

**Report to:** West Yorkshire Combined Authority

**Date:** 22 April 2021

**Subject:** **MCA Governance Arrangements**

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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:	
Are there implications for equality and diversity?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

## 1. Purpose of this report

- 1.1 To consider and approve key constitutional documents for the proposed new Constitution for the Combined Authority.
- 1.2 To consider a report and recommendations of the Independent Remuneration Panel (IRP) in relation to the payment of allowances to members, Chairs and Deputy Chairs of the three proposed scrutiny committees and to determine the level of allowances to be payable to members undertaking these roles once appointed.
- 1.3 To note a report and advice from the IRP in relation to remuneration for the Deputy Mayor for Policing and Crime.

## 2. Information

### Background

#### New Constitution

- 2.1 The West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021 made on 29 January 2021 provides for the first election

of a West Yorkshire Mayor on 6 May 2021. It confers new functions on the Combined Authority, in two phases:

- **Non-Mayoral Functions** (functions which are not the responsibility of the Mayor) which became exercisable by the Combined Authority when the Order was made, and
- **Mayoral Functions** (functions which are the responsibility of the Mayor and include Police and Crime Commissioner (PCC) Functions) which will be exercisable by the Mayor once in office.

2.2 Arrangements to integrate Non-Mayoral Functions into existing governance arrangements have been approved, and the Combined Authority at its meeting on 9 March received an indicative outline of a new Constitution to provide a robust and integrated governance framework. For business continuity, this will incorporate and build on existing governance arrangements so far as possible, while also providing for decision-making in respect of the Mayor and the new functions conferred on the Combined Authority, including the PCC Functions.

2.3 Some elements of the revised decision-making arrangements must be in place for the start of the Mayor's term of office, while others are for the Mayor to decide (for example, the Mayor's delegation arrangements). The latter can therefore only be approved once the Mayor is in office. To meet these timescales and to maximise the opportunity for member engagement, a phased approach to considering and approving the Constitution is being followed:

- core documents relating to Mayoral decision-making in relation to Mayoral General Functions (that is, not the PCC Functions) were agreed by the Combined Authority at the **9 March** meeting, to be of effect when the Mayor is in office,
- other core documents to be considered at **this meeting**, most of which are to be of effect from the Mayor coming into office,
- minor technical and updating amendments to be subsequently approved by officers under delegated authority before the Mayor comes into office,
- **Post-election**: Mayor to confirm the arrangements which fall to the Mayor to decide, and
- the whole Constitution to be confirmed at the **Annual Meeting** in June.

2.4 Appendix 1 summarises the timescales for approving key governance documentation, who will make each decision, and the proposed date for amendments to come into effect. This report now recommends the additional core documents for the Constitution for approval as indicated in Appendix 1. The Constitution will be updated as the Combined Authority matures and evolves.

#### Part 1: Introduction

2.5 Appendix 2 is the draft introduction to the Constitution, to include an index and contents page to be finalised once the Constitution is complete.

## Part 2: Articles

- 2.6 The new Articles set out the underpinning legal framework for the Combined Authority's governance arrangements and as such do contain a high level of detail and cross referencing to source legislation intended to facilitate the reader's understanding and provide effective transparency in one place to what is inevitably a complex statutory framework. The Articles are also intended to provide a mechanism for signposting readers towards relevant aspects throughout the Constitution which will address the practical measures as to how this is implemented. Articles 1 – 4 were approved by the Combined Authority on 9 March.
- 2.7 Appendix 3 contains the outstanding Articles (5 – 14) proposed to be adopted by the Combined Authority. These are:

<b>Article</b>	
Article 5	Police and Crime Commissioner Functions
Article 6	Citizens and the Combined Authority
Article 7	Ordinary (non-statutory) Committees
Article 8	Overview and Scrutiny
Article 9	Audit and Ethical Arrangements
Article 10	The LEP
Article 11	Joint Arrangements and Partnerships
Article 12	Officers
Article 13	Decision-making
Article 14	Finance, Contracts and Legal

## Part 3: Responsibility for Functions

- 2.8 Key sections in Part 3 were approved by the Combined Authority in March. Sections setting out the delegations by the Mayor will be confirmed by the Mayor once in office. A separate item on this agenda relates to a proposed review of the Combined Authority's committee arrangements.
- 2.9 Appendix 4 is a draft Protocol for the Exercise of Concurrent Functions and Associated Statutory Consents, for approval by the Combined Authority.
- 2.10 The 2021 Order confers some functions on the Combined Authority which are exercisable concurrently with Constituent Councils and provides for certain of these functions to be exercised only with the express consent ("Statutory Consent") of a Constituent Council, to be given by the relevant Constituent Council Combined Authority Member.
- 2.11 The draft Protocol documents the basis on which the Combined Authority will exercise concurrent functions and seek Statutory Consents. It was drafted collaboratively by the Constituent Councils and the Combined Authority via their respective legal officers. The draft has been considered by the Constituent Councils and the wording approved through their Cabinets, with the exception of the City of Bradford MDC which resolved to seek some further amendments to the Protocol. The proposed amendments have

subsequently been reviewed by the Monitoring Officers of the other Constituent Councils and the Combined Authority, who consider that the Protocol as drafted provides sufficient safeguards for the Constituent Councils in respect of the exercise of concurrent functions and therefore the unamended version is put forward for Members' consideration. The City Solicitor to Bradford has been informed and acknowledged that the approved Protocol may not include their additions. As Non-Mayoral Concurrent Functions became exercisable by the Combined Authority when the Order was made, it is proposed that the Protocol is approved to be of immediate effect, but subject to review before the end of the calendar year.

