

Report to: West Yorkshire Combined Authority

Date: 21 May 2020

Subject: **Devolution Implementation**

Director: Alan Reiss, Director Policy, Strategy and Communications

Author: Emma Longbottom

Is this a key decision?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for call-in by Scrutiny?	<input checked="" type="checkbox"/> Yes <input 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:	

1. Purpose of this report

- 1.1 The West Yorkshire “minded-to” Devolution Deal was announced as part of the Budget on 11 March 2020. Subject to consultation and statutory process, this will lead ultimately to the adoption of a mayoral combined authority model with additional functions, and will require an Order of the Secretary of State.
- 1.2 Subsequent to the Budget announcement, the Combined Authority and each Constituent Council:
- Endorsed the “minded to” Deal agreed.
 - Agreed to be party to a Review of the Combined Authority’s constitutional arrangements and of the functions carried out by the Combined Authority over the Combined Authority’s area, as set out in paragraph 2 of this report and pursuant to S111 of the Local Democracy, Economic Development and Construction Act 2009.
 - Authorised the Combined Authority’s Managing Director, in consultation with the Chief Executive of each Constituent Council, to carry out the Review on behalf of each Constituent Council and the Combined Authority.
 - Authorised the Combined Authority’s Managing Director, in consultation with the Chief Executive of each Constituent Council, and on behalf of

each Constituent Council and the Combined Authority to prepare a draft Scheme for consideration by the Constituent Councils and the Combined Authority, subject to the outcome of the Review.

- 1.3 Following these approvals this report seeks to consider:
 - the outcome of the statutory Review, which has been undertaken jointly by the Constituent Councils and the Combined Authority;
 - whether an Order of the Secretary of State would likely improve statutory functions; and
 - the draft Scheme.
- 1.4 Subject to authorisation of Combined Authority and each Constituent Council, it is proposed that a consultation and engagement exercise with partners and stakeholders is undertaken on the draft Scheme. Following this exercise, it is proposed that Combined Authority and each Constituent Council receive a report in August/September 2020 to consider the outcome of the consultation and resolve to submit a summary of responses to the Secretary of State.
- 1.5 The structure of the consultation will be based on previous consultations undertaken by other MCAs. However, it should be noted that due to the current pandemic, the proposed consultation process will operate differently to similar consultations carried out by other MCAs. Consideration has been given to how the consultation will be promoted and how individuals who do not have online access may be able to participate. Further details are provided in paragraphs 2.23 and 2.24. In addition, the Consultation Institute have been procured to provide quality assurance and external challenge of the full consultation process, including the survey questions.

