

Report title: Level 4 Devolution

Meeting	Cabinet
Date	12th March 2024
Cabinet Member (if applicable)	Cllr Cathy Scott, Leader of the Council
Key Decision Eligible for Call In	No

Purpose of Report

1. For information:
 - a. To provide an overview of the recently announced Level 4 Devolution Framework, through which the Combined Authority can apply to access new powers, functions and flexibilities, and the associated readiness conditions
 - b. To provide an update on work that has taken place since November 2023 to develop the West Yorkshire response and the Combined Authority's submission to Government, including the partnership principles
2. For decision: To formally ratify the Council's support for the Combined Authority's application to begin talks on adopting new Level 4 Devolution powers

Recommendations

1. To note:
 - a. the recent publication of the Government's Level 4 Devolution Framework which sets out guidance and the powers and flexibilities on offer through a Level 4 Devolution Deal and the associated readiness conditions
 - b. the work that has taken place across the partnership to consider the opportunities presented through the Level 4 Devolution Framework and activity undertaken to develop the West Yorkshire response, including the partnership principles
2. To formally ratify the Council's support for the Combined Authority's application to begin talks on adopting new Level 4 Devolution powers

Reasons for Recommendations

With the use of current devolved powers, we have more influence in Kirklees over how resources are spent and invested in Kirklees. Through ongoing collaboration and regional governance structures, we are able to influence decisions based on our understanding of the needs of people in Kirklees. The more influence we have, the more we can bring this local understanding to bear.

Whilst we would ask for additional funding and powers on top of those offered through level 4 of the government's devolution framework, this is an important opportunity to increase the influence of Kirklees over decisions that affect our district. It is, for example, a stepping stone to a 'single settlement' funding mechanism that would give us greater flexibilities over how we spend and invest devolution funding, allowing the Combined Authority to be more flexible, responsive, and strategic in achieving positive outcomes in West Yorkshire.

The partnership principles will help to shape how we put devolution into practice here in West Yorkshire. As part of the associated work, we have agreed that no organisation or part of West Yorkshire should experience a worsening position because of any new Level 4 powers and flexibilities. The principles will also enable the ongoing strengthening of collaboration and communication in West Yorkshire, which will only makes us better in enabling and delivering for local residents.

New Level 4 Devolution powers could affect all cabinet portfolios, therefore it is important that Cabinet understand the powers available and our application to begin to talks on adopting the new powers

Government requires the Combined Authority to indicate support for the application to begin talks on the new powers. Though this support has been informally indicated, there has been agreement to formally ratify this support of this support in each local authority.

The Secretary of State has written to the Mayor of West Yorkshire to indicate that the Combined Authority meets the eligibility criteria for Level 4 Devolution and that talks can commence.

The new powers for the Combined Authority would not directly reduce local authority powers and will support local ambitions.

Resource Implication: There are no significant resource implications directly arising from this decision. If the decision is taken to proceed with Level 4 Devolution, this will result in financial implications for the Combined Authority, including the move towards a DLUHC single settlement.

Date signed off by Strategic Director & name

Rachel Spencer-Henshall
Strategic Director for Corporate Strategy, Commissioning, and Public Health
1st March 2024

Is it also signed off by the Service Director for Finance?

Isabel Brittain
1st March 2024

Is it also signed off by the Service Director for Legal Governance and Commissioning?

John Chapman – Head of Legal Services
4th March 2024

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Has GDPR been considered? Yes – not applicable

1. Executive Summary

In November 2023, the government announced that new powers would be available for regional government, including (1) providing regional government with some additional powers similar to local authorities and (2) devolving powers held in national government to regional government.

West Yorkshire Combined Authority, with the support of local authority leaders, has submitted an initial application to begin talks on whether the Combined Authority can adopt some of these powers.

Though each local authority has indicated its support for talks to begin, there has been agreement that we need to formally confirm our support. The recommendation presented via this paper is to formally confirm our support for the application. The paper also provides an update on available powers and the process to explore these with government.

2. Information required to take a decision

2.1 Background

On 22 November 2023, the Department for Levelling Up, Housing and Communities (DLUHC) released a technical paper outlining the new Level 4 Devolution Framework. The Framework marks a move towards greater devolved funding and powers to eligible institutions who choose to participate and provides a stepping stone towards a single settlement through the offer of consolidated funding at the next multi-year Spending Review. The Framework aims to standardise English devolution, moving away from the previous approach of agreeing bespoke region-specific deals. Whilst this approach does not meet the partnership's full aspirations for devolution in West Yorkshire, the opportunity to pursue deeper devolution is welcomed.

2.2 Level 4 Framework

The Level 4 Devolution Framework, attached at Appendix 1 to this report, for information set outs the powers and functions available to eligible institutions, across a range of policy areas.

