

Name of meeting: Council

Date: 25th November 2020

Title of report: West Yorkshire Devolution – Consent to Draft Order

Purpose of report:

To ask Council to consider, comment and endorse the report to be presented to Cabinet for decision on 26th November which considers the draft Order, to establish a mayoral combined authority and associated changes as set out in the ‘minded to’ Devolution Deal.

<p>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</p>	<p>Yes</p> <p>Likely to result in expenditure and savings of greater than £250,000 and affects more than 1 ward</p>
<p>Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u></p>	<p>Key Decision – N/A for Council but members should note that the Chair of Overview & Scrutiny Management Committee has agreed that the Cabinet decision be exempt from call-in on the grounds of urgency, for the reasons set out in paragraph 3.6 of this report.</p> <p>Private Report/Private Appendix – No</p>
<p>The Decision - Is it eligible for call in by Scrutiny?</p>	<p>No</p> <p>The Chair of Overview & Scrutiny Management Committee has agreed that this be exempt from call-in on the grounds of urgency, for the reasons set out in paragraph 3.6 of this report.</p>
<p>Date signed off by <u>Strategic Director</u> & name</p> <p>Is it also signed off by the Service Director for Finance IT and Transactional Services?</p> <p>Is it also signed off by the Service Director for Legal Governance and Commissioning Support?</p>	<p>Jacqui Gedman 17/11/20</p> <p>Eammon Croston 17/11/20</p> <p>Julie Muscroft 17/11/20</p>
<p>Cabinet member portfolio</p>	<p>Cllr Pandor, Leader of the Council</p>

Electoral wards affected: ALL

Ward councillors consulted: YES

Public or private: Public

Has GDPR been considered: YES

1. Summary

- 1.1 The West Yorkshire “minded-to” Devolution Deal was announced as part of the Budget on 11 March 2020. Subject to statutory processes, this will lead to the adoption of a mayoral combined authority model with additional functions.
- 1.2 At their meetings in September, the Combined Authority and each Constituent Council:
 - Considered the outcome of the public consultation on the Scheme, which has been undertaken jointly by the Constituent Councils and the Combined Authority; and
 - Resolved to submit the summary of the consultation responses to the Secretary of State.
- 1.3 Subsequently the consultation summary report, along with representations from Leeds City Council and Kirklees Council were submitted to the Secretary of State. This submission, along with the Scheme have then been used to draft the Order.
- 1.4 Following these approvals the report to Cabinet seeks consent to:
 - Consent in principle to the draft Order, to establish a mayoral combined authority and associated changes as set out in the ‘minded to’ Devolution Deal.
 - Delegate authority to the Managing Director of the Combined Authority, in consultation with the Leader and Chief Executive of each Constituent Council and the Chair of the Combined Authority, to finalise and consent to the final draft of the Order further to any technical issues which may arise.

2. Background Information

Benefits of the Deal

- 2.1 As previously reported, the Deal will devolve a range of powers and responsibilities to West Yorkshire Combined Authority. It will unlock significant long-term funding and give the region greater freedom to decide how best to meet local needs.
- 2.2 The ‘minded to’ devolution deal, the biggest ever of its kind, and establishing a Mayoral Combined Authority will enable more:
 - Funding: to invest in our people, businesses and communities
 - Powers: to shape West Yorkshire and take decisions closer to people
 - Influence: to shape Government policy and access further devolution and funds
- 2.3 The ‘minded to’ devolution deal offers both investment and decision making which are crucial to fulfil West Yorkshire’s potential and meet current challenges. The deal brings:
 - Control of £38m per year allocation of gainshare investment funding over 30 years, to drive growth and take forward our priorities
 - A five-year integrated transport settlement starting in 2022/23, and agreement to explore West Yorkshire Mass Transit
 - New powers relating to transport, including easier access to bus franchising and a regional approach to control of a Key Route Network
 - Devolution of Adult Education powers and the Adult Education Budget to shape local skills provision to respond to local needs
 - £25m Heritage Fund to support the establishing of a potential ‘British Library North’

