

23rd March 2020

To: Ben Still - Managing Director, WYCA
Cc: Caroline Allen – Head of Legal & Governance, WYCA
Elizabeth Davenport - Lead MCA Lawyer, WYCA
Cllr E. Smaje - Chair of Scrutiny Committee, Kirklees Council
Via Email

Dear Mr Still,

Firstly, I hope that you are well at this very challenging time and I want to thank you for the work that you have undertaken on the issue of mayoral scrutiny thus far.

I am writing to you as Chair of Kirklees Council Corporate Governance and Audit Committee (CGAC), following our work looking at the impact of the new Mayoral Combined Authority (MCA) arrangement on various governance matters, including scrutiny and the Concurrent Powers Protocol.

In establishing the scrutiny arrangements for the new MCA, we have a very unique opportunity to establish a new democratic culture which would ground and embed the MCA in every part of the region - and ensure that all residents feel that they have a voice and can be heard.

As part of our work over recent months, we have not only discussed this on a cross-party basis at CGAC, but also held a workshop involving members of all political groups, as well as members of CGAC and Kirklees Overview and Scrutiny Management.

There was unanimous cross-party agreement from Kirklees elected members on a number of issues regarding the mayoral scrutiny arrangements, in particular the need to embed MCA accountability within each part of the region; to give all elected members and the public a voice in scrutiny; and for improved relationships/partnership working between the respective scrutiny functions at constituent councils and the region.

I have appended the officer's notes summarising this workshop and the report to CGAC for your reference.

I am aware that senior Kirklees officers have been making our views and proposals known in discussions with the Combined Authority and our other constituent councils, and I want to reiterate our readiness to work together regionally to implement these, in preparation for the incoming Mayor - and to work with them once in post.

Our View

At each of our meetings on this matter we achieved unanimous cross-party agreement on a number of pragmatic proposals to establish scrutiny arrangements that work for all constituent councils, as well as the Combined Authority.

Members of all parties shared the concern that the Combined Authority and its scrutiny arrangements have been highly exclusive to both the public and elected representatives.

Members felt that the vast majority of elected members do not have a voice, are not informed on Combined Authority work - even when it affects them - and that they are not able to play a role in informing discussions or undertaking scrutiny.

Without the Combined Authority scrutiny arrangements being grounded in - and working in partnership with - the democratic and scrutiny functions of its constituent councils, we are concerned that the voice of each part of West Yorkshire will not be heard equally.

We know that these concerns are shared by other constituent councils.

We feel strongly that the MCA should not seek to opt for an 'off the shelf' scrutiny arrangement from an existing Combined Authority which focuses solely on regional-level scrutiny arrangements - and excludes local scrutiny.

To do so would suggest, firstly, that any other Combined Authority has established the ideal scrutiny arrangements with which its constituent councils are content. We do not believe they have. And secondly, that we would be better applying a model from elsewhere, rather than establishing our own. We do not agree with this either.

We should use this unique opportunity to establish a 'West Yorkshire model' which embeds the MCA in each council across our region and which works best for the people of West Yorkshire.

At both our cross-party workshop and at our CGAC meeting there was unanimous cross-party agreement on the following:

- The expectation that the future Mayor will attend (an additional) full Council meeting annually (at least) to allow the Mayor to outline their plans, priorities and progress to each council area - or discuss key issues - and to take questions from, and be accountable to local elected members. *This would ground the MCA in each part of our region and allow all elected members to feel engaged, inform the MCA of issues they may want to address, and feel that they and their communities have a voice;*
- The necessity to improve relationships between the respective scrutiny functions at constituent councils and WYCA. This should include attendance arrangements of MCA representatives at local scrutiny panels. *This would ensure that constituent councils and their respective members are informed and can scrutinise (and engage in pre-decision scrutiny) on key work affecting their area;*
- The expectation that the Mayor's programme/actions, as they relate to constituent councils, will be subject to scrutiny once a year by their Overview and Scrutiny Management panel. *This would ensure accountability on the progress being made in each constituent council with regard to the priorities and plans as published by the MCA.*
- The belief that the MCA and its scrutiny arrangements should accept written questions from all councillors – and that scrutiny arrangements should include an opportunity for public representations, as is the case at all Kirklees Council scrutiny meetings.
- Support for a public "Question Time" session involving the Mayor, to raise the profile of their work and allow members of the public to engage and ask questions directly, in their own dedicated forum. *Whilst this is not something that can be implemented now, we would strongly encourage its consideration by the incoming Mayor and would welcome the opportunity to facilitate such an event for Kirklees.*