Key highlights on offer through the Framework are as follows:

Policy area	Summary of Offer
Funding	<ul style="list-style-type: none"> Funding simplification with a consolidated DLUHC pot, available at the next multi-year spending review, as the first stage towards a single settlement. Removal of Gainshare gateway reviews for eligible institutions which have passed Gateway One and meet criteria relating to local evaluation frameworks.
Transport	<ul style="list-style-type: none"> Devolved and consolidated integrated local transport settlement for eligible institutions subject to demonstration of appropriate level of fiscal sustainability and broader capacity/capability from the next multi-year Spending Review for the length of the Spending Review. A range of other offers linked to the Key Route Network, Pavement Parking and Taxi Licensing. <i>Access to Transport powers must be taken as a whole and are not available to pick and choose as with other powers on offer.</i>
Employment and skills	<ul style="list-style-type: none"> Further commitment towards a more devolved adult skills system with increased flexibility on adult skills programmes and the ability of institutions to be central convenors of careers provision in their regions, however availability is dependent on outcome/ implementation of Trailblazer deals. <i>Employment and Skills powers and flexibilities on offer must be taken as a whole.</i>
Housing and Land	<ul style="list-style-type: none"> Local leadership of the Affordable Homes Programme from 2026. Move towards greater collaboration between eligible institutions and DLUHC on housing quality.

Net Zero, Climate Change and Natural Capital	<ul style="list-style-type: none"> Government will consider devolving net zero funding, including for retrofitting buildings subject to the outcome of the trailblazer pilots and following a review of the effectiveness of the approach.
Public Health	<ul style="list-style-type: none"> A new concurrent power to take on a public health duty, offers no new funding but aims to create a 'health in all policies' approach to the Combined Authority's work.

In addition, the Framework provides other significant opportunities, including the move towards a general, rather than the existing, functional power of competence and the ability to make technical adjustments to historic legislation, offering the opportunity for eligible institutions to advise on changes to statutory guidance or legislation that could be disapplied or removed to support areas in meeting their objectives. The partnership is considering how it may utilise this opportunity to pursue technical adjustments that meet strategic objectives e.g. changing the current requirement for the Secretary of State to approve the location of roundabouts in local areas.

The Framework also enables eligible institutions to take on board powers that other areas have previously secured, should areas wish to do so.

2.3 Application Process, Timeline, and Readiness Conditions

The Framework sets out the application process, eligibility and access criteria that areas wishing to make an application for Level 4 Devolution will need to follow. A summary of the key criteria are as follows:

- Level 4 of the Devolution Framework will be available to combined authorities, combined county authorities and local authorities who have implemented a Level 3 deal.
- Level 4 will be offered once areas can provide confidence in the capacity, governance and culture of the institution to manage its activities effectively and take up further powers.
- Ministerial decisions will be taken in the round and the Government will engage further with individual areas before making a decision.
- Areas must confirm that they will report on how they are implementing the Scrutiny Protocol, as set out in the English Devolution Accountability Framework, within one year of confirmation from the Secretary of State that the Government is content to proceed with a Level 4 agreement.
- The Scrutiny Protocol sets out proposals for improved future working including the potential for areas to consider moving towards a single scrutiny committee model.
- MP sessions to further enhance scrutiny in the future, similar to those arrangements being established in GMCA and WMCA, will need to be adopted by areas.
- The final transfer of each policy area will be subject to areas demonstrating compliance with specific readiness conditions for each policy area within the framework.
- Subject to eligibility tests, an area can apply at any time to access further powers from the Devolution Framework.
- Any subset or a combination of powers unless otherwise specified may be applied for and there is no obligation to take all the powers on offer.

Eligible institutions must decide which parts of the Framework they would like to apply for and a final decision on this must be made by the mayor or directly elected leader with the agreement of all constituent members in the case of an eligible devolved institution.

2.4 West Yorkshire Level 4 Submission

Since the Government's publication of the Level 4 Devolution Framework in November 2023, the Combined Authority and five local authorities have been working closely, and at pace, to understand and consider the opportunities that a Level 4 Deal presents for West Yorkshire.

In discussions that have taken place, the partnership has been clear that deeper devolution must align with our collective objectives and priorities for the region. It must offer greater opportunity and levers to achieve the objectives and outcomes the partnership is seeking to deliver for our communities, businesses and places, as set out in the West Yorkshire Plan.

Following discussions between the Mayor and Local Authority leaders, and approval from the Finance Resources and Corporate Committee on 18 January to proceed, an initial application, seeking access to all of the opportunities available through the Framework has been submitted to Government. The West Yorkshire letter of application is attached as Appendix 3.

