

Report to: West Yorkshire Combined Authority

Date: 5 April 2018

Subject: **Broadband Approvals and Spending**

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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:	N/A

1 Purpose of this report

- 1.1 For the Combined Authority to consider the approach to digital infrastructure delivery across the city region and seek approval to proceed with funding bids for a proposed Contract 3 of the West Yorkshire and York Superfast Broadband Programme, including utilisation of Gainshare, as detailed within the report.

2 Information

Context

- 2.1 By 2020, the volume of global internet traffic is expected to be 95 times that of 2005, and connected devices will outnumber the global population by nearly seven to one. In the UK, fixed internet traffic is set to double every two years, while mobile data traffic is set to increase further at a rate of 25% to 42% per year.
- 2.2 The UK's digital infrastructure must be able to support this rapid increase in traffic, providing coverage with sufficient capacity to ensure data can flow at the volume, speed and reliability required to meet the demands of modern life and unlock future economic growth. Broadband/fibre infrastructure and mobile (i.e. 3G, 4G and 5G) must be treated as the fourth utility, with everyone benefiting

from improved connectivity. This will play a crucial role in ensuring that everyone, wherever they live or connect, can make full use of digital services and benefit from participation in the digital economy. Improved connectivity also increases innovation and productivity across the economy (thereby addressing two of the City Region's four key challenges), bringing significant economic rewards. Independent research suggests increased broadband speeds alone could add £17 billion to UK output by 2024. In recognition of this, the Government's Digital Strategy (March 2017) set a commitment that every individual and business in the country will have the right to demand broadband coverage with at least 10 Megabits per second (Mbps), through the creation of a Universal Service Obligation by 2020, but this will not guarantee superfast broadband speeds.

- 2.3 Therefore whilst the need for digital connectivity is well recognised any discussion around digital infrastructure must be placed in its wider economic context. The economic, social and connectivity (transport) benefits of digital infrastructure are only realised when people are able to use and exploit the technology effectively.

City Region Policy

- 2.4 The City Region's **Strategic Economic Plan** (SEP) has laid out an ambition to achieve 99% superfast broadband connectivity across West Yorkshire by 2018/19. The West Yorkshire and York Broadband (WYYB) programme commenced in 2013 and is overseen by a Partnership Agreement between the West Yorkshire and York councils and the Combined Authority. The programme is well on the way to meeting this ambition with Contracts 1 and 2 and the programme is on track to deliver up to 98% by 2021. A further Contract 3 will be required to address some of the most hard to reach urban, semi-urban and/or rural properties.
- 2.5 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 the digital economy
 - **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.

- 2.6 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 infrastructure being in place.
- 2.7 Therefore it is essential that we get this right, and leveraging the digital assets which we have control over as public bodies not only contributes to our City Region full fibre ambitions but it also sends a strong signal to the market that we are serious about digital.

Digital Infrastructure Delivery - The Options

- 2.8 Digital technology is advancing quickly with superfast broadband now becoming the norm for household and business use. Currently there are approximately 41,000 residential and business premises without access to superfast broadband that are eligible for funding from a State Aid perspective.
- 2.9 Gigabit speeds (+1,000Mb/second) are now increasingly required for some business uses and 5G mobile technology is now being tested in some locations. Both of these emerging technologies will require full fibre infrastructure in the ground when they are delivered. Delivery of additional superfast broadband and/or full fibre infrastructure now puts the City Region in a better position when it comes to delivering these newer technologies commercially in the future.
- 2.10 Some of the key considerations for the next phase of infrastructure delivery are outlined below:
- **Residential or businesses** - the economic benefits of increased internet speeds for businesses include enhanced productivity and the ability to operate over larger markets. Households can also benefit from investment as it provides opportunities to reduce travel requirements by increasing opportunities for home working and learning and enhanced telecommunications. Many of the EU funding opportunities currently available have a focus on business (particularly SME) connectivity. However, businesses are spread over a wide geography which allows for residential areas to also be connected via complementary funding sources but under the same investment programme.
 - **Urban or rural** – historically broadband coverage in rural areas has lagged behind urban (town and city centre) locations. This is due to the comparatively high cost of delivering infrastructure in less built up/densely populated areas. Experience from Contract 2 of the broadband programme suggests an average cost of £3,500/premises connected. Support from the public sector is one of the few ways this lack of commercial viability can be addressed. However, it should be noted that there are other ‘hard to reach’ areas in some urban/town centre locations.
 - **Priority locations** – consideration needs to be given to whether priority locations, sites or corridors should be targeted in any future roll out of infrastructure. This can be a complex task as the identification of specific locations can be challenging to deliver on an impartial/consistent basis. This also needs to be balanced against the need to deliver the core