Members also agreed on practical suggestions regarding the regional level arrangements including:

- The use of Substitute's Panels (as is used in Kirklees committees) as opposed to a named individual substitute for each member;
- The necessity for increased visibility and record of decisions taken by the Combined Authority;

We want to be clear that the Mayor's regular (at least annual) attendance at a meeting of Kirklees Council is our minimal expectation - and this needs to be partnered by ongoing scrutiny arrangements.

We are currently making arrangements to establish this additional meeting of the Council within our Constitution.

It would be greatly appreciated if you could consider the issues and proposals that we have raised above and provide us with a response.

We believe these proposals, which were unanimously agreed by members of all parties on Kirklees Council and Corporate Governance and Audit committee, are pragmatic, practicable and would establish a strong new culture for our MCA, which would make West Yorkshire the leading authority in the country with a democratic devolution settlement, which works for the entire region.

As this letter will be reported back to Corporate Governance and Audit Committee, this letter and your reply will be made public. Corporate Governance and Audit Committee will be holding our final meeting of this Municipal Year on 22 April 2021, in which we will be making recommendations to Full Council on amendments to our Constitution. It would be much appreciated and most helpful if your reply considering the above matters could be received in advance of this.

Thank you very much for your time and I look forward to hearing back from you.

Kind regards,

Cllr Will Simpson
Chair of Corporate Governance and Audit Committee

Corporate Governance & Audit Committee 'Mayoral Accountability Workshop' 14th January 2021

Corporate Governance & Audit Committee 'Mayoral Accountability Workshop' 14th January 2021

Present:

Cllr Will Simpson
Cllr Kath Pinnock
Cllr Graham Turner
Cllr Elizabeth Smaje
Cllr Andrew Cooper
Cllr Harpreet Uppal
Cllr Habiban Zaman
Cllr Charles Greaves
Cllr Aleks Lukic

| | |
|----------------|-------------------------------------|
| Julie Muscroft | Legal, Governance and Commissioning |
| Karl Larrad | Legal Services |
| Nick Howe | Strategy, Innovation and Planning |

1. Welcome and Introduction from Cllr Simpson

Cllr Will Simpson, chair of Corporate Governance & Audit Committee (CG&AC), welcomed everyone and introduced the session.

2. Background – Julie Muscroft and Nick Howe

JM provided a brief background, recap on the West Yorkshire (WY) Devolution Deal and progress to date including the recent news of the order being laid in Parliament. She also explained why this Workshop has been convened and where this work is likely to go next.

3. Concurrent powers – Karl Larrad

KL provided a detailed update on the concurrent powers work currently being undertaken by the 5 WY authorities. Concurrent Powers are statutory powers and duties that are shared between the Combined Authority (including a function exercisable by the Mayor) and the Constituent Councils. The current piece of work is developing a clear set of protocols for how the exercise of these will work once the mayoral authority is in place. KL also provided example of concurrent powers and explained how the process might work going forward. He reassured members that if and when concurrent powers were exercised in future, all authorities would have plenty of notice and time to discuss the approach being taken. The draft protocols will enhance this security.

A final version of the protocol will be presented at **CG&AC 9th March** with further discussion at **Cabinet 16th March** in line with other WY authorities.

4. Workshop Discussion

The context of the discussion was how will the 5 constituent councils interact and hold an elected mayor to account? Specifically, what would members like to see in place, what would be feasible and could be replicated across all 5 Councils? Appendix 1 to this report

Key Points

Cllr Simpson

- Pre-scrutiny is a real issue.
- We have a unique opportunity to help change the current WYCA approach and culture if we get these structures right.
- Need to build the accountability into each of the 5 constituent councils so no authorities are left behind, not just scrutiny at WYCA itself.
- In the least, the mayor to attend an additional full council each year dedicated to mayoral accountability/scrutiny (this should be a red line). It needs to be a scheduled and prepared session not just a PR exercise.
- Potential for the Deputy Mayor to attend constituent council's scrutiny sessions twice a year? Some form of engagement so there is ongoing scrutiny work with each council, not just a one-off annual event.
- Important all Cllrs get the opportunity to have their say and raise questions to be answered in a set timeframe, not just the one's on nominated panels or who are part of WYCA.