It should be noted that the initial submission of a letter of application to the Secretary of State does not constitute an irrevocable step and does not form part of the statutory process. However, it signals an intent to engage with Government and proceed with the Level 4 Framework, subject to further development work between the West Yorkshire partnership and Government. The legislative processes for the different aspects of the application would need to be worked through in progressing this, as part of which all statutory requirements, including the need for individual consents on whether to accept new powers, would take place.

Following submission of the West Yorkshire application letter, the decision sat with the Secretary of State as to whether to progress talks on the West Yorkshire Level 4 application. On 1st March 2024, the Secretary of State wrote to the Mayor of West Yorkshire to confirm that the Combined Authority meets the government's eligibility criteria (as set out in section 2.3), allowing talks with government to commence.

2.5 West Yorkshire Scrutiny Protocol

The Scrutiny Protocol, published alongside the Level 4 Devolution Framework, is guidance for good regional scrutiny. Its relevance to West Yorkshire devolution is in it setting out guidance relating to:

- the relationship between the mayor and the combined authority
- how the overview and scrutiny and audit committees hold the combined authority and mayor to account

Technical guidance states that eligible institutions will be required to confirm in their application how they intend to implement the Scrutiny Protocol within one year of agreement with the Secretary of State and then must confirm by that deadline how they have implemented all the key principles of the Scrutiny Protocol.

The Scrutiny Protocol intends to strengthen the accountability, assurance, audit and scrutiny functions of eligible institutions to ensure greater accountability for additional powers and funding.

The Scrutiny Protocol includes 18 key principles including: sustained appointments made on interest and skills; well-resourced training; inviting technical expertise; remuneration and status; participation in pre-policy and pre-decision scrutiny; regular performance monitoring including agreed outcomes; focused task and finish exercises; access to data; research; and analysis and strong relationship with audit committees.

Two further principles recommend a single committee structure and the introduction of a public Mayor's Question Time.

On 24 November 2023, the Corporate Scrutiny Committee established a Scrutiny Protocol Working Group to review the published Scrutiny Protocol and make recommendations on how the Combined Authority can implement the Scrutiny Protocol in full. The Working Group, which consists of Members from all three existing Scrutiny Committees (Corporate, Economy and Transport), is currently scheduled to meet on 29 January 2024 and 16 February 2024 to consider and review feedback from stakeholders.

At the time of writing, a final report and recommendations was planned to be submitted to a March meeting of the Corporate Scrutiny Committee for agreement, prior to submission to the 14 March 2024 meeting of the Combined Authority for approval.

Subject to findings of the review, the intention is to implement any proposals from June 2024.

2.6 West Yorkshire Partnership Principles

The first West Yorkshire Devolution Deal, agreed in 2020, was underpinned by a set of partnership principles which has supported the successful development of the partnership over the last three years. Since that time, the West Yorkshire partnership has grown and strengthened, demonstrated by our successful delivery of a range of ambitious programmes and initiatives which have resulted in better outcomes for local people, business, and place.

The strength of the West Yorkshire partnership of the five local authorities and the Combined Authority will underpin our ability to successfully deliver deeper devolution across the region.

Work to develop the West Yorkshire response to the Government's Level 4 Devolution Framework has provided a useful catalyst to review and refresh these principles, to support the next stage of the Combined Authority's devolution journey.

Revised partnership working principles developed in collaboration between the local authorities and Combined Authority are now set out below for consideration:

1. Collaboration and Co-production
2. Sovereignty
3. Subsidiarity and Devolution
4. Transparency and Accountability
5. Fairness and Equity
6. Flexibility and Funding Simplification

In seeking any further deepening of devolution in West Yorkshire, our approach recognises and acknowledges the parity of partnership, our strength as a collective of six and the lack of appetite for any proposal which diminishes the role or sovereignty of our constituent parts. We will work to these collectively agreed principles to ensure that moves towards deeper devolution across West Yorkshire support the achievement of our ambitions and deliver better outcomes for local people, businesses and communities across all areas of the region.

2.7 Next Steps

The West Yorkshire application letter was submitted to government by the West Yorkshire Mayor ahead of the government's deadline.

The known next steps are now as follows:

1. Consideration and ratification of the initial application is being carried out by each Constituent Council
2. Further discussions will commence with Department for Levelling Up, Housing and Communities and individual government departments to develop detailed proposals for each policy area. In particular, this will include consideration of whether consultation or statutory changes are required to implement individual elements of the Framework.

3. Further detailed work on the Scrutiny Protocol and its application to West Yorkshire, following consideration of an initial paper on Level 4 Devolution by the Corporate Scrutiny Committee on 19 January 2024. As set out above, a Working Group has been convened to review the Scrutiny Protocol and its application, and, at the time of writing, recommendations are scheduled to be considered at the 14 March Combined Authority meeting for approval.

