to bus operators.

3.3.4.2 As an MCA, the Combined Authority will become a franchising authority under the Transport Act 2000. This Act provides for the Mayor to carry out functions in relation to making, varying or revoking a franchising scheme.

## 3.4 Adult Education / Skills and Employment

3.4.1 It is proposed that the Combined Authority will be given devolved functions in respect of Adult Education and will control the Adult Education Budget (AEB) from the academic year 2021/2022 subject to readiness conditions and successful passage through Parliament.

- a) These functions include those set out in the following sections of the Apprenticeships, Skills, Children and Learning Act 2009: section 86 (education and training for persons aged 19 or over and others subject to adult detention);
- b) section 87 (learning aims for persons aged 19 or over: provision of facilities);
- c) section 88 (learning aims for persons aged 19 or over: payment of tuition fees);
- d) section 90 (encouragement of education and training for persons aged 19 or over and others subject to adult detention);
- e) section 100 (provision of financial resources)

3.4.2 The Combined Authority will also have the responsibilities and functions under sections 15ZA, 15ZB, 15ZC, 18A(1)(b), 514A and 560A of the Education Act 1996 (duties and powers related to the provision of education and training for persons over compulsory school age)

3.4.3 In addition, the Combined Authority will also have the following authority functions to be held concurrently with Constituent Councils:

- a) sections 10 and 12 of the Education and Skills Act 2008 to ensure that its functions are exercised so as to promote the effective participation in education and training of relevant persons in its area aged 16 and 17, and to make arrangements to enable it to establish (so far as possible) the identities of such relevant persons.
- b) sections 68, 70, 71 and 85 of the Education and Skills Act 2008 to make available to young persons and relevant young adults such support services as it considers appropriate to encourage, enable and assist the effective participation of such persons in education and training.
- c) section 13A of the Education Act 1996 to ensure that their education and training functions are exercised with a view to promoting high standards, fair access to opportunity for education and training, and the fulfilment of learning potential.
- d) section 51A of the Further and Higher Education Act 1992 to require relevant institutions in the further education sector to provide appropriate education to specified individuals aged between 16 and 18 years.

## 3.5 Housing and Planning Functions

### 3.5.1 Housing

3.5.1.1 In order to exercise the functions outlined in the “minded to” Devolution Deal, it is proposed that the Combined Authority will be granted the following powers concurrently with the Constituent Councils or Homes England as appropriate.

3.5.1.2 It is proposed that the Combined Authority will be granted devolution of the objectives and functions of Homes England under section 2(1) of the Housing and Regeneration Act 2008 (to be exercised only in respect of the Combined Area) and the following powers contained in the 2008 Act will be exercised by the Combined Authority concurrently with Homes England:

- a) Section 3 (principal power);
- b) Section 4 (general powers);
- c) Section 5 (powers to provide housing or other land);
- d) Section 6 (powers for regeneration, development or effective use of land);
- e) Section 7 (powers in relation to infrastructure);
- f) Section 8 (powers to deal with land etc);
- g) Section 9 (acquisition of land);
- h) Section 10 (restrictions on disposal of land);
- i) Section 11 (main powers in relation to acquired land);
- j) Section 12 (powers in relation to, and for, statutory undertakers);
- k) Section 19 (power to give financial assistance);
- l) Paragraphs 19 and 20 of Schedule 3 (powers in relation to burial grounds and consecrated land etc.)
- m) Paragraphs 1,2,3,4,6,10 and 20 of Schedule 4 (extinguishment or removal powers for the HCA)

3.5.1.3 These functions will be Non-Mayoral with the exception of the specific Homes England compulsory purchase powers in section 9 of the 2008 Act (see below).

3.5.1.4 The objectives in section 2(1) of the 2008 Act are to provide the Combined Authority with the necessary powers:

- a) to improve the supply and quality of housing;
- b) to secure the regeneration or development of land or infrastructure;
- c) to support in other ways the creation, regeneration and development of communities or their continued well-being; and

- d) to contribute to the achievement of sustainable development and good design.

3.5.1.5 The functions in this section include powers enabling the achievement of the above objectives. Such powers include the power of compulsory purchase contained in section 9 of the 2008 Act (subject to the authorisation of the Secretary of State). In order to achieve the objectives above, it is proposed that the Combined Authority should also have the benefit of exemption from section 23 of the Land Compensation Act 1961, which is enjoyed by Homes England under section 23(3)(d) of that Act.