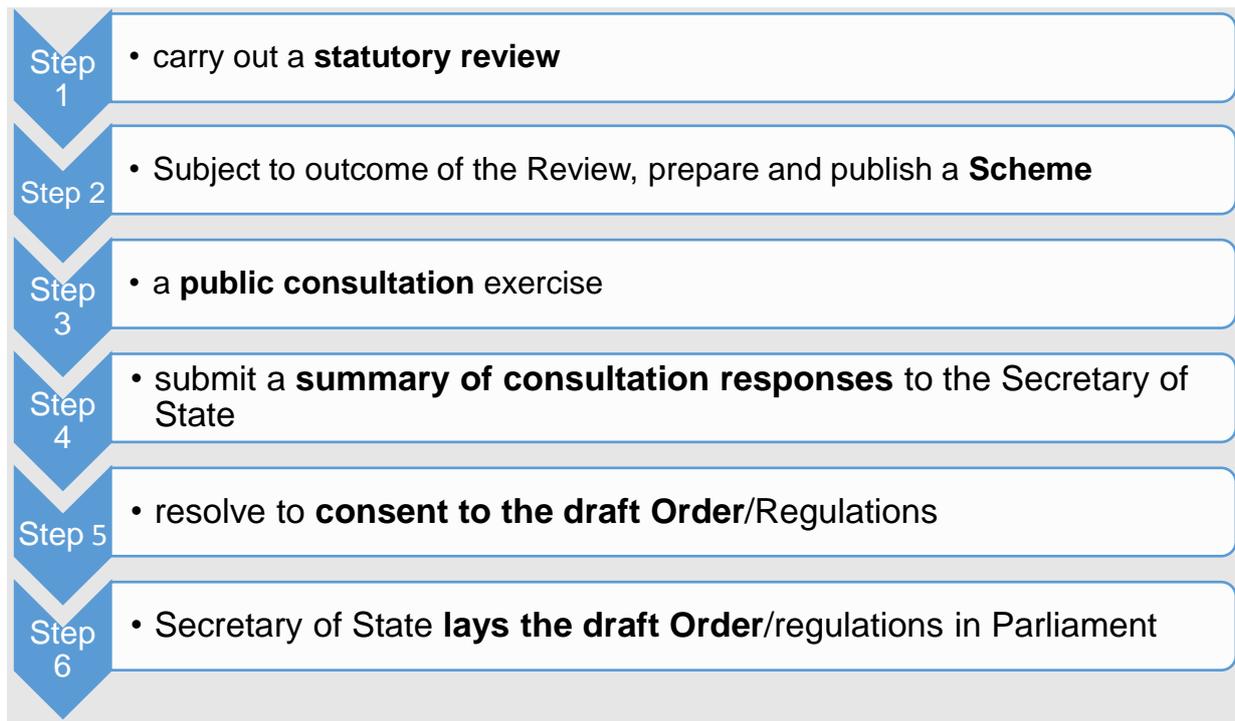
2. Information

- 2.1 The Deal will devolve a range of powers and responsibilities to West Yorkshire Combined Authority, supporting the region to drive economic growth and prosperity within its communities and across the north. It will build upon the area's history of collaboration to maximise this investment and increase its contribution to the national economy.
- 2.2 The Deal will unlock significant long-term funding and give the region greater freedom to decide how best to meet local needs and create new opportunity for the people who live and work there. This agreement is the first step in a process of further devolution. The Government will continue to work with West Yorkshire on important areas of public service reform and infrastructure investment, to support inclusive economic growth in towns, cities and rural areas whilst tackling the climate emergency.
- 2.3 The initial funding for the financial year 2020/2021 will be available prior to the first Mayoral election, but subject to: the establishing legislation being in place; and a revised Assurance Framework being approved. The revised Assurance Framework will consider opportunities to accelerate decision making at times when a more agile approach is required, including through the officer delegation scheme.

Process for enacting the deal

- 2.4 The Local Democracy, Economic Development and Construction Act 2009 (the 2009 Act) sets out statutory processes to be followed before any Order is made to provide for.
- a) adopting a mayoral combined authority model (S107A/B)
 - b) the Mayor to carry out and delegate mayoral general Functions (S107D)
 - c) the joint exercise of general functions by the Mayor (S107E)
 - d) Changes to the constitutional arrangements of a Combined Authority (including voting, membership, funding arrangements) (S104)
 - e) Delegation of transport-related functions to the Combined Authority (S104), and
 - f) Delegation of some general local authority functions concurrently to the Combined Authority (S105).
 - g) Delegation of public authority functions to the Combined Authority (S105A)
 - h) The Mayor to exercise functions currently carried out by a police and crime commissioner(S107F).
- 2.5 Each aspect listed in 2.4 above 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.
- 2.6 It was previously agreed that the process set out in the flow chart below be followed. This process addresses all statutory procedural requirements, facilitates an understanding of the overall impact of the changes, and maximises engagement with stakeholders including the public.

2.7 Flow chart of proposed process:



2.8 The following sections of the report provides: a summary of the Governance Review; a summary of the Scheme; and detail of the proposed consultation exercise. Full documents are available in the appendices to this paper.

Governance Review

2.9 Section 112 of the 2009 Act provides that where one or more of the authorities which undertook the Review conclude that the exercise of the power to make an Order under S104 or 105 would be likely to improve the exercise of statutory functions in West Yorkshire, they may prepare and publish a scheme relating to the exercise of the power in question – that is, the making of an order in relation to with new transport-related functions, concurrent functions with local authorities and changed constitutional arrangements, (including those changes related to adopting a directly elected mayoral model). A summary is provided here, with the full Governance Review available at Appendix 1.

2.10 The Secretary of State may only make an order under S104 or S105, if they consider that to do so is likely to improve the **exercise of statutory functions** in the Combined Authority’s area. In making any such order, the Secretary of State must have regard to the need

- To secure **more effective and convenient local government** for the area; and
- to reflect the **identities and interests of our local communities**

2.11 The review has found that the economic evidence provides a rationale to continue to work across the West Yorkshire area, recognising that it continues to operate as a strong and coherent functional geography in its own right. It has

a strong and diverse sectoral mix with significant growth potential, underpinned by notable economic assets and infrastructure, and through its links with the wider Leeds City Region, Yorkshire and the Northern Powerhouse.

