

Report to: West Yorkshire Combined Authority

Date: 28 June 2018

Subject: **Superfast Broadband West Yorkshire and York**

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Is this a key decision?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in by Scrutiny?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information or appendices?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If relevant, state paragraph number of Schedule 12A, Local Government Act 1972, Part 1:	N/A

1. Purpose of this report

- 1.1 At the meeting on 5 April 2018, the West Yorkshire Combined Authority considered a report on the approach to digital infrastructure delivery across the City Region and funding bids for a proposed Contract Three of the West Yorkshire and York Superfast Broadband Programme, including use of Gainshare.¹
- 1.2 It was reported that there are a number of funding opportunities that can support investment in digital infrastructure in West Yorkshire and the City Region including DEFRA, the Department for Media Culture and Sport and European Funding. There was also an opportunity to invest an element of the Gainshare accruing from Contracts One and Two of the existing broadband programme.
- 1.3 The Combined Authority agreed in principle for funding applications to be submitted for a proposed third phase of broadband infrastructure delivery and requested options on funding to be shared with Members with the final

¹ Contract One and Two of the existing broadband programme with Openreach have a claw-back mechanism which relates to superfast broadband take-up above a given threshold across the full programme. Refer to para 2.17 for details.

decision on the bids to be submitted, delegated to the Combined Authority's Managing Director in consultation with the LEP Chair and Combined Authority's Chair. Members also agreed that the governance for Contract Two and the Partnership Agreement be reviewed to ensure alignment with the Combined Authority governance model. This report seeks agreement to the outcomes of this work.

2. Information

City Region Policy Context

- 2.1 The City Region's **Strategic Economic Plan** (SEP) has laid out an ambition to achieve 99% superfast broadband 30 Megabits per second (Mbps) connectivity across West Yorkshire by 2018/19. The Superfast West Yorkshire and York Broadband (SWYY) programme is well on the way to meeting this ambition with the first two contracts of the programme on track to deliver up to 98% by 2021.
- 2.2 The emerging Leeds City Region Digital Framework – **Leeds City Region transformed by digital tech** – is the second big idea proposed as part of the emerging Local Inclusive Industrial Strategy. The Digital Framework has 5 interconnected outcomes which will help to set out our approach to the digital economy and to the strengthening of digital capability across the City Region's population and institutions:
- **Digital opportunities for non-digital businesses** – helping all City Region businesses to embrace and grow through improved use of new technologies;
 - **Digital skills for all** – giving everyone access to the skills they need to operate and thrive in a digital economy and tackling digital exclusion.
 - **The digital sector that serves the rest** – making Leeds City Region the best place to start and grow a digital business
 - **World class digital infrastructure** – ensuring everyone can access a fast, reliable and resilient network
 - **A smarter, more intelligent City Region** – using technology and data to solve the City Region's biggest challenges and improve citizen outcomes.
- 2.1 Whilst all of these strands are important and require concerted interventions to progress, our ambitions to become a smarter, digital tech leading City Region will not happen without the underpinning digital infrastructure being in place.

Superfast West Yorkshire and York Programme

Contracts One and Two - Progress to Date

- 2.2 Contract One of the SWYY Programme with BT is complete. The participating West Yorkshire authorities in Phase One were Leeds, Bradford, Calderdale and Wakefield, with Kirklees contributing to Project Management costs. This achieved over 90% access to superfast broadband in the region and the project

was considered by the Government's Broadband Delivery UK (BDUK) to be in the top two projects nationally for good value-for-money.

- 2.3 Contract Two of the programme with Openreach extends delivery into Kirklees and City of York. To date this Phase Two contract is the best value for money contract of all in the national broadband programme. Through the programme from 2013 to the end of March 2018 an additional 91,005 premises have access to superfast speeds of at least 24 Mbps.

Governance

- 2.4 The Superfast Broadband Programme² is currently managed by a Programme Board comprising partner councils (the five West Yorkshire councils and City of York Council). This was created in 2013, with the Combined Authority joining in 2015 when the contract was novated across from Leeds City Council to transfer responsibility as Accountable Body. There is also a partnership agreement in place between the partner councils and the Combined Authority for Contract Two (signed 2 April 2015).
- 2.5 As such the governance arrangements pre-date the Combined Authority's existing Assurance Framework and recent changes in its own governance and approval making mechanisms. Nonetheless, all decisions regarding project spend for funding held by the Combined Authority which change e.g. financial tolerances and scope, are taken through the Combined Authority's Assurance Framework and standard capital approvals process in line with approved protocols.
- 2.6 The Programme Board has recommended that the Combined Authority continues in its role leading the development of funding applications for the programme and as Accountable Body. The Programme Board has also recommended that Leeds City Council is the Delivery Partner for the proposed third phase. A service level agreement links Leeds City Council and the Combined Authority to ensure seamless working. This is expected to continue for Contract Three if funding is secured and approval is granted to proceed, and the funding bids have been submitted on this basis.
- 2.7 Following an initial review and discussion with the Programme Board, it is considered that some changes may be required to the current overarching governance arrangements, including the partnership agreement. Whilst discussions are on-going in respect of the partnership agreement, it is intended that any proposed changes are primarily to ensure that the partnership is operating in compliance with the Combined Authority's Contract Standing Orders and approvals mechanisms / scheme of delegations, given the Combined Authority is the accountable body for the funding.
- 2.8 Partner councils may also need to reconfirm that appropriate delegations are in place for respective Programme Board members, as detailed in the existing partnership agreement.