3.5.1.6 As set out above, it is proposed that the exercise of the compulsory purchase power contained in section 9 of the 2008 Act, will only be exercisable by the Mayor with the consent of the member of the Combined Authority appointed by the Constituent Council (who is not appointed for political balance) for the area(s) of land to be compulsorily acquired and the Secretary of State.

3.5.1.7 It is proposed that the Combined Authority should be granted the power to acquire land for the development of housing under section 17 of the Housing Act 1985 and the associated section 18. It is proposed that the power to acquire land compulsorily under Section 17(3) of the Housing Act 1985 will be a Mayoral Function but will require the consent of the member of the Combined Authority appointed by the Constituent Council (who is not appointed for political balance) for the area(s) of land to be compulsorily acquired and the Secretary of State.

3.5.1.8 The conferral of such powers on the Combined Authority will be entirely without prejudice to the exercise of those powers by the Constituent Councils which will exercise those powers concurrently.

### 3.5.2 Mayoral Development Corporation

3.5.2.1 It is proposed that the Mayor will have the power to designate an area a Mayoral Development Area (“MDA”) and so create a Mayoral Development Corporation (“MDC”) to help drive regeneration and expedite housing delivery on complex schemes in the area. The advantage of MDCs is that they have most of the powers of an Urban Development Corporation but are controlled locally rather than by the Secretary of State.

3.5.2.2 It is proposed that Part 8, Chapter 2 of the Localism Act 2011 be modified so that references to the GLA, Greater London and the London Mayor would include the Combined Authority and the Mayor. This would enable the Combined Authority to have functions for the Combined Area corresponding

to the following functions contained in the Localism Act 2011 that the Mayor of London has:

- a) Section 197 (designation of Mayoral development areas);
- b) Section 199 (exclusion of land from Mayoral development areas);
- c) Section 200 (transfers of property etc. to a Mayoral development corporation);
- d) Section 202 (functions in relation to town and country planning);
- e) Section 204 (removal or restriction of planning functions);
- f) Section 214 (powers in relation to discretionary relief from non-domestic rates);
- g) Section 215 (reviews);
- h) Section 216 (transfers of property, rights and liabilities);
- i) Section 217 (dissolution: final steps);
- j) Section 219 (guidance by the Mayor);
- k) Section 220 (directions by the Mayor);
- l) Section 221 (consents);
- m) Paragraph 1 of Schedule 21 (membership);
- n) Paragraph 2 of Schedule 21 (terms of appointment of members);
- o) Paragraph 3 of Schedule 21 (staff);
- p) Paragraph 4 of Schedule 21 (remuneration etc: members and staff);
- q) Paragraph 6 of Schedule 21 (committees); and
- r) Paragraph 8 of Schedule 21 (proceedings and meetings).

3.5.2.3 It is proposed that the Mayor's power to designate an area a MDA under Section 197 of the Localism Act 2011 will require the consent of the member of the Combined Authority appointed by the Constituent Council (who is not appointed for political balance) whose local government area contains any part of the MDA.

3.5.2.4 It is further proposed that the Mayor's power to exclude land from a MDA under Section 199 of the Localism Act 2011 will require the consent of the member of the Combined Authority appointed by the Constituent Council (who is not appointed for political balance) whose local government area contains any part of the area to be excluded from the MDA.

3.5.2.5 It is also proposed that the London Mayor's power under section 202 of the Localism Act 2011 to decide that a MDC should have certain planning functions in relation to the whole or part of a MDA should be modified in

relation to the Mayor so that the Mayor can only exercise this power with the consent of the member of the Combined Authority appointed by the Constituent Council (who is not appointed for political balance) whose local government area contains any part of the MDA concerned.

### **3.5.3 Economic Development and Regeneration**

3.5.3.1 For the avoidance of doubt, the Combined Authority currently has the general power of competence pursuant to Section 1 of the localism Act 2011 exercisable for the purposes of economic development and regeneration which it will retain as an MCA.

3.5.3.2 It is proposed that the Combined Authority will have a duty to prepare an assessment of economic conditions under section 69 of the 2009 Act, concurrently with the Constituent Councils.