- 2.12 Despite its economic successes, West Yorkshire is still a net spender of UK tax revenues, and there are significant challenges in relation to securing its ambitions to promote faster and more inclusive growth, achieving a zero-carbon economy and delivering a 21st century transport system for the area. And there is not enough local control over the policies which affect our economy.
- 2.13 The idea of West Yorkshire authorities working together on a range of transport and economic activities is not new. Leeds City Region was a pilot forerunner city region, the City Deal was secured in 2012 and £1bn Growth Deal was agreed in July 2014. This success has enabled the Combined Authority (established in 2014), the five West Yorkshire councils, and the Leeds City Region Enterprise Partnership ('the LEP') to make a strong start.
- 2.14 The minded-to devolution deal represents a significant step forward in delivering more and better jobs to the area. It delivers significant new responsibilities and investment that will benefit our communities and businesses across the region. It means that decisions previously taken centrally can now be taken closer to the people affected and gives the area greater financial freedom and flexibility to manage our investment choices according to local priorities. The MCA will promote local democracy through direct democratic accountability in exercising locally more of the levers of change that will drive economic growth. The review notes that the devolution deal is dependent on the establishment of an MCA and concludes that this is the appropriate mechanism by which the powers and funding proposed can be devolved to West Yorkshire.
- 2.15 The review concludes that:
- current regional governance arrangements - based on a non-mayoral combined authority - do not represent the best model in terms of delivering the long-term ambitions of the authorities within the area for economic growth and delivery of public services;
 - there is limited practical scope for the existing governance arrangements to be meaningfully strengthened, short of creating a mayoral combined authority;
 - a change is required to enable the West Yorkshire authorities to pursue their economic policy agenda at greater pace, while continuing to collaborate with the wider Leeds City Region, Yorkshire and the North in pursuit of shared economic objectives; and
 - the statutory criteria for preparing and publishing a Scheme are met, i.e., that making an Order under S104 and 105 will likely:
 - **improve the exercise of statutory functions in that area.**
 - **The Review findings include that the proposed changes to constitutional arrangements and to the Combined Authority's functions have a neutral or no impact on the identities of local communities** – these proposals are about the economy and not about the identity of an area which has been working closely together for a number of years; and

- **secure more effective and convenient local government** by reducing complexity and streamlining the delivery of public services within the area.

- 2.16 The review proposed that a scheme is published that confirms:
- Any MCA should cover the area of West Yorkshire;
 - A West Yorkshire Mayor would be elected in May 2021;
 - The mayor would become a member of the Combined Authority, and Chair meetings of the authority;
 - Each council will continue to appoint a member to the new MCA, along with political representatives from opposition groups, non-constituent members from City of York Council and a member of the LEP would be appointed; and
 - the Mayor and MCA will exercise specific statutory functions, and share some powers concurrently with West Yorkshire local authorities.

Preparing a draft Scheme

- 2.17 As proposed within the Review, a draft Scheme has been prepared. The Scheme will form the basis for a revised Order establishing the Mayoral Combined Authority. A summary is provided below with the full Scheme available at Appendix 2.

Scheme

- 2.18 The Scheme will form the basis for a revised Order establishing the mayoral combined authority. In addition to proposals relating to constitutional changes, the delegation of transport related functions and general local authority functions, the Scheme contains proposals relating to the adoption of a mayoral model, and the transfer of functions of a public authority to the Combined Authority, in accordance with S107B(2) and S105B(4) respectively.

It contains information on:

- proposed membership, voting and any other constitutional arrangements;
 - functions to be conferred on the mayoral combined authority and how they are exercised, that is, by the Combined Authority, concurrently with Constituent Councils or by the Mayor (including any constraints or limitations to the Mayor's powers);
 - any changes to the way in which the Combined Authority will be funded, including power for the Mayor to issue a precept, or prudential borrowing powers for functions other than transport;
 - practical arrangements, including any property transfers and ensuring transparency via enhanced scrutiny arrangements.
- 2.19 It will be important to ensure that any revised sub-regional arrangements secure and enhance effective working arrangements between the Mayoral Combined Authority and the Constituent Councils and their democratic arrangements, to facilitate a joined-up and collaborative approach to policy,

delivery and decision-making. In addition, local protocols may be established to ensure wider engagement and support for decisions and council approvals.

