

**Scheme setting out proposals for the creation, governance and functions of the York and North Yorkshire Combined Authority**

(Section 109 of the Local Democracy, Economic Development and Construction Act 2009 and regulation 7(3)(b) of the North Yorkshire (Structural Changes) Order 2022)

## York and North Yorkshire Combined Authority

### 1.0 Preamble and Interpretation

- 1.1 This Scheme has been jointly prepared by:
- City of York Council;
  - North Yorkshire Council.
- 1.2 This Scheme sets out proposals for the creation and governance arrangements of the York and North Yorkshire Combined Authority (the Combined Authority), by adopting a mayoral governance model with the Mayor exercising the functions currently exercised by the Police Fire and Crime Commissioner for North Yorkshire.
- 1.3 It also sets out proposals for the Combined Authority to be delegated additional functions from Government.
- 1.4 On 1 August 2022, the Leaders of the City of York Council and North Yorkshire Council signed a “minded to” devolution deal with HM Government. The deal details £540m of government investment (consisting £18m or gainshare over 30 years), which will be subject to local influence and decision making, enabling spend on local priorities, together with a range of devolved functions. This devolution deal is subject to adopting the model of a Mayor over the Combined Authority area.
- 1.5 City of York Council and North Yorkshire Council must also follow relevant statutory procedures to adopt the model of a directly elected Mayor.
- 1.6 City of York Council and North Yorkshire Council therefore conducted a review under section 108 of the Local Democracy, Economic Development and Construction Act 2009 and Regulation 7(3)(a) of the North Yorkshire (Structural Changes) Order 2022 (the Review) in relation to:
- the creation of and governance arrangements for the Combined Authority; and
  - the delegation to the Combined Authority of functions under section 104 and section 105 of the 2009 Act (transport-related functions of the Secretary of State and functions concurrent to local authorities).
- 1.7 Having considered the findings of the Review, City of York Council and North Yorkshire Council concluded that an order by the Secretary of State to make the changes considered in the review, including delegating functions to the Combined Authority, would be likely to improve the exercise of statutory functions in relation to the Combined Area. City of York Council and North Yorkshire Council have therefore resolved to prepare and publish this Scheme under section 109 of the 2009 Act and Regulation 7(3)(b) of the 2022 Order.
- 1.8 In addition, to secure the devolution of new government investment and the range of additional functions set out in the “minded to” devolution deal, the City of York Council and North Yorkshire Council have included the following proposals in this Scheme:
- to create a Combined Authority and adopt the model of a mayoral combined authority (MCA) for the Combined Authority;
  - for the Combined Authority to be delegated functions under section 105A of the 2009 Act (functions of a public authority); and
  - for the Combined Authority to have certain functions of the Constituent Authorities including the York and North Yorkshire Local Enterprise Partnership.

- 1.9 It is also proposed that the functions currently exercised by the Police Fire and Crime Commissioner for the Combined Area (the PFCC Functions) will be exercised by the Mayor from 2024.
- 1.10 Proposals contained in the Scheme will be subject to public consultation from [a date in October 2022] to [a date in December 2022].
- 1.11 Any transfer to the Combined Authority, or to the Mayor, of existing functions or resources currently held by any Constituent Council must be by agreement with the Constituent Council.
- 1.12 The following definitions shall apply to this Scheme:

<b>“Combined Authority”</b>	means the York and North Yorkshire Combined Authority;
<b>“Constituent Councils”</b>	means: <ul style="list-style-type: none"> <li>• City of York Council;</li> <li>• North Yorkshire Council.</li> </ul>
<b>“Combined Area”</b>	means the area consisting of the areas of the Constituent Councils;
<b>“Constitution”</b>	means the constitution adopted by the Combined Authority and as envisaged by the 2009 Act;
<b>“Deputy Mayor for Policing and Crime”</b>	means the deputy mayor for PCC Functions for the Combined Area;
<b>“Financial Management Code of Practice”</b>	means the Revised Financial Management Code of Practice For the Police Forces of England and Wales and Fire and Rescue Authorities created under section 4A of the Fire and Rescue Services Act 2004;
<b>“Fire and Rescue Authority Function” or “FRA Function”</b>	means any function carried out by the PFCCFRA under any fire and rescue enactment as defined by s107EF of the 2009 Act;
<b>“Homes England”</b>	means the non-departmental public body and statutory corporation created by the Housing and Regeneration Act 2008 (as amended by the 2011 Act) (the “Act”) known as Homes England and being the responsibility of and sponsored by the Department for Levelling Up, Homes & Communities;
<b>“Independent Person”</b>	means an independent person meeting the requirements of the 2017 Order;
<b>“LEP”</b>	means the York and North Yorkshire Local Enterprise Partnership (LEP);