3.5.3.3 The Combined Authority will be granted the power to exercise concurrently with the Constituent Councils the functions of the Constituent Councils to compulsorily acquire land for development and other planning purposes under section 226 of the Town and Country Planning Act 1990 and the associated powers under sections 227, 229, 230, 232, 233, 235-241 of the Town and Country Planning Act 1990. The Combined Authority's exercise of such powers will in each instance be subject to the consent of the member of the Combined Authority appointed by the Constituent Council (who is not appointed for political balance) in whose area the property is located.

3.5.3.4 The conferral of such powers on the Combined Authority will be entirely without prejudice to the exercise of those powers by the Constituent Councils which will exercise those powers as previously.

### **3.5.4 Strategic Place Partnership**

3.5.4.1 It is proposed that the Combined Authority and Homes England will establish a Strategic Place Partnership to work together to identify and develop key opportunities for housing delivery. The creation of the partnership does not require any new statutory provision.

### **3.5.5 Planning**

3.5.5.1 It is proposed that the Mayor will have the power to create a statutory Spatial Development Strategy for the Combined Area (West Yorkshire). This will coordinate strategic land-use planning with strategic transport planning



providing a framework to achieve a strategic level change in environmental planning policy to reduce carbon emissions and tackle the climate emergency.

3.5.5.2 The development of the scope and preferred approach to a Spatial Development Strategy will require an inclusive and collaborative approach to be taken by the Mayor together with other members of the Combined Authority and the Constituent Councils. Its approval will require the consent of each of the five members of the Combined Authority appointed by a Constituent Council (who are not appointed for political balance).

3.5.5.3 It is proposed that the Mayor will have the functions for the Combined Area corresponding to the following functions contained in the Greater London Authority Act 1999 (“the 1999 Act”) which the Mayor of London exercises in relation to Greater London or where appropriate such sections will apply subject to appropriate modifications:

- a) Section 334 (the spatial development strategy);
- b) Section 335 (public participation);
- c) Section 336 (withdrawal);
- d) Section 337 (publication);
- e) Section 338 (examination in public);
- f) Section 339 (review of matters affecting the strategy);
- g) Section 340 (review of the strategy);
- h) Section 341 (alteration or replacement);
- i) Section 342 (matters to which the Mayor is to have regard);
- j) Section 343 (ability of the Secretary of State to make regulations);
- k) Section 344 (amendments to the Town & Country Planning Act 1990);
- l) Section 346 (monitoring and data collection);
- m) Section 347 (constituent councils to have regard to the strategy); and
- n) Section 348 (Mayor’s functions as to planning around Greater London)

3.5.5.4 The exercise of any of the functions corresponding to the functions in sections 33(public participation), 336 (withdrawal), 337 (publication) and 341 (alteration or replacement) of the 1999 Act by the Mayor will require the consent of each member of the Combined Authority appointed by a Constituent Council (who are not appointed for political balance).

## 3.6 PCC Functions

### 3.6.1 Legislative Context

3.6.1.1 The Police Reform and Social Responsibility Act 2011 (the 2011 Act) established the position of PCC for West Yorkshire and specifies the core functions of a PCC. By Order under the 2009 Act these may be exercised by the Mayor.

3.6.1.2 An order providing for the Mayor to exercise the functions of a PCC must provide that there is to be no directly elected PCC in the Combined Authority area from a specified date.

### 3.6.2 Proposals

3.6.2.1 The Mayor will carry out the functions conferred on the PCC for West Yorkshire under Part 1 of the 2011 Act or any other Act (whenever passed) (the PCC Functions) in relation to the Combined Area, which corresponds to the West Yorkshire police area. This will provide for a single directly accountable individual responsible for the discharge of the PCC's functions, which will be consistent with the current PCC model and ambition for local people to have a single point direct accountability. Key PCC Functions are:

- securing the maintenance of an efficient and effective police force and holding the chief constable to account,
- issuing a police and crime plan, and
- appointing, suspending or calling on a chief constable to retire or resign.

3.6.2.2 In accordance with the 2009 Act, any PCC Function is to be taken to be a function of the Combined Authority exercisable by the Mayor acting individually, or by a person acting under arrangements with the Mayor in accordance Schedule 5C of the 2009 Act – see further below.