Cllr Cooper

- Would like to see a lot more detail up front i.e. what is the Mayor's skills plan, what is their economic plan etc. If these are set out up front, it will be much easier to see when decisions will need to be made and hold them to account.
- Reminded the meeting that 8% of elected Cllrs in WY are independent and not from the main groups. The LGA treat them as a group and they should be given a voice.

Cllr Smaje

- The Mayor to attend full Council when it suits Kirklees, shouldn't just be a PR exercise.
- WYCA scrutiny does not have the opportunity to accept public questions or questions from other members, this should be looked at and changed.
- More pre-decision scrutiny and far more visibility of key decisions before they are made. Its too distance at present
- Try to involve all councillors not just respective cabinets.
- Need to scrutinise 'things' that affect Cllrs.
- Need to understand the relationship with Mayoral Combined Authority (MCA) scrutiny structure once its agreed. There needs to be far more input into proposed MCA scrutiny that currently exists with WYCA.
- Internal Kirklees panel to scrutinise MCA work?

Cllr Zaman

- How much different will the newly elected mayor's plans be? What will their priorities be? These need to be shared more widely.

- Agree that the Mayor should attend Council meetings.
- Stronger links to the grassroots across the districts so members of the public have a greater understanding of the Mayor's role and responsibilities

Cllr Simpson

- Public questions should be allowed at formal meetings. A 'Question Time' session for members of the public would be good thing for the Mayor to do.

Cllr Uppal

- Public accountability is key, works well for the Manchester model.
- Full Council attendance is a no brainer and if possible, should be written into the constitution.
- Themed committee and scrutiny structures are more appropriate than existing arrangements.
- Fully support the 8% LGA Independent group proposal.

Cllr Turner

- Public accountability is key, the new Mayor must realise this from the start.
- Full Council attendance needs to be holding to account, not a PR exercise.
- Potential special meeting early in their reign to get the PR bit out of the way and set the scene? Opportunity to hold them to account after that meeting.
- Multi-themed scrutiny panels are the way forward due to the scale of the job.

Cllr Smaje

- Pleased to hear there's general agreement attendance should be more than once a year. Also, this good opportunity for everyone to get their frustrations out now!

Cllr Pinnock

- 5 constituent councils are responsible for pushing and creating accountability.
- Decision-making and accountability needs to consider the political make-up that exists across all councils.
- Public accountability links into the precept, especially if the Mayor decides to increase it!
- Power of Veto, does it exist and where? JM answered, any decision of the Mayor that gives rise to a financial liability for a constituent council requires the consent of the member appointed by that council.
- Perhaps new scrutiny arrangements should be called accountability panels?? More about accountability might make the Mayor more likely to attend.
- Important that members of the public can make representations.
- Do we need a KMC panel to focus on MCA workload and accountability?

Cllr Lukic

- Formal MCA meetings accept written questions and representations from members of the public, this is essential for credibility.
- What can we do to help inform our scrutiny of the Mayor? Collect and log public views and concerns. Build on the way we do this with the current PCC.

- Key issue in how we work with WYCA and future MCA particularly in how WYCA/MCA share information to the public, cultural shift is required.
- Tees Valley model for Independents, communicate this to our WYLAW Group (Appendix 6 of Tees Valley constitution).

Cllr Turner

- Re-emphasise the attendance at full council, but how do we demand it? Does this have to be in the MCA Constitution? JM no legal powers but all 5 councils are looking at how this can be replicated across WY. Write in the standing orders? Carrot and stick approach

Cllr Greaves

- Where do we go from here i.e. flightpath?
 - Formal route for concurrent powers (CG&AC 9th March, Cabinet 16th March)
 - WYLAW meetings (monitoring officers from all 5 cc plus WYCA) Next one is end of this month
 - In terms of scrutiny, Leaders and CXs currently engaging with WYCA on the proposed structures discussed before Xmas
- Ensure note and recommendations from this meeting are widely shared. JM to share notes and proposals from this session with our Leader and CX as well as other monitoring officers from WY which will in turn feed to the CX at WYCA
- Is there potential to share these ideas with prospective mayors?? Invite candidates to a Kirklees meeting to listen and observe our concerns and proposals? They'd get a better understanding of the issues and need for accountability

5. Next Steps and timetable

As noted above, the notes from this meeting will be shared with all attendees. There will be a more formal debate at the sessions on 9th March CG&AC looking at the proposals in more detail and how they could be progressed.