economic outputs associated with any external funding. The SEP's Spatial Priority Areas and Enterprise Zones are an agreed set of City Region priorities that could potentially be included in any future programme. This also supports the wider approach to delivery of infrastructure in these locations which has the potential to accelerate economic growth and deliver wider regenerative benefits.

- **Technology** – the deployment of broadband infrastructure is becoming increasingly varied. Delivery is now less reliant on traditional fibre/copper networks in the ground. This is in part due to hard to reach areas requiring a mix of solutions and emerging technologies.

2.11 A future broadband programme could seek to provide broad coverage to areas that do not currently have access to superfast broadband. This would mean delivering a programme across a mix of urban and rural areas and residential and business areas. This could provide a robust core approach that would ensure high Value for Money for any future bids. As a secondary component, agreed priority areas could be targeted where they offer wider economic or inclusive growth outcomes.

2.12 Members' views are sought on the considerations above. Feedback received will then shape any future solutions.

Current Digital Infrastructure Funding Opportunities and Programmes

2.13 There are a number programmes or funding opportunities that can support investment in digital/fibre infrastructure in West Yorkshire and the City Region. These include:

- **West Yorkshire and York Superfast Broadband Programme is currently underway via Contracts (phases) 1 and 2.** Contract 3 is a focus for this report. Core funding is supplied by Broadband Delivery UK (BDUK)/ Department for Culture, Media and Sport (DCMS) and supplemented by other funding opportunities (i.e. EU, DEFRA and local partners). This programme upgrades infrastructure to provide speeds of at least 30 Megabits per second (Mbps). Infrastructure under this programme is a mix of Fibre to the Cabinet (FTTC) and increasingly Fibre to the Premises (FTTP). Generally FTTP offers greater speeds, broadly above 30Mb/s but has historically attracted a greater installation cost. FTTP is now becoming cheaper to deploy because of new implementation techniques. BDUK have indicated that they are willing to invest a further £1.11m into the West Yorkshire and York programme if a Contract 3 progresses quickly.
- **European Structural and Investment Funds (ESIF):** an outline bid was submitted under Priority Axis 2a (Broadband Infrastructure). The outline application at £2.396m was successful. Subject to approval, a Full application will need to be submitted by 9 May 2018.
- **The Rural Broadband Infrastructure (RBI) scheme** will support the roll out of 30mbps+ broadband to support rural businesses (and premises) that will

not be supported through other methods. This fund can only be applied for in conjunction with West Yorkshire and York Contract 3 as only local authorities leading on the roll-out of broadband infrastructure and working with BDUK can apply for these grants. The deadline for bids is 31 May 2018

- **Local Full Fibre Network (LFFN) Programme** aims to accelerate market delivery of full fibre networks (i.e. FTTP) and will run till 2021. Wave 2 of the programme was recently awarded with Wave 3 expected in Summer 2018. There are four complementary approaches eligible for the LFFN programme.
 - Aggregating public sector demand – i.e. anchor tenancy – to lower the risk of deploying full fibre networks;
 - Incentivising new fibre with upgrades to public sector buildings;
 - Reusing public sector assets such as ducts; and
 - A Gigabit voucher scheme which groups of businesses and residential properties can access (West Yorkshire trial currently underway)
- **5G trials and testbeds** competitions were recently announced. 5G is the next generation of mobile connectivity, and is currently in development. It is expected to represent a significant upgrade providing ultrafast, low latency (lag), and more reliable mobile connectivity, able to handle ever-increasing data requirements. This will present huge opportunities to boost productivity and grow the economy. In addition to giving consumers and business user's high quality connectivity, it will also support the development of the Internet of Things: the rapidly-increasing number of connected devices, from connected cars to digital health applications.