3.6.2.3 Under the 2011 Act, the PCC for West Yorkshire is a Corporation Sole carrying out the functions provided for in the 2011 Act. As set out above, it is proposed that the PCC Functions will be exercised by the Mayor who will have the sole responsibility for the PCC Functions. However, the following will transfer to the Combined Authority as legal entity although the decision-making in respect of these functions, after the transfer, will remain with the Mayor:

- Properties, Rights and Liabilities
- Appointments
- Borrowing
- Contracts

### 3.6.3 Deputy Mayor for Policing and Crime

3.6.3.1 Where an Order provides for the Mayor to exercise PCC Functions, the Secretary of State must by order authorise the Mayor to appoint a Deputy Mayor for Policing and Crime. The 2009 Act precludes the appointment as Deputy Mayor for Policing and Crime of:

- the Deputy Mayor;
- any person listed in section 18(6) of the 2011 Act; or
- any other person of a description specified by order.

### 3.6.4 PCC Functions

3.6.4.1 A Mayor may delegate any PCC Function to a Deputy Mayor for Policing and Crime, with the exception of functions reserved by Order in accordance with the 2009 Act as exercisable only by the Mayor, as follows:

- issuing a police and crime plan;
- calculating a council tax or budget requirement;
- appointing, suspending or calling on a chief constable to retire or resign; and
- any other function specified by Order.

3.6.4.2 PCC Functions that may only be exercised by the Mayor and/or the Deputy Mayor for Policing and Crime are:

- determining police and crime objectives;
- attendance at a meeting of a Police and Crime Panel in compliance with a requirement by the panel to do so;
- preparing an annual report;
- appointing a local auditor under section 7 of the Local Audit and Accountability Act 2014 (“the 2014 Act”); and
- deciding whether to enter into a liability limitation agreement under section 14

3.6.4.3 In addition, the Mayor, must by order be authorised to arrange for any other person to exercise any PCC Functions, such as an officer of the Combined Authority, but such an order must prevent the Mayor from arranging for a person to exercise:

- Any PCC Function if the person is listed in section 18(6) of the 2011 Act
- Any PCC Function listed in section 18(7) of the 2011 Act, or
- Any other PCC Function specified by order.

3.6.4.4 The Deputy Mayor for Policing and Crime must also by order be authorised to arrange for any other person to exercise any PCC Functions exercisable by the Deputy Mayor for Policing and Crime, but such an order must prevent the Deputy Mayor for Policing and Crime from arranging for a person to exercise

- Any PCC Function if the person is listed in section 18(6) of the 2011 Act,
- Any PCC Function of a kind listed in section 18(7)(b),(c) or (d) of the 2011 Act, (determining police and crime objectives, attending at a meeting of the Police and Crime Panel in compliance with a requirement, or preparing an annual report to a Policing and Crime Panel), or
- Any other kind of PCC Function specified by order.

### 3.6.5 Transfer of properties, rights and liabilities

3.6.5.1 All property, rights and liabilities which are property, rights and liabilities of the PCC for West Yorkshire will transfer and vest in the Combined Authority, subject to any exceptions to be agreed. However, all decisions relating to PCC Functions (and relating to assets and liabilities etc.) will be for the Mayor unless delegated as set out above. The Order will also provide for:

- all functions in relation to such property, rights and liabilities to be exercised by the Mayor;
- all decisions relating to such property, rights and liabilities to be made by the Mayor;
- any receipts arising from such property, rights and liabilities (whether arising from their use, sale, disposal or otherwise) are to be paid into the Police Fund kept by the Mayor by virtue of section 21 of the 2011 Act.

### 3.6.6 Continuity

3.6.6.1 The transfer of the functions of the PCC of West Yorkshire, and the transfer of property, rights and liabilities, do not affect the validity of anything done before the abolition or transfer.

3.6.6.2 The Combined Authority is to be substituted for the PCC for West Yorkshire in any instruments, contracts or legal proceedings which relate to any of the functions, property rights or liabilities transferred and which were made and commenced before the transfer and anything which was made or done by the PCC for West Yorkshire in connection with any of the functions, property rights or liabilities transferred before the transfer has effect as if made or done by the Combined Authority, subject to any exceptions to be agreed.

### **3.6.7 Staff of the Police and Crime Commissioner**

3.6.7.1 The staff of the PCC of West Yorkshire will transfer under a statutory transfer order which will replicate the characteristics of a TUPE transfer.

### **3.6.8 Police and Crime Panel**

3.6.8.1 Scrutiny of the discharge of PCC Functions will be performed by a Police and Crime Panel established in relation to the Combined Area by order in accordance with the 2008 Act, which carries out functions of a police and crime panel (as set out in section 28 and section 29 of the 2011 Act) to effectively scrutinise the actions and decisions of the Mayor and Deputy Mayor for Policing and Crime, and enable them to be held to account in public.