Also, JM to share with Leader, CX and the WYLAW group.

Concurrent Powers paper to CG&AC 9th March, followed by Cabinet 16th March.

Appendix 1 - Mayoral Accountability proposals

| Proposal | Detail and issues | How? | By whom? |
|---|--|--|--|
| Mayor to attend scheduled full Council meetings | <ul style="list-style-type: none"> • Invite to a full Council meeting dedicated to accountability of the Mayor • Not a PR exercise, scheduled meeting(s) with planned questions and accountability • Initial early invite to give Mayor opportunity to set out priorities and initial plan • Potential to organise extraordinary meeting annually to make this happen? | <ul style="list-style-type: none"> • Written into the MCA constitution? • Council standing orders? • Promote through WYLAW Group? | 5 LAs and WYCA |
| Deputy Mayor to attend Council Scrutiny sessions | <ul style="list-style-type: none"> • Frequency? | <ul style="list-style-type: none"> • Written into the MCA constitution? • Council standing orders? | WY Leaders Push from Scrutiny lead in each authority? |
| Mayor to publish their plans and priorities | <ul style="list-style-type: none"> • To ensure future accountability, MCA to publish Mayor's priorities, delivery plans and strategies. A large portion will be delivery existing strategies but needs clear communication | <ul style="list-style-type: none"> • MCA Comms lead • Internal and local comms for LAs including 'what does it mean for us?' | WYCA and then MCA |
| Provide independent Cllrs with the opportunity to create a group | <ul style="list-style-type: none"> • In line with the LGA approach, provide an opportunity for the 8% independent Cllrs across WY to form a group and have a representative voice • Use the example of the Tees Valley Model? | | WY Leaders? |

| Proposal | Detail and issues | How? | By whom? |
|--|---|---|----------------------------------|
| MCA Scrutiny to accept written questions and written public representations | <ul style="list-style-type: none"> Currently, there is no opportunity for the public or other Cllrs to submit written questions or ask questions at formal meetings. | <ul style="list-style-type: none"> Written into the MCA constitution? | WY Leaders? LA Scrutiny leads |
| Improved relationship and working arrangements between MCA and LA scrutiny | <ul style="list-style-type: none"> Work with WYCA initially to set up formal and informal arrangements which would lead to a more effective scrutiny function of the MCA Ongoing sharing work programmes? Incorporated into the 'Strengthening Partnerships' work? | | 5 LAs WYCA and MCA |
| Increased visibility and record of key decisions | <ul style="list-style-type: none"> Sharing of work programmes and schedules from formal meetings? | | |
| Internal Kirklees 'panel' to look at MCA business and decision-making | <ul style="list-style-type: none"> Create an internal scrutiny or 'accountability' panel to scrutinise and hold MCA and the Mayor's decision-making | <ul style="list-style-type: none"> Discussion at CG&AC | Leading members? |
| Public Question Time session | <ul style="list-style-type: none"> Annual public 'Question Time' type session for members of the public to ask questions of the Mayor | | WYCA/MCA |
| Greater understanding the Mayor's role and responsibilities | <ul style="list-style-type: none"> Provide more clear and concise information to the general public on the Mayor's role, responsibilities and priorities | <ul style="list-style-type: none"> Increased comms from both WYCA/MCA and each authority | WYCA/MCA Comms LA comms |
| Multi-themed scrutiny committees | <ul style="list-style-type: none"> In line with the proposals that were discussed before Xmas, the preferred option would be a series of themed committee/panels | | |

| Proposal | Detail and issues | How? | By whom? |
|---|--|------|----------|
| Instead of scrutiny, call them 'accountability' panels | <ul style="list-style-type: none"> • Instead of calling them 'scrutiny' panel, use the term 'accountability' panels instead. | | |
| Collect and log public issues and concerns | <ul style="list-style-type: none"> • Log concerns and issues from public etc to aide pre-scrutiny and better accountability in formal meetings • Use the current PCC model | | |
| Invite Mayoral candidates to a CG&AC meeting to discuss accountability | <ul style="list-style-type: none"> • Invite candidates to a Kirklees meeting to listen and get a better understanding of the issues and need for accountability | | |