However, full fibre infrastructure is essential in any future deployment of 5G, which is likely to require extensive use of small cells (essentially mini base stations/masts), connected to the core network by backhaul (i.e. a fibre connection).

- 2.14 There is also the Network Rail/DCMS national pilot project to deliver **fibre connectivity along the Transpennine rail route between York, Leeds and Manchester** alongside a 5G pilot between Leeds and Manchester. This will be delivered within the next 12 to 18 months. The Combined Authority is working collaboratively with Network Rail to support this work and ensure it delivers maximum benefits for communities and businesses along the proposed route. This work aligns with the superfast and LFFN work by providing more fibre in the ground and increased resilience to the City Region's emerging network of fibre in the ground.

Gainshare

- 2.15 Contract 1 and 2 of the existing broadband programme with Openreach has a claw-back mechanism which relates to superfast broadband take-up above a given threshold across the full programme. Should the take-up of superfast broadband across the geography exceed the threshold level, it means that Openreach are achieving "excess" profits on the back of public funding. To counteract this, as take-up increases Openreach pay a contractual amount into an Investment Fund held by them and gaining interest at Bank of England base

rate plus 2%. The intention is that the Investment Fund is re-invested into further broadband delivery during the lifetime of the programme.

- 2.16 BDUK have confirmed that at the next Investment Review date in September 2018 the Combined Authority and Partners could drawdown the funding in the Investment Fund (circa £1.5-£1.7million) as 100% capital to invest in a Contract 3. This Contract would be separate to the existing contractual arrangements with Openreach and subject to an open OJEU tender procedure following public consultation. Further funding would continue to accrue in the Investment Fund for Contracts 1 and 2 as before.
- 2.17 Under the funding agreement with BDUK, any positive balance remaining in the Investment Fund at the end of each contract (2022 and 2025), will be redistributed in proportion to the original public sector investments i.e. 50% returns to BDUK/HM Government. The remaining 50% would be 'clean' money for the Combined Authority and partners to reinvest into any broadband or non-broadband projects in the future. Similarly, if the Combined Authority and Partners draw down funding early from the Investment Fund and wish to utilise this to support delivery of other digital programmes or any other non-broadband related activity, this also incurs a 50% penalty.
- 2.18 Members are asked to consider the use of Gainshare. A particular issue is the use of Gainshare (or an element of it) as part of the proposed future superfast broadband programme. Therefore the headline options include:
- **Gainshare funding to provide capital match funding** for proposed broadband bids. This would provide up to £1.7million Gainshare to match against BDUK and ESIF capital funding. This would allow 100% of the Gainshare funding to be utilised. Under this approach project management match funding and procurement costs would need to be found locally or via other funding opportunities.
 - **Gainshare funding to provide a mix of capital and revenue match funding** for proposed broadband bids. Any spend on revenue funding would be subject to 50% clawback which would be returned to government. This would result in no requirement to find revenue costs locally but it would significantly reduce the size of any potential ESIF application and the size of the overall programme.
 - **Use of Gainshare on other (non-broadband) priorities.** From a Broadband perspective this would leave only £1.11m of BDUK funding to match against ESIF capital funding. This would still require revenue costs to be found locally and it would significantly reduce the size of any potential ESIF application. The remaining Gainshare would stay in the Investment Fund but would be subject to 50% being returned to HM Government on maturity. However it could be used by authorities on other priorities.