3.6.8.2 These functions include reviewing:

- a draft police and crime plan,
- an annual report,
- proposed senior appointments,
- any proposed precept for PCC Functions, (including a power of veto), and
- the appointment, suspension or removal of the chief constable.

3.6.8.3 In accordance with the 2011 Act, the Secretary of State must also by order provide for the Police and Crime Panel to have power to suspend the Mayor, so far as acting in the exercise of PCC Functions, in circumstances corresponding to those mentioned in section 30(1) of the 2011 in relation to a PCC.

3.6.8.4 In accordance with section 29 of the 2011 Act, the Police and Crime Panel may require the Mayor and members of staff to attend before the Panel to answer any question which appears to the Panel to be necessary in order for

it to carry out its functions. If the Panel requires the Mayor to attend, it may also request the chief constable to attend on the same occasion. The Panel may also require the Mayor to respond in writing to any report or recommendation the Panel makes to the Mayor.

3.6.8.5 The Police and Crime Panel will exercise the same functions under sections 28 and 29 of the 2011 Act, as police and crime panels under the PCC model, but with some minor modifications, such as reflecting that the Panel only scrutinises the policing component of the precept, which forms a separately identifiable component of a wider Combined Authority precept, rather than the whole precept.

3.6.8.6 The Police and Crime Panel may by order have oversight functions in relation to any Mayoral Function that is exercised by the Deputy Mayor for Policing and Crime. Any such order may disapply or modify provisions relating to the Overview and Scrutiny Committee, in relation to any Mayoral Function coming within the remit of the Panel.

### **3.6.9 Police Fund**

3.6.9.1 The Mayor will be required to maintain a separate fund in relation to receipts arising and liabilities incurred in the exercise of PCC Functions (the Police Fund). The Police Fund will be kept separate to the Mayor's General Fund (see paragraph 4 below) and all receipts arising will be paid into it, and liabilities incurred in the exercise of PCC Functions must be paid out of it.

3.6.9.2 Money paid into the Police Fund will be reserved for policing. For example, receipts from the sale of police assets would have to be spent on matters relating to policing. In line with statutory guidance for PCCs, as set out in the 'Revised Financial Management Code of Practice' for policing, the Mayor would have to publicly account for expenditure from the Police Fund.

3.6.9.4 The Police Fund, which will include precept income, will also include reserves maintained for policing and crime reduction. The Local Government Finance Act 1992 requires billing and precepting authorities in England and Wales to have regard to the level of reserves needed for meeting estimated future expenditure when calculating the budget requirement. Police reserves should be maintained in accordance with the relevant guidance, agreed accounting principles and locally agreed financial regulations and schemes of governance.

3.6.9.5 The Mayor is responsible for expenditure on PCC Functions. Money in the Police Fund can only be spent on PCC Functions and matters that are incidental to the PCC Functions.

3.6.9.6 Decisions on the sale of police assets and reinvestment of receipts must be made by the Mayor and money paid into Police Fund.

### **3.6.10 Borrowing**

3.6.10.1 The Mayor will be ultimately responsible for decisions relating to borrowing in relation to PCC Functions, (as laid out in the ‘Revised Financial Management Code of Practice’ for Policing), but may delegate them in practice. The cost of such borrowing will be met from the Police Fund and as above kept separate to the discharge of other Combined Authority functions, which are not PCC Functions. This does not detract from the legal status of the Combined Authority as the borrowing party.

### **3.6.11 Contracts**

3.6.11.1 Decisions on entering into contracts regarding police matters are functions of a PCC under the PCC model (with scope for some delegation to the Chief Constable). As such and in keeping with the PCC model the Mayor will have ultimate responsibility for all contracts relating to police matters, although they may provide consent for contracts to be entered into by the chief constable or another to whom the Mayor personally delegates responsibility in accordance with statutory provisions, any agreements and protocols.

3.6.11.2 Decisions on the issuing of policing-related grants would also rest with the Mayor or anyone to whom they delegate responsibility.

### **3.6.12 Police and Crime Plan**

3.6.12.1 The Police and Crime Plan which involves consideration of the strategic policing requirement is a key public facing deliverable. The provisions on police and crime plans as set out in the 2011 Act will still apply to the Mayor carrying out PCC Functions.