- 2.20 The 'minded to' deal set out that responsibility for West Yorkshire Police and Crime Commissioner (PCC) functions would be taken by the Mayor from 2024. Because the PCC elections have subsequently been delayed until May 2021, there is now an opportunity for any newly elected Mayor to potentially exercise PCC functions in the period after May 2021, rather than from May 2024 as originally proposed.

Consultation

- 2.21 It is proposed that once the draft Scheme has been considered by Constituent Councils and the Combined Authority and the Scheme is published, a wider public consultation with business and other stakeholders is undertaken. It is proposed that there is one consultation exercise co-ordinated by the Combined Authority, but that this is led by each council in relation to their district.
- 2.22 Following this, a summary of consultation responses will be brought back to the Constituent Councils and the Combined Authority to approve before the Scheme and summary of responses are submitted to the Secretary of State.
- 2.23 In line with other Mayoral Order consultations undertaken elsewhere in England, the primary consultation channel used will be an online survey asking respondents their views on the Scheme. The link to the survey and all associated documents will be hosted on the Combined Authority's Your Voice consultation and engagement website, plus West Yorkshire council's websites and will be co-branded by all partners.
- 2.24 Given the current Coronavirus situation, a communications plan will be developed, in partnership with local councils, to promote the consultation to the widest possible audiences using a range of digital and non-digital channels. These will include a combination of:
- Social media – including paid Facebook content
 - Press releases targeting local and regional media
 - Development of a toolkit so that councils and other partners can promote the consultation via their channels
 - Potential local radio advertising and/ or interviews
 - Direct engagement with community networks and equalities groups to improve accessibility
 - Development of an animation and associated assets explaining what devolution means in simple, accessible language
 - Mailshots to target postcodes.
 - Direct e-shots to an extensive stakeholder list
- 2.25 Due to the current social distancing guidelines face-to-face consultation channels are not possible. In order to enhance the accessibility of the consultation for groups and individuals who may not be able to access digital channels, a specialist consultant has been procured to support effective

targeting of particular postcode areas and equality groups. Contact has also been made with community and equalities groups and business representative organisations to be sure they have an opportunity to respond and share the consultation with their members to gather their views.

- 2.26 To ensure independence of process, specialist consultants have been commissioned to analyse the results and produce the final report. The Consultation Institute have also been asked to provide independent quality assurance and recommendations on the process adopted.
- 2.27 It is proposed that the consultation exercise will launch on 25 May for eight weeks, closing on the 19 July. A consultation on the Strategic Skills Plan for the devolved Adult Education Budget will be launched in parallel on 25 May. This is mentioned in the draft consultation document, in the section on the Skills and Employment.
- 2.28 The draft consultation questions are available at Appendix 3.

Next Steps

- 2.29 With regard to next steps, it is proposed that the public consultation on the Scheme is launched on 25 May with a consultation on the Strategic Skills Plan for the devolved Adult Education Budget to be launched in parallel. Following this, a summary of consultation responses will be brought back to the Constituent Councils and the Combined Authority for consideration and approval. Once approved the Scheme, along with the summary of the consultation responses including any representations made on behalf of Constituent Councils will be submitted to the Secretary of State.
- 2.30 Details of the Scheme would then be embodied in the draft statutory Order to establish a mayoral combined authority, and consents sought in due course from each of the Constituent Councils and the Combined Authority in respect of the draft Order and any related Regulations.
- 2.31 A paper on progress towards achieving devolution of the Adult Education Budget (circa £63m per annum) will be brought to the next meeting of the Combined Authority.

Further Considerations

Overview and Scrutiny

- 2.32 On 22 May members of the Combined Authority's Overview and Scrutiny Committee will hold a briefing session to consider a report which outlines the devolution deal along with the draft scheme, and draft consultation questions. As part of that session, consideration will also be given to future opportunities for Overview and Scrutiny during the devolution implementation process. In addition, the Committee is considering the design of the scrutiny structure in the Mayoral Combined Authority based on lessons learned in West Yorkshire since 2014 and in other MCAs to date.

Future of the Yorkshire Leaders Board

- 2.33 Throughout the devolution process to date, West Yorkshire Leaders have been clear that while securing a strong devolution deal for West Yorkshire is their immediate priority, it is vital to maintain a collective vision for devolution across the whole of Yorkshire.
- 2.34 The Yorkshire Leaders Board has been a key vehicle through which the entire region has been able to collaborate over recent months and years. As part of the Deal, Government has committed to continuing to work with all parts of Yorkshire to achieve shared ambitions on devolution, including exploring opportunities for developments beyond the current Deal in the future.
- 2.35 In order to support this work, and reflecting the strong Yorkshire brand and its cultural heritage, Government will provide £200,000 in 2020/21 to support the more formal establishment of the Yorkshire Leaders Board as a means of facilitating greater collaboration on a Yorkshire-wide basis. This is a positive step in ensuring continued dialogue with Government on the future of the region, and will enable councils and combined authorities to build upon the already excellent cross-border partnership work being undertaken.