Name of meeting: Corporate Governance & Audit Committee
Date: 9th March 2021
Title of report: Mayoral Accountability

Purpose of report:

This report asks Corporate Governance & Audit Committee to consider the proposals surrounding mayoral accountability and make recommendations for further consideration.

| | |
|--|---|
| 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? | Not Applicable |
| Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u> ? | Not Applicable |
| The Decision - Is it eligible for call in by Scrutiny? | Not Applicable |
| Date signed off by <u>Strategic Director</u> & name | Give name and date for Cabinet / Scrutiny reports Jacqui Gedman 1 st March 2021 |
| Is it also signed off by the Service Director for Legal Governance and Commissioning? | Give name and date for Cabinet reports Julie Muscroft 1 st March 2021 |
| Cabinet member <u>portfolio</u> | Give name of Portfolio Holder/s Cllr Graham Turner and Cllr Shabir Pandor |

Electoral wards affected: ALL
Ward councillors consulted: None
Public or private: Public
Has GDPR been considered? Yes

Summary

- 1.1 The West Yorkshire “minded-to” Devolution Deal was announced as part of the Budget on 11 March 2020. A report submitted to Cabinet in May 2020 outlined the details of the devolution deal, its benefits for the region and the District, its people and its businesses and set out the required next steps.
- 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 throughout the summer. The consultation highlighted several issues including the governance arrangements for the new West Yorkshire Combined Authority.
- 1.3 In response to points raised about how we work with the mayoral authority and future reporting procedures, Cabinet invited Corporate Governance and Audit Committee to consider the governance arrangements in place, including those which enable the council to hold the mayoral authority to account. In particular:
 - To consider whether agreement should be sought from the Combined Authority and Mayor, when they enter office, for an annual report to be provided to Full Council for debate.
 - To consider whether arrangements should be made to invite the Mayor to Full Council to answer elected members’ questions at least once a year.
- 1.4 Subsequently the consultation summary report, along with representations from Leeds City Council and Kirklees Council were submitted to the Secretary of State.
- 1.5 During November, the Combined Authority and each Constituent Council were asked 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. It was discussed at Council in Kirklees 25th November and agreed by Cabinet 26th November.
- 1.6 Parliamentary approval of the statutory instrument to establish the mayoral combined authority was given on 29th January 2021.
- 1.7 The Deal will devolve a range of powers and responsibilities to West Yorkshire Mayoral Combined Authority. It offers both investment and decision making which are crucial to fulfil West Yorkshire’s (WY) potential and meet current challenges.
- 1.8 The deal includes:
 - Control of £38m per year allocation of gainshare investment funding over 30 years, to drive growth and take forward WY’s priorities.
 - A five-year integrated transport settlement starting in 2022/23, and agreement to explore West Yorkshire Mass Transit 2.
 - 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.
- 1.9 Devolution and Mayoral Combined Authority (MCA) preparations have already had an impact on access to funding and increased opportunities for the region. These include:
 - £317m Transforming Cities Fund, the largest allocation to any region, to deliver transformational walking and cycling schemes across West Yorkshire and the creation of jobs
 - £67m funding for new homes on Brownfield sites.

- 1.10 The initial gainshare funding for the financial year 2020/2021 will be available prior to the first Mayoral election.
- 1.11 A workshop was set up 14th January for Members of Corporate Governance & Audit Committee (CG&AG) as well as Scrutiny Chairs and representatives from other groups not already represented on the committees to inform the discussion what arrangements the Council would like to see in place and also discuss the draft protocol on concurrent powers.
- 1.12 This report concerns the proposals and suggestions arising from the workshop referred to above and requests Members comment on these and that CG&AC make a separate and independent submission to the Combined Authority on holding the Mayoral Combined Authority to account.
- 1.13 The report also concerns the draft Protocol on Concurrent Functions agreed by officers in the Combined Authority and 5 West Yorkshire Councils and attached at Appendix 1. Members are invited to recommend that the Cabinet approve at their 16th March meeting. The draft is to be approved by each constituent council's Executive before being approved by the Combined Authority.

