

## Part 2 - Articles

### Article 14 – Finance, Contracts and Legal Matters

#### Grants

- 14.1 A minister of the Crown may pay a grant or grants to the Combined Authority towards expenditure incurred or to be incurred by the Combined Authority.<sup>1</sup>
- 14.2 The Secretary of State makes police grants for the purposes of PCC Functions<sup>2</sup>. These may include grants in respect of capital expenditure and in connection with safeguarding national security.<sup>3</sup> The Secretary of State may also provide emergency financial assistance to the Mayor in relation to their exercise of PCC Functions, where an emergency or disaster has occurred.<sup>4</sup>
- 14.3 The Combined Authority (and any Constituent Council) may also make grants in respect of PCC Functions.<sup>5</sup>

#### Levying

- 14.4 The Combined Authority as a levying body<sup>6</sup> may issue a levy to Constituent Councils in respect of each financial year to enable the Combined Authority to meet the Combined Authority's liabilities which are reasonably attributable to the exercise of its transport functions<sup>7</sup> for which provision is not otherwise made. The costs of functions related to transport must be met by a levy issued by the Combined Authority.<sup>8</sup> The levy cannot be for any expenses attributable to Mayoral Functions<sup>9</sup>.
- 14.5 The Combined Authority shall issue a levy before 15 February preceding the start of the financial year in respect of which it is issued.<sup>10</sup>

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<sup>1</sup> In accordance with Section 31 of the Local Government Act 2003 or other enactments.

<sup>2</sup> In accordance with Section 46 of the Police Act 1996.

<sup>3</sup> In accordance with Section 47 and 48 of the 1996 Act PCC under Section 101 of the 1996 Act.

<sup>4</sup> Section 155 of the Local Government and Housing Act 1989.

<sup>5</sup> Section 92 of the 1996 Act, modified by the 2021 Order.

<sup>6</sup> Regulation 3 of the Transport Levying Bodies Regulations 1992/2789.

<sup>7</sup> Section 74 of the Local Government Finance Act 1988 and in accordance with the Transport Levying Bodies Regulations 1992.

<sup>8</sup> Article 29(5) of the 2021 Order.

<sup>9</sup> Section 74(13) of the Local Government Finance Act 1988.

<sup>10</sup> Regulation 5 of the 1992 Regulations.

- 14.6 The amounts for which levies are issued are borne by the Constituent Councils by reference to the population of each Constituent Council, to be paid in full in the financial year for which the levy is issued.<sup>11</sup>

## Borrowing

- 14.7 The Combined Authority may borrow for any purpose relevant to its **transport**<sup>12</sup> or any **other functions**<sup>13</sup>. The Mayor may borrow for any purpose relevant to **PCC Functions**.<sup>14</sup> Borrowing powers are subject to and in accordance with setting an affordable borrowing limit and any limits imposed by the Secretary of State.<sup>15</sup>
- 14.8 The Chief Constable may with the consent of the Mayor temporarily borrow sums and invest.<sup>16</sup>

## Precept

- 14.9 Costs of the Mayor incurred in or in connection with the exercise of **Mayoral Functions** (that is Mayoral General Functions and PCC Functions) are met from precepts issued by the Combined Authority<sup>17</sup> to each Constituent Council (in its capacity as a billing authority).
- 14.10 The Combined Authority is a major precepting authority under the Local Government and Finance Act 1992<sup>18</sup>.
- 14.11 Subject to transitional provisions<sup>19</sup>, for each financial year the Combined Authority shall issue a precept. The precept may be issued only in relation to expenditure incurred by the Mayor in, or in connection with, the exercise of Mayoral Functions.<sup>20</sup>

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<sup>11</sup> In accordance with the 1992 Regulations.

<sup>12</sup> Section 1 of the Local Government Act 2003, as applied by Section 23 of the 2003 Act.

<sup>13</sup> The Combined Authorities (Borrowing) Regulations 2022

<sup>14</sup> Exercising the functions of PCC as a local authority - Section 23 of the 2003 Act, but see further Article 5 (PCC Functions).

<sup>15</sup> Sections 3 and 4 of the 2003 Act and the (Capital Finance and Accounting) England Regulations 2003/3146; controls in respect of credit arrangements must be complied with, and regard had to the CIPFA Prudential Code for Capital Finance in Local Authorities.

<sup>16</sup> In accordance with paragraph 7A of Schedule 2 of the 2011 Act.

<sup>17</sup> Article 3 of the Combined Authorities (Finance) Order 2017/611. This is subject to transitional provisions.

<sup>18</sup> Section 39 of the Local Government Finance Act 1992. (The Mayor is not a major precepting authority; Paragraph 15 of Schedule 6 to the 2021 Order).

<sup>19</sup> The costs of the Mayor for the financial year commencing on 1 April 2021 are to be met from precepts issued by the PCC - Article 30 of the 2021 Order.

<sup>20</sup> In accordance with Section 40 of the Local Government Finance Act 1992.