3 Clean Growth Implications

- 3.1 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. Although there are no immediate implications on Clean Growth arising as a direct result of the report, the Review and Scheme consider the potential for Mayoral Combined Authority governance arrangements to deliver West Yorkshire's clean growth ambitions.

4 Inclusive Growth Implications

- 4.1 Inclusive Growth is a key priority for West Yorkshire Combined Authority and the LEP. Although there are no immediate implications on Inclusive Growth arising as a direct result of the report, the Review and Scheme consider the potential for Mayoral Combined Authority governance arrangements to deliver West Yorkshire's Inclusive Growth ambitions.

5 Financial Implications

- 5.1 The Deal includes a number of flagship funding arrangements including £38m for 30 years into the West Yorkshire Investment Fund, £317m from the Transforming Cities Fund and control over the £63m annual Adult Education budget. The implications of these and the other funding provisions contained within the Deal are considered as part of the Review and subject to future reports.

6 Legal Implications

- 6.1 It is proposed that this decision is exempt from call-in on the grounds of urgency as any delay caused by the call-in process would prejudice the Combined Authority's and Constituent Councils' interests as delaying the start of the consultation process, which would have a significant detrimental impact on the proposed timeline set out in Appendix 4.
- 6.2 Statutory processes need to be followed, before any Order or regulations may be made to implement the Deal.
- 6.3 S101(5) Local Government Act 1972 provides that two or more local authorities (defined to include a Combined Authority) may discharge any of their functions jointly and may arrange for the discharge of those functions by an officer of one of the authorities.

7 Staffing Implications

- 7.1 There will be staffing implications arising from the need to move at pace to undertake the necessary statutory process and to move to a mayoral model.
- 7.2 In due course, it is anticipated that 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.

8 External Consultees

- 8.1 As part of the statutory process, as set out above, public consultation is required, with the results summarised and submitted to the Secretary of State before an Order creating the West Yorkshire Mayoral Combined Authority can be made (Appendices 3 and 4 set out more detail on the proposed process and timeline). As set out the consultation process and methodology will include digital and other appropriate means in order to ensure accessibility. At the current time, the Coronavirus pandemic impacts on consultation methodologies and the consultation approach has taken account for this. In parallel there will be a consultation on the Strategic Skills Plan relating to the Adult Education Budget.

9 Recommendations

- 9.1 To consider the Governance Review attached as Appendix 1 to this report and endorse its conclusions, including that an Order under S104 and S105 in relation to the changes to constitutional arrangements considered in the Review and the delegation of additional functions to the Combined Authority would be likely to improve the exercise of statutory functions in relation to the Combined Authority's area.
- 9.2 To consider and comment on the draft Scheme for the establishment of the Mayoral Combined Authority, attached as Appendix 2 to this report.

- 9.3 To agree that a public consultation exercise is undertaken on the proposals contained in the Scheme and comment on the draft consultation questions, which are attached as Appendix 3 to this report.
- 9.4 To agree that engagement with the Combined Authority and other Constituent Councils should progress as described in this report and (subject to agreement to recommendations 9.1 – 9.3) to agree that the Managing Director of the Combined Authority shall, in consultation with the Chief Executive and Leader of this Council, be authorised to take any steps to finalise the Scheme and progress the public consultation exercise as set out above.
- 9.5 To note the updated timetable set out in Appendix 4 to this report and the next steps including, subject to the approval by the Constituent Councils and Combined Authority, the submission of a summary of the consultation responses to the Secretary of State in August/September 2020 and subsequently consent to any draft Order in September 2020 so that a mayoral combined authority model and associated changes may be adopted and implemented by May 2021, as set out in the Deal.
- 9.6 To resolve that this decision is exempt from call-in on the grounds of urgency, for the reasons set out in paragraph 7.1 of this report.

10 Background Documents

The Devolution [Deal](#) is referenced as a background document within this report.

11 Appendices

Appendix 1 – Governance Review
Appendix 2 – Draft Scheme
Appendix 3 – Draft Consultation Questions
Appendix 4 – Timetable for implementation