2. Information required to take a decision

- 2.1 Members of Corporate Governance & Audit Committee (CG&AG), chairs of Scrutiny and representatives from other parties attended a workshop 14th January to discuss potential arrangements the Council would like to see in place and discuss the draft protocol on concurrent powers.
- 2.2 It was a very positive session with members agreeing on numerous issues including:
- The lack of a "voice" for many councillors with the current structures at WYCA
 - Expectation the future Mayor will attend a full Council meeting annually at least
 - The Mayor to publish their plans and priorities
 - Improved relationships between the respective scrutiny functions
 - Provide independent Cllrs with the opportunity to create a group
 - MCA to accept written questions from all councillors – and scrutiny arrangements to include 'public representations'
 - A public "Question Time" session involving the Mayor
 - Increased visibility and record of key decisions
- 2.3 It is important to stress that although the 5 constituent councils can suggest recommendations of what they would like to see in place, it will be the elected Mayor's responsibility and decision to put in place the right level of accountability and build relationships with the respective councils.
- 2.4 The notes and proposals from the workshop are captured at Appendix 2.

Concurrent Powers

- 2.5 The West Yorkshire Combined Authority Order 2021 provides for the election of a mayor for the area of the Combined Authority from May 2021, the Mayor to exercise the functions of a Police and Crime Commissioner, and the following functions to be conferred on the Combined Authority:
- Adult education functions from Secretary of State
 - Functions of Homes England/HCA relating to housing and regeneration

- Functions relating to grants to bus service operators
- Functions in relation to the designation of a Mayoral development area (MDA) and establishing a Mayoral development corporation (to be exercised by the Mayor)
- Functions in relation to Business Rates Supplements to be exercised by the Mayor
- Functions of the Constituent Councils to be exercised concurrently by the Combined Authority relating to:
 - education, skills and training
 - housing, regeneration and planning, and
 - transport (including in relation to highways, traffic orders, traffic signs, pedestrian crossings, street works, permit schemes and bus lane contraventions).

2.6 At Appendix 1 to this report includes a table of the functions that will be conferred on the Mayoral Combined Authority (MCA). The new functions have either been devolved or granted to the MCA by Government or are functions which shall be exercised concurrently with the Constituent Councils i.e., powers and duties which Constituent Councils hold co-extensively and which the MCA could exercise independently. In theory this could potentially cause difficulties and consequently therefore a protocol between Kirklees Council and the other West Yorkshire Councils and the MCA for dealing with concurrent functions makes sense.

2.7 The Constituent Councils have not lost any of their functions and it is important to stress that there are already existing concurrent powers between Councils and WYCA that work perfectly well. The draft Protocol for Concurrent Functions aims to establish the process for how the Combined Authority will exercise those functions concurrently with the Constituent Councils. The protocol does not apply to non-concurrent functions such as the PCC functions.

2.8 The Order confers concurrent powers on the Mayoral Combined Authority (MCA). These are powers which the Constituent Councils also hold and which the MCA could exercise independently and provides for certain decisions (termed statutory consents in the Protocol) to be made by the MCA only with the express consent of a Constituent Council.

2.9 Under the 2021 Order, there is:

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

2.10 The Protocol is **not** intended to be legally binding and supplements the Order and any arrangements with the Constitution of the MCA. It cannot override the Order. It records the aim of the partners to co-operate and collaborate in the best interests of residents of the region, to have transparency and make best use of resources, reducing duplication. It also records the ongoing commitment of the MCA to engagement with the constituent Councils.

2.11 In respect of consents, it sets out that these will be sought in a formal report considered at a meeting of the MCA and that notice of the intention to seek consent will be given as early as practicable and no later than the date that a key decision notice is published (at least 28 days prior to the decision). In reality such schemes will have been discussed much earlier than 28 days prior to a

formal meeting and will have passed through gateway approval processes such as outline and detailed business cases.