<b>“Mayor”</b>	means the directly elected mayor for the Combined Area;
<b>“Mayoral Development Area”</b>	means an area designated by the Mayor as such pursuant to the 2011 Act;
<b>“Mayoral Function”</b>	means any function which is the responsibility of the Mayor, other than a PFCC Function;
<b>“MCA”</b>	means the mayoral combined authority;
<b>“Member”</b>	means a member of the Combined Authority;
<b>“Non-Mayoral Function”</b>	means any function of the Combined Authority which is not a Mayoral Function or a PFCC Function;
<b>“PFCC”</b>	means the Police Fire and Crime Commissioner for North Yorkshire;
<b>“PCC Function”</b>	means any function carried out by a Police and Crime Commissioner under any local policing enactment as defined by s107EG of the 2009 Act;
<b>“PFCC Function”</b>	means collectively PCC Functions and FRA Functions (as at the date hereof, carried out by the PFCC) which under this Scheme are to be exercisable by the Mayor;
<b>“Police, Fire and Crime Commissioner Fire and Rescue Authority” or “PFCCFRA”</b>	means the fire and rescue authority created by article 3(1) Police, Fire and Crime Commissioner for North Yorkshire (Fire and Rescue Authority) Order 2018;
<b>“Review”</b>	means the review carried out by City of York Council and North Yorkshire Council under section 108 of the 2009 Act and regulation 7(3)(a) of the 2022 Order in [August 2022];
<b>“the 2004 Act”</b>	means the Fire and Rescue Services Act 2004;
<b>“the 2008 Act”</b>	means the Housing and Regeneration Act 2008;
<b>“the 2009 Act”</b>	means the Local Democracy, Economic Development and Construction Act 2009;

<b>“the 2011 Act”</b>	means the Police Reform and Social Responsibility Act 2011;
<b>“the 2017 Order”</b>	means the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017;
<b>“the 2018 Order”</b>	means the Police, Fire and Crime Commissioner for North Yorkshire (Fire and Rescue Authority) Order 2018;
<b>“the 2022 Order”</b>	means the North Yorkshire (Structural Changes) Order 2022/328;
<b>“TUPE Regulations”</b>	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246).

## **2.0 Proposed MCA for York and North Yorkshire**

2.0.1 The following part of the Scheme sets out how it is proposed that the Combined Authority will operate and discharge its functions as an MCA.

### **2.1 Geography**

2.1.1 The area of the Combined Authority as MCA shall be the area consisting of the areas of the Constituent Councils.

### **2.2 Name**

2.2.1 It is proposed that the name of the Combined Authority as an MCA is York and North Yorkshire Combined Authority.

### **2.3 Election of Mayor**

2.3.1 It is proposed that the first Mayor will be elected in May 2024. The Mayor will be elected by the local government electors for the Combined Area.

2.3.2 As set out in the 2009 Act, the Mayor is to be returned under the simple majority system (‘first past the post’).

2.3.3 It is proposed that the initial term of the Mayor will be Four (4) years and Four (4) years for each subsequent term.

2.3.4 The 2009 Act provides that the Mayor will have the title “Mayor” and the title of the Mayor will be the “York and North Yorkshire Combined Authority Mayor”.

### **2.4 Membership**

2.4.1 It is proposed that the membership arrangements for the Combined Authority are the following:

- the Mayor;
- Four (4) elected Members consisting of a Lead Member for each Constituent Council and One (1) further Member appointed by each of the Two (2) Constituent Councils. Constituent Councils may nominate Two (2) named substitutes for each of their Combined Authority Members;
- One (1) Member appointed by the LEP.

