

Name of meeting: Cabinet
Date: 18th January 2022
Title of report: Non-Transport Function Borrowing Regulations

Purpose of report:

To seek member agreement to consent in principle to the regulations to provide the Combined Authority with the power to borrow for non-transport related functions, set out in the 'minded to' Devolution Deal. To delegate authority to the Managing Director of the Combined Authority, in consultation with the Leader and Chief Executive of each Constituent Council and the Chair of the Combined Authority, to finalise and consent to the final draft of the regulations further to any technical issues which may arise.

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?	Yes Affects more than one electoral wards.
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u>?	Key Decision – Yes Private Report/Private Appendix – No
The Decision - Is it eligible for call in by Scrutiny?	No 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 1.2 of this report.
Date signed off by <u>Strategic Director</u> & name	Jacqui Gedman 06/01/22
Is it also signed off by the Service Director for Finance?	Eamonn Croston 06/01/22
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft 06/01/22
Cabinet member portfolio	Cllr Pandor, Leader of the Council

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. Statutory processes were completed in January 2021, and the mayoral combined authority model was adopted along with additional functions. As part of enacting the Devolution Deal, any future powers pursuant to primary legislation would require separate legislation. This was highlighted in the Cabinet report dated 26th November 2020.
- 1.2 The Government have made a late notification to the Combined Authority (CA) that they are aiming to lay the draft Order for Powers to Borrow for Non-Transport related functions in January 2022 and therefore need consents from all constituent councils and the CA by **20 January 2022**. The CA already has powers to borrow for transport and for police and crime, this power enables borrowing for the other CA functions such as housing, regeneration and net zero carbon.
- 1.3 The Regulations would extend the borrowing powers of three Combined Authorities, South Yorkshire, North of Tyne and West Yorkshire. Currently they are able to borrow only for their transport functions, and in the case of West Yorkshire, for Police and Crime Commissioner functions. If these Regulations are approved and made, these Combined Authorities will be able to borrow for all their functions, subject to a debt cap, agreed with HM Treasury, limiting their external debt. Debt caps have now been agreed for 2021/22 and discussions for 2022 and future years with HM Treasury are likely to begin in the New Year.
- 1.4 Further to the Order and the approvals already provided, this report seeks to:
 - Consent in principle to the regulations to provide the Combined Authority with the power to borrow for non-transport related functions, set out in the ‘minded to’ Devolution Deal.
 - Delegate authority to the Managing Director of the Combined Authority, in consultation with the Leader and Chief Executive of each Constituent Council and the Chair of the Combined Authority, to finalise and consent to the final draft of the regulations further to any technical issues which may arise.

2. Information required to take a decision

- 2.1 The West Yorkshire Devolution Deal included the provisions for the CA to be given the powers for non-transport borrowing functions.
- 2.2 When the draft Devolution Order was considered and approved by the CA in November 2020, it was reported that the consent of each Constituent Council and the CA would be required to any Regulations giving the CA powers to borrow for non-transport functions, but that this would to be progressed separately, at a later date to the making of the Order, as separate legislation is required.
- 2.3 At 2.6 of the *West Yorkshire Devolution – Consent to Draft Order* report presented to Council 25th November and Cabinet 26th November 2020 states “*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.*”

- 2.4 At the Combined Authority Meeting in October 2021, the debt cap of £248.326 million for 2021/22 as offered by HM Treasury was approved, which was the first stage in the process to enable the non-transport borrowing powers to be agreed. The CA are expecting treasury to contact them in the New Year to start the negotiation for future debt caps.
- 2.5 Government are now finalising the legislation to enable the CA to borrow for non-transport functions. The legislation will be in line with powers already held by other Combined Authorities and there is no facility to make amendments to this. It is expected that the legislation will be laid in parliament in January 2022, the date is not yet known.
- 2.6 A letter from the Department for Levelling Up, Housing & Communities dated 23rd December 2021 request they receive confirmation of consent from the Combined Authority and its constituent councils by **20 January 2022**.
- 2.7 Liaison is underway with Local Authority Officers to enable equivalent approvals to be made by each Local Authority prior to the Order being laid.
- 2.8 Once the CA has received the powers, it will enable borrowing to be undertaken as part of the budget process for non-transport functions, such as housing or tackling the climate emergency. The powers would be used as part of the annual CA budget setting process which is agreed at Combined Authority meeting in February.
- 2.9 The power to borrow is a CA decision and not a mayoral one. The Mayor has the power to raise a precept (and also has a Police and Crime precept) but this is separate to the borrowing powers. The precept can only be used to fund mayoral functions through the Mayors budget. The Mayor has made a decision not to raise a precept in 22/23.
- 2.10 Further details will be provided at future meetings regarding options and proposals as they arise.

3. Implications for the Council

Working with People

There are no staffing implications arising from this report.

Working with Partners

The “minded-to” Deal will encourages 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.

Place Based Working

The “minded-to” Deal put in place appropriate governance structures that reflect the needs and opportunities across the West Yorkshire area and the places within it although there are no direct implications from this report.

Climate Change and Air Quality

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 no immediate implications on Clean Growth arising as a direct result of the report.

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. There are no immediate implications from this report.

Other (eg Legal/Financial or Human Resources)

The Regulations would extend the borrowing powers of the Combined Authority. Currently they are able to borrow only for their transport functions and for Police and Crime Commissioner functions. If these Regulations are approved and made, the CA will be able to borrow for all their functions, subject to a debt cap, agreed with HM Treasury, limiting their external debt.

Do you need an Integrated Impact Assessment (IIA)?

An Equalities Impact Assessment 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.

4. Consultees and their opinions

- 4.1 As part of the statutory process, a public consultation has been undertaken and the summary of the results were submitted to the Secretary of State before the Order creating the West Yorkshire Mayoral Combined Authority was made.
- 4.2 The final Consent to Draft Order was presented at Council 25th November 2020 and agreed by Cabinet 26th November 2020.
- 4.3 The Leader of the Council supports the recommendations.

5. Officer recommendations and reasons

- 5.1 To consent in principle to the regulations to provide the Combined Authority with the power to borrow for non-transport related functions, set out in the ‘minded to’ Devolution Deal.
- 5.2 To delegate authority to the Managing Director of the Combined Authority, in consultation with the Leader and Chief Executive of each Constituent Council and the Chair of the Combined Authority, to finalise and consent to the final draft of the regulations further to any technical issues which may arise.

6. Cabinet Portfolio Holder’s recommendations

- 6.1 The Leader of the Council supports the recommendations at Paragraph 5.

7. Contact officer

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8. Background Papers and History of Decisions

West Yorkshire Devolution – Consent to Draft Order
[DRAFT Cabinet WYDevo Report 26Nov20.pdf \(kirklees.gov.uk\)](#)

9. Service Director responsible

Jacqui Gedman – Chief Executive
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