- 2.12 For example, the Combined Authority (CA) has the power under section 51A of the Further and Higher Education Act 1992 to give notice to the governing body of a FE college based in Kirklees requiring them to provide specified 16-19-year olds with “appropriate “education. This is an example of a non-Mayoral concurrent function in relation to Education, Skills and Training. The CA does not need “statutory consent “under the Order 2021 from Kirklees Council before deciding to issue such a notice.
- 2.13 However, when the Protocol is signed it will mean the Managing Director of the CA will notify Kirklees Council’s Chief Executive before any Key decision Notice is published, if relevant. In addition, the CA’s Managing director agrees to voluntarily consult Kirklees Council’s Chief Executive (or their nominee) about the proposal to exercise the above FE power to serve the notice (except where it is agreed that is not required) in accordance with paragraph 3.3 and 3.4 of the Protocol.
- 2.14 In respect of concurrent functions, it provides that where there are significant impacts from the proposal of the MCA to exercise concurrent functions prior notice will be given to the relevant Chief Executive so that the proposal can be considered within the relevant council.
- 2.15 As with consents it is likely that larger and significant schemes where concurrent functions are being exercised will have been discussed prior to the formal notification stage. Members will therefore note that the protocol forms a ‘fall back’ position. It is the strength of the joint working between the MCA and the Council that will ensure that the interests of the District are properly represented. To that end, the Councils and the MCA have been undertaking a piece of work to ensure that they are ‘MCA ready’ for May 2021 and that partnerships are assessed and strengthened where required.
- 2.16 The Protocol does not address the scrutiny of the Combined Authority in relation to how it exercises any Concurrent Function, this will be the subject of separate arrangements, which are also currently under consideration.

Mayoral Combined Authority Governance Arrangements

- 2.17 Over the last couple of months, colleagues and members from WYCA and the 5 constituent councils as well as scrutiny have been reviewing the proposed governance and scrutiny arrangements. A formal update is expected 9th March at the West Yorkshire Combined Authority Board meeting. The papers will be in the public domain shortly.

3. Implications for the Council

Working with People

The premise of the Devolution Deal is on bringing funding and functions to a more local level. The establishment of the Mayoral Combined Authority will have staffing implications in terms of additional resources to deliver the ambition of the Deal and these will be considered at the appropriate point to ensure operational effectiveness and efficiency of the Combined Authority.

Working with Partners

The 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.

Place Based Working

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

Climate Change and Air Quality

As part of the 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 this report.

Improving outcomes for children

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

Other (eg Legal/Financial or Human Resources)

None. The draft Protocol is non-legally binding.

Do you need an Integrated Impact Assessment (IIA)?

No.

4. Consultees and their opinions

4.1 Members of the Corporate Governance and Audit Committee as well as members of OSMC and members from other groups not represented on the committees considered mechanisms for holding the MCA to account at its workshop and received an update on the draft Protocol. All 5 WY Councils and the MCA have been engaged in negotiating and agreeing the draft Protocol. It is not recommended that further changes to the Protocol be sought at this stage. It is not legally binding and will be subject to an annual review. The wording represents a good compromise ensuring transparency and prior notice of decisions. A delay during which the draft Protocol is renegotiated would risk the MCA starting to operate without the safeguards that it provides.

5. Next steps and timelines

Following consideration by the Corporate Governance and Audit Committee, this report will be referred to Cabinet 16th March for their consideration and recommend they adopt the Concurrent Powers protocol.

6. Officer recommendations and reasons

- 6.1 Members are requested to note the suggestions made at the workshop 14th January summarised in [Appendix 2](#) and:
- Consider the proposals and agree how to take forward potential recommendations for holding the Mayor to account.
 - Delegate the Chair to submit a separate and independent submission to WYCA setting out CG&AC recommendations for mayoral accountability.
 - Refer this report and outcomes from the discussion to Cabinet 16th March for their consideration.
- 6.2 Recommend that Cabinet adopt the draft Protocol on Concurrent Functions and Associated Statutory Consents attached at [Appendix 1](#) to this report to further document the basis on which Kirklees Council, other West Yorkshire Councils and the MCA work together.
- 6.3 Delegate authority to the Chief Executive, in consultation with the Leader, to agree any subsequent changes to the Protocol.

7. Cabinet Portfolio Holder's recommendations

N/A

8. Contact Officers

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9. Background Papers and History of Decisions

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 1st September 2020

<https://democracy.kirklees.gov.uk/documents/s37197/Devolution%20Deal.pdf>

West Yorkshire Devolution – Consent to draft Order 26th November 2020

<https://democracy.kirklees.gov.uk/documents/g6606/Public%20reports%20pack%2026th-Nov-2020%2010.00%20Cabinet.pdf?T=10>

10. Service Director responsible

Julie Muscroft - Service Director, Legal Governance and Commissioning

11. Appendices

Appendix 1 - *Protocol for the Exercise of Concurrent Functions and Associated Statutory Consents*

Appendix 2 - *Corporate Governance & Audit Committee 'Mayoral Accountability Workshop' 14th January 2021*