2.4.2 Of these, the Mayor and Four (4) elected Members appointed by the Constituent Councils are voting Members.

2.4.3 Of these, the Member appointed by the LEP is required by statute to be non-voting – see further below.

2.4.4 Where a Member of the Combined Authority ceases (for whatever reason) to be a member of the Constituent Council which appointed them, it is proposed that the Member will cease to be a member of the Combined Authority, and the Constituent Council will appoint a replacement member as soon as possible.

2.4.5 The Members of the MCA (namely the Mayor, the Constituent Council Members and the LEP Member) will be referred to collectively as “the Cabinet” and “Cabinet Member” is to be construed accordingly.

## **2.5 Role of the Mayor**

2.5.1 As provided by the 2009 Act, the Mayor, by virtue of their office, will be the Chair of the Combined Authority.

2.5.2 The Mayor will be responsible for functions of the Combined Authority which are Mayoral Functions, as set out below, and also exercise the PFCC Functions.

### **Deputy Mayor**

2.5.3 The 2009 Act requires the Mayor to appoint one of the Members of the Combined Authority as a Deputy Mayor, who will act in place of the Mayor if for any reason the Mayor is unable to act or the office of Mayor is vacant. The Deputy Mayor will chair meetings of the Combined Authority in the absence of the Mayor.

### **Deputy Mayor for Policing and Crime and Delegation of FRA Functions**

2.5.4 The Mayor will appoint a Deputy Mayor for Policing and Crime – see further paragraph 3.6 (PFCC Functions).

2.5.5 The Mayor may make suitable arrangements for the delegation of FRA Functions.

## **2.6 Partnership Arrangements and LEP Integration**

### Partnership Arrangements

2.6.1 As an MCA, the Combined Authority will explore opportunities for further collaboration with its neighbouring local authorities including West Yorkshire Combined Authority, Tees Valley Combined Authority, South Yorkshire Mayoral Combined Authority, Hull and East Yorkshire, Lancashire and Cumbria and across the whole of Yorkshire through the ‘Yorkshire Leaders Board.’ York will remain as a non-constituent member of the West Yorkshire Combined Authority. The Combined Authority may invite representatives from other partner councils to attend (and speak) at any Combined Authority meeting.

LEP Integration

- 2.6.2 The LEP will integrate into the Combined Authority.
- 2.6.3 The staff of the LEP will transfer to the Combined Authority pursuant to the TUPE Regulations (subject to eligibility under the legislation).
- 2.6.4 The existing LEP Board will transition into the Business Committee of the Combined Authority (subject to the LEP integration process) which will be an advisory Committee of the Combined Authority for the purposes of relevant economic decisions.
- 2.6.5 As envisaged by the Levelling-up and Regeneration Bill 2022-23 membership of the Business Committee of the Combined Authority may include non- constituent or associate members.
- 2.6.6 The LEP Member will become a non-voting member of the Combined Authority (unless the Combined Authority resolves to give them a vote on any issue subject to agreement of the Voting Members (in accordance with section 85(5) of the Local Transport Act 2008)).

**2.7 Decision-making arrangements****2.7.1 Decisions of the Combined Authority**

- 2.7.1.1 The Combined Authority will be responsible for any function of the Combined Authority which is not the responsibility of the Mayor.
- 2.7.1.2 Decisions on such Non-Mayoral Functions will be taken by the Combined Authority or taken in accordance with arrangements agreed by the Combined Authority, including:
- by a committee or sub-committee of the Combined Authority which has delegated authority for the function, or
  - under joint arrangements agreed by the Combined Authority, or
  - by an officer with delegated authority.
- 2.7.1.3 It is proposed that decisions to be made in exercise of the functions of the Combined Authority will be made by the Constituent Council Members and Mayor working together as the Cabinet. Such decisions will be made by a meeting of the Cabinet except:
- Where responsibility for exercise of the function has been delegated in accordance with the Constitution of the Combined Authority (and which may include delegation of such powers and functions of the Combined Authority to Committees, Sub-Committees or officers as the Combined Authority considers appropriate);
  - Where the matter is to be considered by an Overview and Scrutiny Committee or Audit Committee of the Combined Authority.
- 2.7.1.4 No business of the Combined Authority will be transacted at a meeting unless at least Three (3) voting Members are present consisting of the Mayor (or the Deputy Mayor acting in place of the Mayor) and at least [one] Member of the Combined Authority appointed by a Constituent Council.
- 2.7.1.5 The following voting arrangements will apply at meetings of the Combined Authority:
- Un-weighted voting based on one Member one vote,
  - The LEP Member must be non-voting (a requirement of section 85(4) of the Local Transport Act 2008) but could individually be given a vote on some or all issues voted upon, subject to agreement of the voting Members (in accordance with section 85(5) of the Local Transport Act 2008),and

