

Name of meeting: Cabinet
Date: 21st December 2023
Title of report: Yorkshire Purchasing Organisation Management Agreement

Purpose of report

To consider approval of changes to the Management Agreement that controls the governance and operation of the Yorkshire Purchasing Organisation, controlled jointly by Kirklees and twelve other local authorities.

Key Decision - Is it likely to result in spending or saving £500k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	NA
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by Strategic Director and name	07.11.23 Rachel Spencer Henshall
Is it also signed off by the Service Director - Finance?	not applicable
Is it also signed off by the Service Director -Legal Governance and Commissioning?	Julie Muscroft – 30.11.23
Cabinet member portfolio	Cllr Graham Turner Finance & Regeneration

Electoral wards affected: N/A

Ward Councillors consulted: N/A

Public or private: Public

Has GDPR been considered? Yes

1. Summary

- 1.1** The Yorkshire Purchasing Organisation, generally known as YPO, is a supply and purchasing consortium owned by Kirklees and twelve other local authorities, formed in 1974.
- 1.2** It is operated as a joint committee with Wakefield Council being the lead authority, although save for oversight by the councils corporate officers, it operates largely independently and has its own management team and governance arrangements
- 1.3** These are controlled by way of a Management Agreement that is refreshed from time to time. All the authorities that are part of the joint committee must approve the Management agreement.
- 1.4** In 2021 the YPO officers undertook a review of governance arrangements with support from the lead authority and a small number of other member authorities. This led to reports to the Management Committee, which in July 2022 led to recommendations from the Management Committee to the owning authorities to request changes to the Management Agreement.
- 1.5** The details of these changes are set out in the report below (s 2.8), but in summary reduced the membership of the joint committee to one member per authority (previously two, though each authority only had one vote), reduced the frequency of meetings and reduced the number of sub committees. There are also other changes to delegations and operating procedures that do not require changes to the Management Agreement.

2. Information required to take a decision.

- 2.1** YPO has operated as a Joint Committee since its inception in 1974 and under the governance structure in the current Management Agreement since 2010. The Management Agreement, and any changes to it, requires the agreement of each member authority through a formal resolution in their own Council, along with a resolution to delegate contracting authority to the functional role of Managing Director of YPO.
- 2.2** In 2021 YPO Management Committee Members agreed a review of the governance structure and operating practices of the YPO Joint Committee to ensure that they are fit for purpose to deliver the recently approved 3-5 Year Strategy and to optimise benefits for member authorities in the future.
- 2.3** YPO operates as a Joint Committee of 13 Founder Member Local Authorities. The same 13 Authorities are also shareholders in an associated company – YPO Procurement Holdings Ltd - which operates a group company structure through which the local authorities can trade where necessary and appropriate to do so. The company structure is governed under a shareholder agreement and an appointed set of local authority councillor directors. The current governance proposals in this report relate only to the joint committee structure. A separate review of company governance is now taking place and if any changes are recommended within the company governance structures that will be the subject of a separate report.
- 2.4** A Working Group of a Founder Member strategic officers was formed to review current joint committee governance structures and documents and, in conjunction with officers from YPO and Wakefield Council as the Lead Authority, to submit proposed changes for consideration by members. This group met a number of times and proposed a number of changes to operating practices and to governance structures and the associated documents in which they are specified.
- 2.5** An external law firm was also commissioned to review the legal operating model. That concluded that there was no compelling rationale to move from the Joint Committee arrangements.