² Contracts One and Two

- 2.9 Through this report Members are asked to note progress with the governance review to date, to approve the proposed governance structure for a future third phase of broadband as outlined in para 2.8 above and delegate to the Managing Director, in consultation with the Chair of the Combined Authority and Chair of the Local Enterprise Partnership, the finalisation of any future changes to the Partnership Agreement for Contract Two once discussions with partner councils have concluded.

Phase Three – Update and Next Steps

- 2.10 The Combined Authority (5 April) agreed to progress bid development for a third phase of the SWYY Programme following advice from the Broadband Programme Board. This approval set some of the parameters for the project with other details to be developed between the Combined Authority and senior partner council officers.

- 2.11 The proposed funding envelope (subject to the outcome of funding bids) is outlined below:

Capital Funding:

- ESIF: £2.81m; match funding: BDUK Funding £1.11m & Contract One Gainshare £1.7m (see para 2.17 below)
- DEFRA Rural Broadband Infrastructure: £9.98m

Revenue Funding:

- ESIF: £0.386m; match funding £0.386m (local contributions or Business Rates Pool bid)

Total (Capital): £15.6m

Total (Revenue): £0.772m

- 2.14 The DEFRA funding application was submitted at the end of May by the Managing Director operating under approved delegation and similarly the ESIF bid was submitted in mid-June following an agreed extension to the deadline by Government.
- 2.15 The Combined Authority approval (5 April) indicated that partner councils may be asked to provide financial contributions towards revenue match funding requirements (including procurement costs, legal advice, technical support and project management) on the understanding that a Business Rates Pool bid is also submitted by the Combined Authority as a preferred option. For the purposes of the above mentioned ESIF application (submitted 13 June) local match funding contributions have been confirmed with letters from each council partner following discussions with Programme Board. These local match funding contributions are subject to the outcome of a separate Business Rates Pool bid that is currently under consideration.
- 2.16 BDUK have indicated that they may be willing to match bids with up to £1.1m of funding subject to seeing adequate progress with the public consultation

and procurement stages, which are scheduled to commence at the end of June / early July, and August respectively.

Gainshare

- 2.17 Contracts One and Two with Openreach have a claw-back mechanism which relates to superfast broadband take-up above a given threshold across the full programme. Above this threshold, Openreach pay a contractual amount into an Investment Fund known as Gainshare. The intention is that the Investment Fund is re-invested into further broadband delivery during the lifetime of the programme, as per contractual obligations.
- 2.18 BDUK have confirmed that from September 2018 the Combined Authority and Partner councils could drawdown funding of circa £1.5-£1.7million Gainshare as 100% capital to invest in a third phase of the broadband programme.
- 2.19 The submitted funding applications outlined in para 2.13 propose that this funding is utilised as capital match funding for Contract 3, as agreed via the Programme Board and local authority representatives.
- 2.20 This enables up to £1.7million Gainshare to act as match-funding against BDUK and ESIF capital funding and allows 100% of the Gainshare funding to be utilised.

Summary of Potential Programme Risks

- 2.21 A complete risk register will be developed as Phase Three is progressed through the project management and assurance process. The following section lists some of the key risks that have been identified at the current stage:
- Loss of any potential DEFRA Rural Broadband funding. This funding allocation is already oversubscribed based on the funding pot currently available. Should this application be unsuccessful or successful on a reduced budget, the programme will need to be re-scoped accordingly.
 - Funding may be withdrawn from BDUK if agreement on future contracts are not achieved soon. They have also requested evidence that procurement is progressing. The submission of funding bids is a significant milestone that has been achieved and planning for the consultation and procurement elements is underway.
 - Local partners will lose 50% of Gainshare if it is not utilised under Contract Two or Three and the Investment Fund is allowed to mature. The use of an element of Gainshare within Phase Three begins to mitigate this risk.
 - Risks associated with any potential claw back of European funding if spend and output targets identified in funding applications are not met when the programme is delivered. By starting early on procurement, the Combined Authority and partner councils are giving the best opportunity to deliver the ambition within challenging timeframes.

3. Inclusive Growth Implications

- 3.1 The proposed third phase of superfast broadband infrastructure delivery is intended to address some of the most hard to reach urban, semi-urban and/or rural properties, subject to the final outcome of respective funding applications.
- 3.2 Options are also being explored as to how to focus the Social Value element of the procurement exercise to target positive measures to combat digital exclusion, where possible.

4. Financial Implications

- 4.1 The financial implications are detailed in this report in relation to funding bids, local contributions and Gainshare in paras 2.12 – 2.20.

5. Legal Implications

- 5.1 Technical and legal advice will need to be secured to support the procurement and contractual arrangements for Phase Three.

6. Staffing Implications

- 6.1 The Combined Authority and council partners have developed the proposed programme management requirements for Contract Three which are outlined in this report and have been included within the funding applications.

7. External Consultees

- 7.1 BDUK have been consulted in respect of the Gainshare details of this report.
- 7.2 A public consultation on the Open Market Review results will need to be conducted as soon as possible to inform the procurement exercise. This will take place in June/July 2018.

8. Recommendations

- 8.1 That the Combined Authority notes progress with the governance review to date, approves the proposed governance structure for a future third phase of broadband as outlined in paras 2.8 - 2.9 above and delegates to the Managing Director, in consultation with the Chair of the Combined Authority and Chair of the Local Enterprise Partnership, the finalisation of any future changes to the Partnership Agreement for Contract Two once discussions with partner councils have concluded.

- 8.2 That the Combined Authority endorses the use of up to £1.7 million Gainshare from the Phase One Investment Fund to support proposed Phase Three of the West Yorkshire and York broadband programme.

9. Background Documents

Report to the Combined Authority, 5th April 2018 – Broadband Approvals and Funding.

10. Appendices

None.