- New powers on planning, focusing on zero carbon
- £3.2m to support development of a pipeline of housing sites across West Yorkshire
- Transport infrastructure development and funding for the Bradford Station Masterplan and the Outline Business Case for Leeds Station redevelopment
- Ongoing partnership with the Environment Agency on identifying and addressing flood risk management requirements with £101m allocated for West Yorkshire flood risk management schemes
- £200,000 for the Yorkshire Leaders Board
- £75,000 West Yorkshire Local Digital Skills Partnership
- Piloting the new National Green Infrastructure Standards with Natural England and DEFRA
- Transfer of Police & Crime Commissioner (PCC) functions to the new Mayor in 2021
- Commitment to working in partnership to explore an “Act Early” Health Institute
- Strengthened collaboration and partnership with Government

2.4 Devolution and Mayoral Combined Authority preparations are already having an impact on access to funding and increased opportunities for the region. These have been sought and secured through:

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

2.5 The initial gainshare funding for the financial year 2020/2021 will be available prior to the first Mayoral election, but subject to: the establishing legislation being in place; and a revised Assurance Framework being approved.

Process for enacting the deal

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

2.7 The process to enact the deal is set out in the timetable at appendix 1 to this report. This process addresses all statutory procedural requirements. Stages 1-4 are now complete. The following sections of the report provide a summary of the draft Order. The full document is available as [Appendix 2](#) to this paper.

Devolution Consultation Follow Up

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

- 2.9 A wide range of views were offered as part of the consultation responses. The high-level themes were included and responded to in the reports that were considered by the Combined Authority and Constituent Councils in September. Commitment was also made to reflect on the views expressed in devolution consultation and provide detailed responses. To ensure it is clear how views have been reflected the Combined Authority has responded to the comments raised through 'you said, we did' communications, which have been published on the YourVoice website. The themes covered include:
- General – cost, bureaucracy, decision making
 - Governance – decision making, local communities
 - Transport – ticketing, climate emergency
 - Employment and skills – unemployment, upskilling
 - Housing and planning – affordable housing, energy efficiency
 - Police and crime – accountability, politicisation
 - Finance – taxes, value for money
- 2.10 In addition, during the process of taking the consultation responses through Constituent Council meetings, although support was received, some issues were raised. The main issues raised were in relation to: scrutiny of the devolution implementation; and local engagement and decision making regarding the agreement of the Spatial Development Strategy.
- 2.11 These issues were raised in the letter to the Secretary of State, which accompanied the Consultation Summary Report.
- 2.12 As part of the work that the Combined Authority is undertaking to become a mayoral combined authority, scrutiny arrangements are being reviewed to ensure they are fit for purpose. As part of this work the Combined Authority's Overview and Scrutiny Committee are holding a range of working groups to discuss, review and make recommendations for change. The Chair of this committee has contacted Overview and Scrutiny Chairs from Constituent Councils to offer them an opportunity to comment on this work, particularly any views on the how scrutiny at a West Yorkshire level can engage with local scrutiny in the future.

Draft Order

- 2.13 The Secretary of State has now formally decided that the statutory tests have been met and that the implementation of the devolution deal should proceed. The Mayoral Order has therefore been drafted. Officers of the Combined Authority have liaised closely with government officials in relation to the intended wording of the Order.
- 2.14 The Order is a technical document which will ultimately become legislation. It includes details of:
- When the functions will commence
 - The election of Mayor
 - The Mayor's Political adviser
 - Education, skills and training functions
 - Housing, regeneration and planning functions
 - Mayoral development corporation
 - Transport functions
 - Mayoral functions
 - Funding

- Police and Crime Commissioner functions

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

2.16 Functions relating to the Spatial Development Strategy (SDS) and Strategic Infrastructure Tariff (SIT) were a part of the 'minded to' devolution deal and the Scheme. Due to the ongoing national planning reforms that are underway, through the Planning White Paper, Government have decided to remove the SDS and SIT from the draft Order at this time. A letter from the Minister for Regional Growth and Local Government, explaining these changes is included at Appendix 3 to this report.

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

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

2.19 The operational highways functions within the Order are consistent with the 'minded to' devolution deal and Scheme. The highways functions conferred will cover the Combined Authority area of West Yorkshire. The functions can however only be exercised with the unanimous approval of the five Combined Authority members appointed by Constituent Councils.

2.20 The KRN and the roads which constitute it, in respect of which the concurrent powers of the Combined Authority will apply, will be defined locally at a subsequent time and agreed with the consent of the Constituent Councils. This model offers flexibility to define and change the KRN locally and over time by agreement.