To ensure that work is undertaken at pace and that the Combined Authority is informed at all points of the forthcoming devolution journey, regular updates will be provided as discussions with government departments takes place and work progresses.

3. Implications for the Council

3.1 Working with People

Regional governance structures provide Kirklees's locally-elected councillors and council officers with influence over regional spending and investment, providing an opportunity for local residents' views to influence this spending and investment. More regional powers devolved from central government will provide more influence for Kirklees representatives over these resources, and therefore for local residents.

3.2 Working with Partners

Fostering strong regional relationships and collaborative working continues to bring multiple benefits to our district. Through continued working with our regional partners, we are able to set the trajectory for long-term ambition as set out in the West Yorkshire Plan and ensure that government and wider local and national stakeholders are clear on our priorities and understand that we speak with one strong voice. Level 4 Devolution will create opportunities to strengthen partnership working through both the increased powers over local spending/investment and through the partnership principles.

More widely, regional governance structures provide Kirklees's locally-elected councillors and council officers with influence over regional spending and investment, providing an opportunity for partners to influence this spending and investment. More regional powers devolved from central government will provide more influence for Kirklees representatives over these resources, and therefore for local partners.

3.3 Place-Based Working

Throughout the engagement with the Combined Authority, we have emphasised the importance that one size doesn't fit all across West Yorkshire. We have agreed that some powers are best delivered at a district level based on district-level understanding and that new regional powers will not take powers away from districts. This will preserve our ability to make decisions in Kirklees based on our understanding of our different places.

3.4 Climate Change and Air Quality

There are no climate change implications directly arising from this report, however further flexibilities made available to the Combined Authority through accessing Level 4 Devolution could support the Council's climate and environment priorities.

3.5 Improving outcomes for children

There are no children's services implications directly arising from this report, however further flexibilities made available to the Combined Authority through accessing Level 4 Devolution could support the Council's ambitions for children to have the best start in life.

3.6 Financial Implications

There are no financial implications directly arising from this report. If the decision is taken to proceed with Level 4 Devolution, this will result in financial implications for the Combined Authority, including the move towards a DLUHC single settlement.

3.7 Legal Implications

Although there are no direct legal implications at this stage, statutory processes will need to be followed as appropriate to progressing different elements of the framework. This will become clearer upon advice from government as the process progresses.

Officers of the Combined Authority and partner councils are working collaboratively in assessing and taking forward any legal and statutory elements of this process.

3.7 Other (e.g. Risk, Integrated Impact Assessment or Human Resources)

There are no significant risk or human resource implications directly arising from this report. Risks will continue to be monitored as part of the discussions around potential new powers.

Integrated Impact Assessment (IIA)

The new powers broadly present opportunities to promote equality in line with our Public Sector Equality Duty and our strategic aims. Specific Integrated Impact Assessments will be carried out as the details of the range of new powers develop.

4 Consultation

Structured consultation has not taken place as this initial stage has only been focussed on producing an initial application to begin talks about available powers. However, consultation will be a part of the future stages when a devolution deal has been drafted.

5 Engagement

Throughout the development of the application, the Combined Authority have engaged local authorities through various informal regional meetings including with heads of policy, directors of development, chief executives, and leaders.

6 Options

6.1 Options Considered

1. Whether or not to support the application to begin talks about adopting powers through the new Level 4 Devolution Framework
2. Whether or not to accept the partnership principles

6.2 Reasons for recommended Option

With the use of current devolved powers, we have more influence in Kirklees over how resources are spent and invested in Kirklees. Through ongoing collaboration and regional governance structures, we are able to influence decisions based on our understanding of the needs of people in Kirklees. The more influence we have, the more we can bring this local understanding to bear.

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New Level 4 Devolution powers could affect all cabinet portfolios, therefore it is important that Cabinet understand the powers available and our application to begin to talks on adopting the new powers

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The Secretary of State has written to the Mayor of West Yorkshire to indicate that the Combined Authority meets the eligibility criteria for Level 4 Devolution and that talks can commence.

The new powers for the Combined Authority would not directly reduce local authority powers and will support local ambitions.

7 Next steps and timelines

See Section 2.7 of this report.

8 Contact officer

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9 Background Papers and History of Decisions

N/A

10 Appendices

Appendix 1 – Level 4 Devolution Framework -

<https://www.gov.uk/government/publications/technical-paper-on-level-4-devolution-framework/technical-paper-on-level-4-devolution-framework>

Appendix 2 – Scrutiny Protocol

Appendix 3 - West Yorkshire letter of application

Appendix 4 – Secretary of State response to the Mayor of West Yorkshire -

https://assets.publishing.service.gov.uk/media/65e1d0707bc3290011b8c266/SoS_DLUHC_to_Mayor_Tracy_Brabin_West_Yorkshire_Combined_Authority.pdf

11 Service Director responsible

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