Proposed West Yorkshire and York Superfast Broadband Contract 3

- 2.19 The next phase of infrastructure delivery could seek to maximise superfast broadband coverage across the West Yorkshire and York geography. This approach would deliver more digital infrastructure (i.e. fibre) in the ground which will support delivery of newer technology such as gigabit broadband speeds and 5G mobile connectivity in the future, subject to commercial viability and demand. It will also support the business case for other potential public sector investment e.g. Local Full Fibre Networks programme or the national gigabit voucher scheme.
- 2.20 Depending on the views on the use of Gainshare, the programme could utilise Gainshare from Contracts 1 and 2 of the programme as additional capital and revenue match.
- 2.21 As part of a recent Open Market Review (OMR) exercise, a potential further 41,000 premises (residential and commercial) have been identified within the geography that remain sub 30mbps and are eligible for funding in line with State Aid rules.
- 2.22 Delivery experience from Contract 2 suggests that Contract 3 may require an average of £3,500 to provide superfast broadband access to each premises. As an example, on this basis it is estimated that between 3,400 and 2,600 premises could potentially be accessed depending on how Gainshare is and if other funding opportunities are maximised. However, the precise figure will need to be refined with the appointed delivery partner.
- 2.23 The precise scale of this programme will depend on agreement from Members to bid for funding and the identification of match funding.
- 2.24 To commence Contract 3 up to £90,000 will need to be provided to resource a procurement and public consultation process. This will include provision for due diligence, legal support, a project support officer and technical support. If Contract 3 is agreed it is proposed that this is funded through either future drawdown of gainshare, council partner contributions or other funding opportunities (.e.g. the Business Rates Pool).
- 2.25 Members are invited to consider what a potential Contract 3 could comprise and whether all council partners have a willingness to proceed with the proposed bids and commit local resources or use Gainshare.

Governance and Partnership Agreement

- 2.26 The Superfast Broadband Programme¹ is currently managed by a Project Board comprising council partners (the five West Yorkshire councils and City of York Council). This was created in 2013, with the Combined Authority joining in 2015. As such it pre-dates the Combined Authority's Assurance Framework.

¹ Contacts (Phases) 1 and 2

- 2.27 However, all decisions regarding project spend for funding held by the Combined Authority are taken through the Combined Authority's standard capital approvals process. There is a partnership agreement for Contract 2 (signed 2 April 2015) and this is being reviewed and potentially revised in light of the Combined Authority's new governance and Assurance Framework.

Summary of Potential Programme Risks

- 2.28 A complete risk register will be developed as the proposed Superfast Broadband Programme (Contract 3) is developed. The following section lists some of the key risks that have been identified at the current stage:
- Application deadlines for EU funding are challenging. Applications need to be progressed for ESIF and DEFRA funding by 9 and 31 May respectively.
 - Loss of any potential DEFRA Rural Broadband funding. This funding allocation is already oversubscribed based on the funding pot currently available. One project has been given approval prior to the closure of the call. The deadline for submissions is 31 May 2018.
 - Funding may be withdrawn from BDUK if agreement on future contracts are not achieved soon. They have also requested evidence that procurement is progressing.
 - Local partners will lose 50% of Gainshare if it is not utilised under Contracts 2 or 3 and the Investment Fund is allowed to mature. The use of an element of Gainshare within Contract 3 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.

3 Financial Implications

- 3.1 The financial implications are detailed in paragraphs 2.15 to 2.18 of this report in relation to Gainshare.

4 Legal Implications

- 4.1 Technical and legal advice will need to be secured to support the procurement and contractual arrangements for Contract 3.

5 Staffing Implications

- 5.1 The Combined Authority and district partners are currently discussing the proposed programme management requirements for Contract 3.

6 External Consultees

- 6.1 BDUK have been consulted in respect of the Gainshare details of this report.

- 6.2 If Contract 3 is agreed a public consultation on the Open Market Review results will need to be conducted as soon as possible to inform the procurement exercise.

7 Recommendations

- 7.1 That the Combined Authority notes the context to digital infrastructure and its alignment with national and City Region policy.
- 7.2 That the Combined Authority agrees that the governance for Contract 2 and the Partnership Agreement be reviewed to ensure alignment with the Combined Authority governance model.
- 7.3 That the Combined Authority provides feedback on the options for digital infrastructure delivery (paragraphs 2.10-12)
- 7.4 That the Combined Authority agrees that the proposed funding applications for Contract 3 be developed and submitted by the Combined Authority's Managing Director in consultation with the LEP Chair and the Combined Authority Chair, subject to further discussions with council partners.
- 7.5 That the Combined Authority approves the use of up to £1.7 million Gainshare from the Contract 1 and 2 Investment Fund to support funding bids for a proposed Contract 3 of the West Yorkshire and York broadband programme, subject to further discussions with council partners.
- 7.6 That the Combined Authority agrees an initial budget of up to £90,000 for procurement, legal and due diligence for Contract 3, subject to confirmation of Gainshare use or council partner contributions.

8 Background Documents

None.

9 Appendices

None.