- 14.12 The function of issuing precepts in respect of Mayoral Functions is exercisable only by the Mayor acting on behalf of the Combined Authority.<sup>21</sup>
- 14.13 The precept issued to a billing authority must state:
- the amount calculated in relation to the year and each category of dwellings in the billing authority's area (see further below), and
  - the amount calculated as the amount payable by the billing authority for the year.<sup>22</sup>
- 14.14 The amounts must be stated separately in respect of a PCC component and a general component (further see below).<sup>23</sup>
- 14.15 When calculating the amount in relation to the year and each category of dwellings in each billing authority's area, the Combined Authority must calculate the following:
- the council tax requirement,<sup>24</sup>
  - the basic amount of council tax,<sup>25</sup>
  - any calculations in respect of special items,<sup>26</sup> and
  - tax for different valuation bands.<sup>27</sup>
- 14.16 Calculations must be made separately in respect of the Mayor's PCC Functions (the PCC component) and the Mayor's Mayoral General Functions (the general component).<sup>28</sup> The function of calculating the component in respect of PCC Functions is itself treated as a PCC Function, (that is, must be carried out by the Mayor).
- 14.17 Where calculations are made in respect of the council tax requirement, the Section 73 Chief Finance Officer must report to the Combined Authority on
- the robustness of the estimates made for the calculations, and
  - the adequacy of the proposed financial reserves.<sup>29</sup>

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<sup>21</sup> Section 107G of the Local Democracy, Economic Development and Construction Act 2009.

<sup>22</sup> Calculated in accordance with Section 48 of the 1992 Act, as modified by the Combined Authorities (Finance) Order 2017.

<sup>23</sup> Section 40 of the 1992 Act, modified by Schedule 1 of the Combined Authorities (Finance) Order 2017/611.

<sup>24</sup> In accordance with Section 42A of the 1992 Act.

<sup>25</sup> In accordance with Section 42B of the 1992 Act.

<sup>26</sup> In accordance with Section 45 of the 1992 Act.

<sup>27</sup> In accordance with Section 48 of the 1992 Act.

<sup>28</sup> Section 42A of the 1992 Act, modified by Schedule 1 of the 2017 Order.

<sup>29</sup> Section 25 of the Local Government Act 2003, in accordance with Sections 26 and 27 of the 2003 Act

- 14.18 The Combined Authority must review its calculations in respect of the council tax requirement from time to time during the financial year and take such action as it considers necessary if it appears there has been a deterioration in its financial position.<sup>30</sup>
- 14.19 The Budget and Policy Rules in Part 4 of the Constitution set out further details about the approval of the Budget including the review of the general component by the Combined Authority. The Police and Crime Panel review (and may veto) the PCC component.
- 14.20 The Combined Authority must issue a precept before the 1 March in the financial year preceding that for which it is issued.<sup>31</sup>
- 14.21 Before the Combined Authority issues the precept, the Combined Authority must consult representatives of non-domestic rate payers, about its proposals for expenditure.<sup>32</sup>
- 14.22 The Combined Authority must determine whether its relevant basic amount of council tax for a financial year is excessive, and notify the appropriate billing authorities that they are required to hold a referendum in accordance with the Local Government Finance Act 1992.
- 14.23 The Secretary of State has power to direct the Mayor that the PCC component council tax requirement for any financial year shall not be less than a specified amount<sup>33</sup>. Any determination by the Mayor of the final amount of the PCC component which is inconsistent with any such direction shall be void.
- 14.24 The Combined Authority as major precepting authority must determine whether its basic amount of council tax for a financial year is excessive, in accordance with a set of principles determined by the Secretary of State for the year, by separate reference to those parts of the precept which relate to the PCC component and the general component.<sup>34</sup> Where either or both parts are excessive, the Combined Authority must notify each billing authority accordingly, which is required to hold a referendum.<sup>35</sup>

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<sup>30</sup> Section 28 of the 2003 Act.

<sup>31</sup> Section 40(5) of the Local Government Finance Act 1992. Section 40(5) sets out the earliest date at which the precept may be issued.

<sup>32</sup> In accordance with Section 65 of the 1992 Act and relevant regulations, and having regard to any guidance issued by the Secretary of State.

<sup>33</sup> In accordance with Section 41 of the Police Act 1996, modified by paragraph 10 of Schedule 5 of the 2021 Order. This is subject to any limitation imposed under Chapter 4ZA or IV of Part 1 of the Local Government Finance Act 1992 – Section 41(2) of the 1996 Act.

<sup>34</sup> In accordance with Section 52ZB and 52ZC of the 1992 Act.

<sup>35</sup> Section 52ZB and Section 52ZK of the 1992 Act.

## **Business Rates Supplements Functions**

14.25 The Combined Authority has functions in relation to business rates supplements<sup>36</sup>. These functions are exercisable only by the Mayor and cannot be delegated to the Mayor's Political Adviser.<sup>37</sup>

## **Requirement to Meet Costs**

14.26 The Constituent Councils must ensure that the costs of the Combined Authority reasonably attributable to the exercise of its functions are met.<sup>38</sup> This requirement is subject to the following:

- the Constituent Councils must meet the costs of the expenditure reasonably incurred by the Mayor in or in connection with the Mayoral General Functions, to the extent that the Mayor has decided to not to meet these costs from other resources, subject to the agreement of the Combined Authority in advance, and
- the costs of functions related to transport being met by a levy issued by the Combined Authority to the Constituent Councils – see further above.