- The Mayor (or Deputy Mayor acting in their place) will not have a second or casting vote.

2.7.1.6 The Combined Authority aims to reach decisions by consensus. If it is not possible to reach a consensus on a matter that requires a decision, the matter will be put to the vote.

2.7.1.7 Any matter that comes before the Combined Authority will be decided by a simple majority of the Members of the Combined Authority present and voting (whether a motion or an amendment), unless otherwise provided for in legislation or below and the majority must include the vote of the Mayor.

2.7.1.8 In addition, for the following decisions the majority of Members must include the Lead Member from each Constituent Council:

- Approving and amending the Combined Authority's budget (excluding decisions which relate to the Mayor's budget);
- Setting a levy;
- Approving and amending the Combined Authority's Constitution.

2.7.1.9 The Mayor will be required to consult the Combined Authority on their strategies, and this will be subject to the following conditions:

- The Combined Authority will be able to amend the Mayor's budget if Three (3) out of Four (4) of the Members agree to do so.
- The Combined Authority will be able to amend the Mayor's transport strategy if Three (3) out of Four (4) of the Members agree to do so.

## **2.7.2 Decisions of the Mayor**

2.7.2.1 In accordance with the 2009 Act, any Mayoral Function will be exercisable only by the Mayor except where the Mayor delegates such a function to:

- the Deputy Mayor;
- another Member of the Combined Authority;
  - an officer of the Combined Authority;
  - under joint arrangements – see paragraph 3.2.7;
  - the Deputy Mayor for Policing and Crime; and
- such suitable arrangements as are made by the Mayor in respect of the delegation of FRA Functions.

2.7.2.2 It is proposed that any Member or officer of the Combined Authority may assist the Mayor in the exercise of Mayoral Functions, but that the Mayor cannot delegate to their political advisor.

2.7.2.3 The following decisions by the Mayor will require the consent of the Lead Member of the Combined Authority, or substitute Members acting in their place, appointed by the Constituent Council in whose area the decision will apply:

- Designation of any area of land as a Mayoral Development Area leading to the establishment (by Order) of a Corporation (the consent of the relevant national park authority is also required if the land falls within the national park area).
- Compulsory purchase of land or buildings by the Mayor.
- Any decision that could lead to a financial liability falling directly upon that Constituent Council.
- Such other matters as may be contained in the Combined Authority Constitution and agreed with the Mayor.



2.7.2.4 Decision-making arrangements in respect of the Mayor's budget for Mayoral Functions are set out in paragraph 4.3 of this Scheme.

### **2.7.3 PFCC Functions**

2.7.3.1 Decision-making arrangements in respect of PFCC Functions are set out in paragraph 3.6.

## **2.8 Scrutiny Arrangements**

2.8.1 The Mayor and the Combined Authority will be scrutinised and held to account by the Combined Authority's Overview and Scrutiny Committee established and functioning in line with the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2016 and consisting of Twelve (12) Members appointed by the Constituent Authorities.

2.8.2 Six (6) Members will be nominated from each Constituent Council reflecting the political balance of the Constituent Councils at the time of appointment.

2.8.3 The Chair and Vice-Chair of the Overview and Scrutiny Committee will be appointed by the Combined Authority from amongst the members of the Committee, following a proposal put to them by the Overview and Scrutiny Committee.

2.8.4 The Chair and Vice-Chair shall not be a member of a registered political party of which the Mayor is also a member.