2.21 Once the Order has been made the functions detailed in the Order will be conferred to the Combined Authority in line with the following timescales

- Combined Authority functions will be conferred once the Order has been made in parliament.
- Mayoral functions, once the mayor is in office.

2.22 Following the development of the Order there is still much work to be undertaken to implement and operationalise the Order. The Combined Authority and Constituent Councils will work closely together to develop and agree local protocols before the Order is made. These protocols will:

- Provide further clarity that no functions are taken away from the Constituent Councils.
- Detail how any functions which are held concurrently between the Combined Authority and the Constituent Councils will be operated
- Detail how consent functions will work in practice.

Next Steps

- 2.23 As part of the parliamentary process, in parallel to the consents sought through this paper, the draft Order is being considered by Parliament's Joint Committee on Statutory Instruments (JCSI). Their role is to focus on the technical quality of the draft Order as opposed to the policy content and amendments at this point would be those required to ensure that the Order is well drafted. The JCSI process may therefore lead to technical amendments being made to the Order, these will be non-negotiable.
- 2.24 In order to facilitate any technical amendments to the draft Order, following the consent of each Constituent Council and the Combined Authority, it is proposed that authority is delegated to the Managing Director of the Combined Authority, in consultation with the Chief Executive and Leader of each Constituent Council and the Chair of the Combined Authority to finalise and consent to the Order, further to any technical amendments which may arise.
- 2.25 The Order will then be laid in parliament in early December 2020.
- 2.26 Appendix 1 to this report sets out the timeline for implementing the deal.

Police and Crime Commissioner

- 2.27 To support understanding of the degree of work required to transfer the Police and Crime Commissioner functions to the Mayor in May 2021, an external due diligence exercise was commissioned by the Combined Authority through a competitive tender process. The scope of this critical exercise included an understanding of the scale of the transfer, the mechanisms necessary to transfer PCC functions, as well as the instruments and resourcing required to enable this.
- 2.28 An external due diligence exercise and risk assessment on the transferring of PCC functions has concluded that there are no insurmountable barriers to the transfer. Key areas of risks have been identified including resourcing of the transfer work; staff transition; future changes to the funding model; the Parliamentary timetable for agreeing the Order; and future funding and fleet replacement for the National Air Police Service (NPAS), all of which have identified risk mitigation actions assigned. A full project plan for the transfer of functions with appropriate resourcing is now in development.
- 2.29 The arrangements for the Police and Crime Panel (PCP), which provides scrutiny of the work of the PCC, will remain as the per the current arrangements. That is, the PCP will be retained as a joint committee, supported by Wakefield Council as the Support Services Authority to the panel. This could be reviewed at a later date in light of potential changes arising from the Home Office's PCC review and subject to further discussion and agreement.

3. Implications for the Council

3.1 Working with People

There are no staffing implications arising from this report. The establishment of the Mayoral Combined Authority has staffing implications in terms of additional resources to deliver the ambition of the Deal and these will be considered in separate reports at the appropriate point.

3.2 Working with Partners

The “minded-to” Deal will encourage collaboration on systems, structures and procedures to support the area to make decisions, set strategy and manage delivery across a range of partners in West Yorkshire. Inclusive Growth is a key priority for West Yorkshire Combined Authority and the LEP. Although there are no immediate implications on Inclusive Growth arising as a direct result of the report.

3.3 Place Based Working

The “minded-to” Deal will put in place appropriate governance structures that reflect the needs and opportunities across the West Yorkshire area and the places within it.

3.4 Climate Change

As part of the “minded-to” Deal text, the Government welcomed West Yorkshire’s commitment to becoming a net zero carbon economy by 2038, with significant progress by 2030. There are however, no immediate implications on Clean Growth arising as a direct result of the report.

3.5 Improving outcomes for children

The “minded-to” Deal includes measures around funding and functions focused on skills and education, including careers advice, apprenticeships and Further Education.