## **Approval of Budgets**

14.27 The Combined Authority's budget shall be considered and approved in accordance with the Budget and Policy Rules in Part 4 of the Constitution.

## **Gifts and Loans**

14.28 The Mayor may in connection with PCC Functions, accept gifts of money and gifts or loans of other property to the Combined Authority on such terms as appear to the Mayor to be appropriate<sup>39</sup>.

## **Financial Administration**

14.29 The Combined Authority must make arrangements for the proper administration of its financial affairs and shall secure that one of its officers has responsibility for the administration of those affairs<sup>40</sup> – see further Article 12 (Officers).

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<sup>36</sup> Article 31 of the 2021 Order.

<sup>37</sup> In accordance with Article 32 of the 2021 Order.

<sup>38</sup> In accordance with Article 29 of the 2021 Order.

<sup>39</sup> Section 93 of the 1996 Act.

<sup>40</sup> Section 73 of the Local Government Act 1985.

- 14.30 Financial administration must be carried out in accordance with the **Financial Regulations** in Part 4 of the Constitution.
- 14.31 The Combined Authority must keep adequate **accounting records**<sup>41</sup>, follow any regulations about accounting practices and have regard to any guidance about accounting practices to be followed, in particular in relation to keeping a revenue account.<sup>42</sup>
- 14.32 The Combined Authority must prepare a **statement of accounts** in respect of each financial year<sup>43</sup>, including consolidated accounts in respect of the Mayor's accounts in relation to PCC Functions and the Chief Constable's accounts<sup>44</sup>.
- 14.33 **Funds** must be maintained for certain transactions, to facilitate audit and the control of expenditure, as follows:
- The Combined Authority must keep a **Combined Authority general fund**, in relation to receipts arising and liabilities incurred.<sup>45</sup>
  - The Mayor must maintain the **Mayor's general fund** in relation to receipts arising and liabilities incurred in the exercise of Mayoral General Functions, and keep account of payments made in and out of the Mayor's general fund.<sup>46</sup>
  - The Mayor must keep a **Police Fund**. All of the Mayor's receipts relating to PCC Functions must be paid into the Police Fund, and expenditure may be paid out of the Police Fund only if, and to the extent that it is incurred in or otherwise relates to the exercise of PCC Functions.<sup>47</sup> The Mayor must keep accounts of payments made in or out of the Police Fund.<sup>48</sup>

## Investments

- 14.34 The Combined Authority has the power to invest for any purpose relevant to its functions, or for the prudent management of its financial affairs – see further the Financial Regulations in Part 4 of the Constitution.<sup>49</sup>

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<sup>41</sup> In accordance with Section 3 of the Local Audit and Accountability Act 2014. See further Section 21 of the 2003 Act and the Capital Finance and Accounting) England Regulations 2003/3146.

<sup>42</sup> Section 21 of the Local Government Act 2003.

<sup>43</sup> Section 3 of the 2014 Act.

<sup>44</sup> Section 3(3) of the 2014 Act and Article 41 of the West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021 and Regulation 15 of the 2015 Regulations.

<sup>45</sup> Section 72 Local Government Act 1985.

<sup>46</sup> Article 11 of the Combined Authorities (Finance) Order 2017/611.

<sup>47</sup> In accordance with Section 21 of the 2011 Act.

<sup>48</sup> Section 21(5) of the 2011 Act.

<sup>49</sup> Section 12 of the 2003 Act.

## Contracts

- 14.35 Contracts must be entered into in accordance with the **Contract Standing Orders** in Part 4 of the Constitution.
- 14.36 In respect of PCC Functions, the Mayor may make contracts with any person in relation to the supply of goods and services<sup>50</sup>, except in respect of a matter which could be the subject of a force collaboration provision in a collaboration agreement under Section 22A of the Police Act 1996<sup>51</sup>.
- 14.37 Any contracts entered into by the Mayor in the exercise of Mayoral Functions (including PCC Functions) are entered into by the Mayor on behalf of the Combined Authority, and any property rights and liabilities in relation to those contracts vest in the Combined Authority.<sup>52</sup>
- 14.38 The Mayor may not enter into a contract for the provision of services to the Chief Constable, if the terms of the contract would permit a barred person to be involved in the exercise of relevant public functions<sup>53</sup>.
- 14.39 The Chief Constable's powers to enter into contracts and other agreements (whether legally binding or not) require the **consent** of the Mayor<sup>80</sup> - see further Article 5 (PCC Functions) and Part 3 of the Constitution.

## Legal matters

- 14.40 Requirements in relation to signing and sealing contracts are set out in Contracts Standing Orders in Part 4 of the Constitution.

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<sup>50</sup> Under the Local Authorities (Goods and Services) Act 1970, as modified by Section 15 of the 2011 Act.

<sup>51</sup> Section 15 of the 2011 Act.

<sup>52</sup> The Mayor is not a corporation sole.

<sup>53</sup> Section 88E of the 1996 Act.