### **3.6.13 Policing Protocol**

3.2.13.1 The Mayor will be required by order to have regard to the Policing Protocol issued by the Secretary of State under section 79 of the 2011 Act.

3.2.13.2 The Policing Protocol sets out ways in which relevant persons should, in the Secretary of State's view, exercise or refrain from exercising functions so as to encourage maintain or improve working relationships (including co-operative working) between relevant persons, and limit or prevent the overlapping or conflicting exercise of functions.

### **3.6.14 West Yorkshire Police**

3.6.14.1 West Yorkshire Police will remain a distinct and separate organisation as set out in legislation.

### **3.6.15 Complaints about Conduct**

3.6.15.1 The 2011 Act provides that the Secretary of State must by order make provision about the procedures for making, handling and investigating complaints about the conduct of the Mayor and Deputy Mayor for Policing and Crime.

### **3.6.16 Consequential amendment and modification requirements**

3.6.16.1 The following consequential amendment and modification requirements of enactments may be required in their application to the Combined Authority with PCC Functions:

### **3.6.17 Primary Legislation**

- Amendments to the Police Reform and Social Responsibility Act 2011
- Modifications to the Local Government Act 1972
- Police (Property) Act 1897
- Trustee Investments Act 1961
- Pensions (Increase) Act 1971
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government, Planning and Land Act 1980
- Local Government Finance Act 1988
- Road Traffic Act 1988
- Local Government and Housing Act 1989
- Police Act 1996



- Police Reform Act 2002
- Proceeds of Crime Act 2002
- Railways and Transport Safety Act 2003
- Local Government Act 2003
- Local Government and Public Involvement in Health Act 2007
- Local Democracy, Economic Development and Construction Act 2009
- Police Reform and Social Responsibility Act 2011
- Local Audit and Accountability Act 2014

### 3.6.18 Secondary legislation

- Motor Vehicles (Third Party Risks) Regulations 1972
- Official Secrets Act 1989(Prescription) Order 1990
- Police (Disposal of Sound Equipment) Regulations 1995
- Police (Property) Regulations 1997
- Health and Safety (Enforcing Authority) Regulations 1998
- Motor Vehicles (Driving Licences) Regulations 1999
- Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999
- Motor Vehicles (Access to Driver Licensing Records) Regulations 2001
- Police and Criminal Evidence Act 1984 (Drug Testing of Persons in Police Detention) (Prescribed Persons) Regulations 2001
- Police Regulations 2003
- Docking of Working Dogs' Tails (England) Regulations 2007
- REACH Enforcement Regulations 2008
- Elected Local Policing Bodies (Specified Information) Order 2011
- Policing Protocol Order 2011
- Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012
- Police Appeals Tribunals Rules 2012
- Police and Crime Commissioner (Disqualification) (Supplementary Provisions) Regulations 2012
- Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012
- Local Government Pension Scheme Regulations 2013

- Local Audit (Auditor Resignation and Removal) Regulations 2014
- Combined Authorities (Mayors) (Filling of Vacancies) Order 2017

### **3.7 Miscellaneous**

- 3.7.1 For the avoidance of doubt, the Combined Authority will be a body specified for the purposes of Section 33 of the Value Added Tax Act 1994. This will entitle the Combined Authority to claim refunds of Value Added Tax charged on supplies to, and acquisitions or importations by the Combined Authority.

### **3.8 Information Sharing**

- 3.8.1 It is proposed that sections 17A and 115 of the Crime and Disorder Act 1998 should be amended to give the Combined Authority the same standing as a Local or Public Authority for the purpose of information sharing, given that the Mayor will be exercising PCC Functions.

# Finance and Investment

## 4.1 Levy

- 4.1.1 The Combined Authority will continue to have the power to issue a levy to its Constituent Councils in respect of transport functions under section 74 of the Local Government Finance Act 1988 (levies) and in accordance with the Transport Levying Bodies Regulations 1992.