3.6 Other (e.g. Legal/Financial or Human Resources)

- The ‘minded to’ Devolution Deal includes a number of flagship funding arrangements including £38m for 30 years into the West Yorkshire Investment Fund, £317m from the Transforming Cities Fund and control over the £63m annual Adult Education budget. The implications of these and the other funding provisions contained within the ‘minded to’ Deal will be subject to future reports.
- It is proposed that this decision is exempt from call-in on the grounds of urgency as any delay caused by the call-in process would prejudice the Combined Authority’s and Constituent Councils’ interests and delay the consent to the draft Order, which would have a significant detrimental impact on the proposed timeline set out in [Appendix 1](#). The Chair of Scrutiny would like it noting the exemption is given very reluctantly and understands this is entirely down to Government timescales. The Chair would also like it to be noted that they believe that there should have been time allowed in the decision-making timeline from government for exceptions not to be required.
- 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.
- An Equalities Impact Assessments has been undertaken for implementation of the deal. The assessment has taken account of the obligations under section 149 of the Equality Act 2010 (i.e. the public sector equality duty). It is not expected that the proposals described in this report will have any adverse impacts on people with protected characteristics. The Combined Authority will ensure that the equality impact assessments are reviewed throughout the devolution implementation process.

4. Consultees and their opinions

- 4.1 As part of the statutory process, as set out above, public consultation has been undertaken. The summary of the results must be submitted to the Secretary of State before an Order creating the West Yorkshire Mayoral Combined Authority can be made.
- 4.2 The Leader of the Council supports the recommendations.
- 4.3 The consultation was discussed by Overview & Scrutiny Management Committee formally 9th June and informally 10th July. The Committee also considered the latest progress on the devolution deal for West Yorkshire, particularly the draft Order currently being developed by Government 29th October 2020.

5. Officer recommendations and reasons

- 5.1 To consider and comment on the content of this report, along with the draft Order attached as Appendix 2.
- 5.2 To endorse the draft Order attached as Appendix 2, to establish a mayoral combined authority and associated changes as set out in the 'minded to' Devolution Deal.
- 5.3 To note the updated timetable set out in Appendix 1 to this report and the next steps which are subject to the consent being given by the Constituent Councils and Combined Authority, to the Order that the SoS will lay the Order in parliament in December 2020.
- 5.4 To note Corporate Governance and Audit Committee are currently considering proposed governance and reporting arrangements between the proposed Mayoral Authority and the Council.
- 5.5 To note that the decision by Cabinet is exempt and the Chair of Overview and Scrutiny Management Committee has exempted it from call in on urgency grounds as set out in paragraph 3.6 of this report.

Reasons

- 5.6 The draft Order is consistent with principles set out in previous cabinet reports and the Governance Review and Scheme and the outcome of the consultation that no amendments to the Scheme were submitted to the Secretary of State save for comments by Leeds and Kirklees. Not to consent to the draft Order will mean in all practical terms that a Mayoral Combined Authority which was agreed in the "minded to" devolution deal could not be implemented.

6. Cabinet Portfolio Holder's recommendations

- 6.1 The Leader of the Council supports the recommendations at Paragraph 5 above which will support his vision to secure additional investment and opportunities for Kirklees and to take decisions affecting our communities within the region.
- 6.2 The Leader thanks all Kirklees councillors from across different parties in working together with us on this to deliver such a ground-breaking deal for West Yorkshire.

7. Appendices

- Appendix 1 – Timetable for Implementation
- Appendix 2 – Draft Order

8. Contact officer

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9. Background Papers and History of Decisions

The 'minded to' Devolution Deal is referenced as a background document within this report.

West Yorkshire Devolution Deal – Review of Governance Arrangements: Cabinet 24th March 2020

<https://democracy.kirklees.gov.uk/documents/s35794/West%20Yorkshire%20Devolution%20Deal.pdf>

Devolution Deal for West Yorkshire – Review, Scheme and Consultation: Cabinet May 21st 2020

<https://democracy.kirklees.gov.uk/documents/g5962/Agenda%20frontsheet%2021st-May-2020%2015.00%20Cabinet.pdf?T=0>

Devolution Deal for West Yorkshire – Consultation outcomes: Cabinet 1st September 2020 and Council 9th September 2020

<https://democracy.kirklees.gov.uk/documents/g6485/Public%20reports%20pack%2001st-Sep-2020%2014.00%20Cabinet.pdf?T=10>

MCA Ready Devolution Implementation – Equality Impact Assessment

<https://www.westyorks-ca.gov.uk/consultations/west-yorkshire-devolution-consultation/>

10. Service Director responsible

Jacqui Gedman – Chief Executive –

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