- 2.6** The resulting proposals were submitted to the March 2022 Management Committee for consideration and discussion prior to requesting formal approval. Members were also requested to consult within their own authorities to ensure that any final request for approval captured both the discussion in the March Management Committee and the wider views of the Founder Members.
- 2.7** On 22nd July 2022 Management Committee formally approved the proposals and resolved to recommend them for approval at each authority.
- 2.8** Full detail can be found at the YPO website, but these changes are:
- i. A reduction of elected members from two per founder member to one, with substitutes permitted. This will produce a more focused core of members with greater familiarity with the strategic challenges facing the organisation.
 - ii. A reduction in the number of Management Committee and Sub-Committee meetings from three per year to a minimum of two per year. This will enable members to focus on the key strategic issues facing YPO and to take decisions at key points in the annual business cycle (the recommendation to specify a “minimum” number, allowing scope to call additional meetings if required for business reasons, resulted from discussion in the March Management Committee).
 - iii. The removal of the Executive Sub-Committee. This body largely duplicates the function of the Management Committee and has no separate delegated powers for specific decisions.
 - iv. The renaming of the Audit & Scrutiny Sub-Committee to Audit & Governance with a remit to consider all items of risk and governance on behalf of member authorities.
 - v. A revision to the Terms of Reference of the Audit & Governance Sub-Committee, emphasising the role of this body in scrutinising risk and governance issues, holding the Executive Officers to account and reporting back to the full Management Committee.
 - vi. Revisions to the Scheme of Delegation, emphasising the requirement to consider political and reputational implications for members before the powers contained are exercised and reinforcing the role of the Executive Director, Finance in reporting directly to the S151 Officer in the Lead Authority in the case of any suspected breach.
 - vii. Revisions to the Financial Procedure Rules to reflect the commercial nature of YPO’s activities as distinct from Local Government requirements
 - viii. The continuation of the role of Independent Director to give elected members a level of independent assurance on the operational decision-making carried out by the Executive Board and to provide commercial advice to elected members as and when required.
- 2.9** Items i. to iv. require amendments to the Management Agreement which requires approval by all 13 Founder Members.
- 2.10** The choices that this Council can take are to agree the changes (which would align with the expressed views of the Management Committee, and YPO officers), or to disagree and seek alternative changes, or to disagree and seek to leave the YPO.
- 2.11** The revised governance arrangements have already started in practice and are a practical solution recognising poor member attendance at meetings in the past. There would appear to be no strong reasons to request changes.

3. Implications for the Council

3.1 Working with People

No implications

3.2 Working with Partners

The YPO is working with other local authorities, and schools, to achieve best value in procurement of goods and services.

3.3 Place Based Working

No implications

3.4 Climate Change and Air Quality

No implications

3.5 Improving outcomes for children and young people

No implications

3.6 Financial Implications for the people living or working in Kirklees

No implications.

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

The arrangements should aid more effective formal governance of the YPO.

YPO is a Joint Committee constituted under s101 and 102 Local Government Act 1972.

It exercises functions on behalf of the Member authorities relating to procurement which are executive functions. Changes to those arrangements are the responsibility of Cabinet.

The proposed changes include a reduction in nominated members from 2 to 1. Section 15 Local Government & Housing Act 1989 sets out the duty of relevant authorities /committees who make appointments in relation to political balance. The bodies to which S15 applies are defined in Schedule 1 to include ordinary and advisory committees and sub-committees, and by virtue of para 2 (h) a joint committee appointed under S102(1)(b) LGA 1972. However, in relation to joint committees (and other bodies set out in para 2) S15 duty only applies where "at least three seats. fall from time to time to be filled by appointments made by the authority or the committee."

As each Authority is appointing one seat the duty does not apply.

4. Consultation

There is no need for consultation on this administrative topic

5. Engagement

Engagement has taken place with all those with current direct interest.

6. Next steps and timelines

If this change is approved by all the constituent authorities, officers will progress and complete the amendments to the Management Agreement on behalf of the Council

7. Officer recommendations

That Cabinet is asked:

To note and agree the changes recommended by the YPO Management Committee and

To delegate authority to the Director of Legal Governance & Commissioning to sign an updated Management Agreement on behalf of the Council noting that all Member Authorities must also agree before the revisions take effect.

8. Cabinet portfolio holder(s) recommendations

Cllr Graham Turner, Finance & Regeneration portfolio holder states:

As the current Kirklees appointed director on YPO I fully support these changes.

As is noted in the report these changes have already been implemented and this report is retrospective.

The new structure works far more efficiently and has increased attendance as the meetings are less frequent and more meaningful.

The reduction to one member per founding authority is a positive move as it ensures meetings are not over attended and business can be dealt with quicker.

9. Contact Officer

Martin Dearnley, Head of Risk (01484 221000)

10. Background Papers and History of Decisions

Reports (various) to YPO management committee

Report and minutes 22 July 2022 YPO website

11. Service Director responsible

Julie Muscroft, Director of Legal, Governance & Commissioning 01484 221000
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