## 4.2 Precept

- 4.2.1 It is proposed that the Secretary of State makes an Order to provide for the costs of the Mayor for the Combined Area that are incurred in, or in connection with, the exercise of Mayoral Functions to be met from precepts issued by the Combined Authority under section 40 of the Local Government Finance Act 1992, and also provide for a precept for PCC Functions exercised by the Mayor, subject to any transitional provisions.
- 4.2.2 That is, the Mayor will have the power to issue a Council Tax Precept on behalf of the Combined Authority in relation to Mayoral Functions and PCC Functions.
- 4.2.3 The council tax requirement calculated under S42A of the Local Government Finance Act 1992 will consist of separate components for the Mayoral Functions and PCC Functions. The components will appear separately on council tax bills, and any monies paid to the Mayor by a billing authority in respect of the PCC Functions component of a precept must be paid by the Mayor into the Police Fund – see paragraph 3.6 above.
- 4.2.4 Any precept in relation to Mayoral Functions will be subject to scrutiny and amendment under the procedure relating to the Mayor's budget, as set out below.
- 4.2.5 The precept in relation to PCC Functions will be subject to scrutiny by the Police and Crime Panel – see paragraph 3.6.

## 4.3 Mayor's budget

- 4.3.1 The Combined Authority will follow the procedure set out in the Combine Authorities (Finance) Order (SI 2017/611) (the Finance Order) to approve the Mayor's budget. The Finance Order provides that each year, the Mayor must prepare a draft budget in respect of Mayoral Functions by 1 February, setting out the Mayor's spending plans and how the Mayor intends to meet the costs of Mayoral Functions, and including the relevant amounts and calculations to be used for the purpose of determining the precept.
- 4.3.2 In accordance with the Finance Order, if the Mayor fails to present a draft budget to the Combined Authority by 1 February, the Combined Authority must determine the relevant amounts and calculations. The Mayor is not excluded from voting on this decision, which would be decided by a 2/3 majority.
- 4.3.3 The Combined Authority must review any draft budget, and may make a report on it, to include any changes the Combined Authority thinks the Mayor should make to the draft budget. The Mayor does not vote on this decision, and the default simple majority voting arrangement would apply. (If the Combined Authority does not make a report before 8 February, the Mayor's draft budget shall be deemed to be approved).
- 4.3.4 Where the Combined Authority makes a report, the Mayor will then decide whether to make any changes to the draft budget and notify the Combined Authority of the reasons for their decision, and where changes are made, the revised draft budget.
- 4.3.5 The Combined Authority may then:
- approve the Mayor's draft budget, containing any revisions the Mayor has chosen to make, (default simple majority voting arrangement applies) or
  - veto the draft budget, and approve a budget incorporating the Combined Authority's recommendations set out in its report to the Mayor (it is proposed that a 5/8 majority of the members of the Combined Authority excluding the Mayor would be required for this.)
- 4.3.6 The Mayor's budget will also be scrutinised by the Combined Authority's Overview and Scrutiny Committee. The Mayor may change their draft budget further to any recommendations received from the Overview and Scrutiny Committee, and in accordance with the procedure set out in the Finance Order.

## 4.4 Borrowing

- 4.4.1 It is proposed that West Yorkshire Authorities will consent to Regulations being made pursuant to section 23(5) of the Local Government Act 2003 to extend the Combined Authority's existing borrowing powers (for transport functions) to other priority infrastructure projects, including but not limited to: highways, housing, investment and economic regeneration, as relevant to the exercise of the Combined Authority's functions, both Mayoral and Non-Mayoral, within agreed limits.

## 4.5 Business Rate Supplement

- 4.5.1 It is proposed that the Mayor will have the power, with the agreement of the Combined Authority and in consultation with the business community, to raise a Business Rate Supplement to fund infrastructure investment. The Combined Authority will be a levying authority for the purposes of the Business Rates Supplement Act 2009 and the Constituent Councils shall be deemed to be acting jointly through the Combined Authority in accordance with Section 2(3) of the Business Rates Supplement Act 2009.

## 4.6 Strategic Infrastructure Tariff

- 4.6.1 The Combined Authority will be able to seek consent to raise a Strategic Infrastructure Tariff to enable it to raise funding for strategic infrastructure.

## 4.7 Mayor's General Fund

- 4.7.1 The Finance Order will require the Mayor to keep a fund (to be known as the Mayor's "General Fund") in relation to receipts arising, and liabilities incurred, in the exercise of the Mayor's Mayoral Functions. All of the Mayor's receipts in respect of the exercise of the Mayoral Functions must be paid into the General Fund, and the Mayor's expenditure in respect of Mayoral Functions must be paid out of the General Fund. The Mayor must keep accounts of payments made into or out of the General Fund.



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