- 2.12 The Protocol is not intended to be legally binding. It records the aim to co-operate and collaborate in the best interests of residents of the region, to have transparency and make the best use of resources by reducing duplication, and the ongoing commitment of the Combined Authority to engage with Constituent Councils.
- 2.13 The Protocol provides additional safeguards (publication on the Forward Plan of a Statutory Consent Request Notice and notification to the relevant Chief Executives) to ensure that Constituent Councils will have notice of the Combined Authority's intention to request a Statutory Consent as soon as practicable and at least 28 days before the Combined Authority meeting at which it will formally be requested.
- 2.14 The Protocol also provides for the Combined Authority to consult with Constituent Councils, (including notifying any relevant Chief Executive as soon as practicable), about a proposal to exercise a concurrent function, to facilitate the relevant council considering the proposal in a timely manner. In practice, schemes in respect of which a Statutory Consent or consultation is needed should have been discussed much earlier than 28 days prior to a formal meeting and will have passed through gateway approval processes such as outline and detailed business cases.

Part 4: Procedure Rules

- 2.15 The Combined Authority at its meeting in March approved updated Procedure Standing Orders, Mayoral Procedure Rules and Access to Information Rules. Attached to this report are the following:

<b>Appendix</b>	<b>Document</b>	<b>Comment</b>
Appendix 5	Budget and Policy Procedure Rules	New: relates to the mayor's budget and policies
Appendix 6	Petition Scheme	New: it seems timely for the Combined Authority to introduce a petitions scheme. The draft scheme is not prescriptive about how petitions

Appendix	Document	Comment
		are to be dealt with, other than providing that petitions with <b>over 2000 signatures</b> will be considered at a <b>formal meeting</b> of the Combined Authority or a committee.

## Part 5: Ethical Standards

2.16 Attached to this report are the following:

Appendix	Document	Comment
Appendix 7	Members' Code of Conduct	Revised: new insertions highlighted in blue
Appendix 8	Member and Officer Protocol	New: The Combined Authority does not currently have a Member-Officer Protocol; there is no legal requirement to have one. The proposed Protocol is based on the LGA model Protocol.
Appendix 9	Outline of proposed changes to the Members' Code of Conduct	This sets out the changes from the current Members Code in more detail

2.17 In January 2019, the Committee on Standards in Public Life (CSPL) produced a report into ethical standards in local government accompanied by a series of best practice guidance and recommendations. The CSPL recommended that the Local Government Association (LGA) should create a model code of conduct which would operate nationally and across all tiers of local government. After extensive consultation, the LGA published the final model code in December 2020<sup>1</sup>.

2.18 The Governance and Audit Committee at their meeting on 18 March resolved to recommend that a revised Members' Code of Conduct based on the model Code be adopted by the Combined Authority, as attached at Appendix 7. Appendix 9 to this report sets out the proposed changes in more detail. The Combined Authority is asked to approve the revised Code with effect from 10 May 2021.

2.19 In relation to Appendix 8, the proposed Member and Officer Protocol, the Combined Authority does not currently have any such protocol. There is no legal requirement to adopt one, but it is considered good practice. For

<sup>1</sup> <https://www.local.gov.uk/local-government-association-model-councillor-code-conduct-2020-0>

consistency with Constituent Councils, the proposed Protocol is based on a model protocol produced for councils by the Local Government Association, adapted for the Combined Authority.

#### Part 6: Members' Allowances

- 2.20 The Combined Authority is required to appoint one or more Overview and Scrutiny Committees. At its meeting on 9 March 2021, the Combined Authority considered a report on a review of the overview and scrutiny function and approved recommendations to establish three thematic Overview and Scrutiny Committees with effect from the annual meeting on 24<sup>th</sup> June 2021. In light of the approved changes to the scrutiny structure, terms of reference and membership numbers, the Combined Authority recommended that an Independent Remuneration Panel (IRP) be convened to reassess the level of allowances paid to members of the Committees, scrutiny chairs and deputy chairs (if appointed) to facilitate appointments being made at the annual meeting in June.
- 2.21 The IRP has now concluded its review and their report including recommendations is set out in Appendix 10. There is no statutory provision to consult an IRP on the issue of remuneration, although it has always been the practice of the Combined Authority to do so. The recommendations of the IRP are therefore intended to assist in determining an appropriate level of remuneration although there is no legal requirement to accept them.
- 2.22 The IRP recommendations set out in the Executive Summary at page 1 of the Report are that:
- The ordinary Members appointed to the West Yorkshire Combined Authority Overview and Scrutiny Committees are paid a Co-optees' Allowance of £648.
  - The Deputy Chairs appointed to the West Yorkshire Combined Authority Overview and Scrutiny Committees are paid a Co-optees' Allowance of £1,296.
  - The Chairs appointed to the West Yorkshire Combined Authority Overview and Scrutiny Committees are paid a Co-optees' Allowance of £7,341.
  - No indexation is put in place for the recommended Co-optees' Allowances paid to the Co-opted Members appointed to the West Yorkshire Combined Authority Overview and Scrutiny Committees.
  - The recommended Co-optees' Allowances are to be paid from the date of the Authority's Annual Meeting on 24<sup>th</sup> June 2021 or at such later date as the Overview and Scrutiny Committees are appointed
- 2.23 Members are asked to consider the report and recommendations of the IRP in relation to the payment of allowances to members, Chairs and Deputy Chairs of the three proposed scrutiny committees and to determine the level of allowances to be payable to members undertaking these roles once appointed.

- 2.24 The 2021 Order provides for the Combined Authority to establish an independent remuneration panel (IRP) who may make recommendations regarding the allowance payable to the Mayor and the Deputy Mayor (in specified circumstances).
- 2.25 The statutory power to provide an allowance for the Deputy Mayor for Policing and Crime rests with the Mayor under different legislation, and there is no statutory requirement for such an allowance to be considered by an IRP, although the appointment of the Deputy Mayor for Policing and Crime and the terms and conditions of the appointment are subject to review by the Police and Crime Panel. As a matter of good practice, (that is, to promote transparency and consistency), the Head of Paid Services requested that the IPR provide advice in relation to this role.
- 2.26 By law, the Deputy Mayor for Policing and Crime is a member of staff of the Combined Authority, unless they are a Combined Authority Member and so the IRP have been asked to advise in respect of an allowance for a Deputy Mayor for Policing and Crime who is a Combined Authority Member, or one who is a member of staff.
- 2.27 The report of the IRP to the Head of Paid Service of the Combined Authority is currently awaited but is expected to be issued prior to this meeting. It is intended to provide a copy of the report to Members of the Combined Authority for noting and to publish a copy with the Agenda papers as Appendix 11.

### **3. Tackling the Climate Emergency Implications**

- 3.1 There are no Climate Emergency implications directly arising from this report.

### **4. Inclusive Growth Implications**

- 4.1 There are no inclusive growth implications directly arising from this report.

### **5. Equality and Diversity Implications**

- 5.1 There are no equality and diversity implications directly arising from this report.

### **6. Financial Implications**

- 6.1 The recommendations from the IRP with regard to the allowances for the Overview and Scrutiny Committees will, if accepted, be an increase on current costs. The budget report in February acknowledged the intention to increase the resources for scrutiny and this cost can therefore be met from the approved budget.

## **7. Legal Implications**

- 7.1 Sections 27 and 28 of the Localism Act 2011 require an authority to adopt a Code of Conduct consistent with the Nolan principles of good governance. There is no requirement to adopt the model Code produced by the Local Government Association.

## **8. Staffing Implications**

- 8.1 There are no staffing implications directly arising from this report.

## **9. External Consultees**

- 9.1 Monitoring Officers from the Constituent Councils and for the office of the Police and Crime Commissioner have been consulted about the proposed constitutional arrangements.

## **10. Recommendations**

- 10.1 That the Combined Authority approves the Protocol for the exercise of Concurrent Functions and Statutory Consents, (Appendix 4), to be of immediate effect and subject to review before the end of the calendar year.
- 10.2 That the Combined Authority approves the following documents to be of effect from 10 May 2021:
- Articles 5 – 14 (Appendix 3)
  - Part 4: Budget and Policy Procedure Rules (Appendix 5)
  - Part 5: revised Members' Code of Conduct and new Protocol for Member/officer relations (Appendices 7 and 8).
- 10.3 That the Combined Authority approves the Petitions Scheme (Appendix 6) to be of effect from the Annual Meeting.
- 10.4 That the Combined Authority considers the report and recommendations of the IRP in relation to remuneration for members of the Overview & Scrutiny Committees (Appendix 10) and determines the level of remuneration to be of effect from the appointment of the committees.
- 10.5 That the Combined Authority notes the report and advice of the IRP in relation to remuneration for the Deputy Mayor for Policing and Crime (Appendix 11).

## **11. Background Documents**

There are no background documents referenced in this report.



## 12. Appendices

Appendix 1	Outline of Timeline for approval of Constitution
Appendix 2	Introduction
Appendix 3	Articles
Appendix 4	Protocol for the Exercise of Concurrent Functions and Associated Statutory Consents
Appendix 5	Budget and Policy Procedure Rules
Appendix 6	Petition Scheme
Appendix 7	Members' Code of Conduct
Appendix 8	Member and Officer Protocol
Appendix 9	Outline of proposed changes to the Members' Code of Conduct
Appendix 10	IRP report and recommendations – Overview & Scrutiny Committee
Appendix 11	IRP report and recommendations – Deputy Mayor for Policing and Crime (to follow)