2.8.5 The Chair of the Overview and Scrutiny Committee will be an "Appropriate Person" within the meaning of sub-paragraph (5)(a) of Schedule 5A of the 2009 Act and will be an elected member of a Constituent Council.

2.8.6 The Chair of the Overview and Scrutiny Committee will be appointed by the Committee as the first item of business of the Committee in any municipal year.

2.8.7 The Mayor and the Combined Authority may also seek to enhance scrutiny and develop wider conference with all elected members in the Combined Authority's area to engage on key issues.

2.8.8 In accordance with the 2009 Act, the Combined Authority ensures that the Overview and Scrutiny Committee has power to:

- (a) review or scrutinise decisions made, or other action taken, in connection with the any functions which are the responsibility of the Combined Authority;
- (b) make reports or recommendations to the Combined Authority with respect to the functions that are the responsibility of the Combined Authority;
- (c) make reports or recommendations to the Combined Authority on matters that affect the Combined Area or the inhabitants of the Combined Area.

2.8.9 As an MCA, the Combined Authority's arrangements must also ensure that the Overview and Scrutiny Committee has power to:

- (a) review or scrutinise decisions made, or other action taken, in connection with the discharge by the Mayor of any Mayoral Functions,
- (b) make reports or recommendations to the Mayor with respect to the discharge of any Mayoral Functions,
- (c) make reports or recommendations to the Mayor on matters that affect the Combined Authority's Area or the inhabitants of the Combined Area.
- (d) appoint such sub-committees as it deems necessary to fulfil its functions.

- 2.8.10 The Committee's power to "call-in" a decision (that is, direct that a decision is not to be implemented while it is under review or scrutiny by the Committee, and recommend that the decision be reconsidered) extends to decisions taken by the Mayor in connection with Mayoral Functions.
- 2.8.11 There will be separate oversight and scrutiny arrangements in respect of PFCC Functions, which will be carried out by a Police Fire and Crime Panel – see further paragraph 3.6.
- 2.8.12 The Combined Authority will adopt a Code consistent with the 'Nolan Principles' setting out the conduct expected of its Members (and voting co-optees) which will include provision in respect of registering and disclosing interests,
- 2.8.13 The Combined Authority will make arrangements for investigating and determining any allegation of a failure to comply with the Code.
- 2.8.14 In relation to PCC and FRA Functions, any complaints or conduct matters will be dealt with in accordance with provisions made pursuant to paragraph 3.6.15.

## **2.9 Audit**

- 2.9.1 The Combined Authority will establish an Audit Committee of not less than [Eight (8)] Members to exercise responsibility for the Audit functions applicable to the Combined Authority save in respect of PFCC Functions exercisable by the Mayor (in which regard see further below).
- 2.9.2 Membership of the Audit Committee will consist of [Four (4)] members from each Constituent Council and at least one Independent Person appointed by the Combined Authority.
- 2.9.3 Members will be nominated from each Constituent Council reflecting the political balance of the Constituent Councils at the time of appointment.
- 2.9.4 The Combined Authority will have an Audit Committee, which carries out the statutory functions of an audit committee in accordance with the 2009 Act, which include:
- reviewing and scrutinising the Combined Authority's financial affairs;
  - reviewing and assessing the Combined Authority's risk management, internal control and corporate governance arrangements;
  - reviewing and assessing the economy, efficiency and effectiveness with which resources have been used in discharging the Combined Authority's functions; and
  - making reports and recommendations to the Combined Authority in relation to reviews the Committee has conducted.
- 2.9.5 It is proposed that membership of the Audit Committee may include co-opted Members and any co-opted Members will be non-voting.
- 2.9.6 For an initial period (to be determined by the Combined Authority on conclusion of the review referred to in paragraph 2.9.8) it is proposed that there shall be both:
- a separate Joint Independent Audit Committee for Policing; and
  - a separate Independent Audit Committee for Fire and Rescue

In order to discharge of the requirements of the Financial Management Code of Practice in respect of PCC Functions and FRA Functions respectively.

- 2.9.7 It is proposed that the Committees referred to at paragraph 2.9.6 shall in practice be the Committees established by the PFCC and the Chief Constable of North Yorkshire Police (in respect of the Joint Independent Audit Committee for Policing) and the PFCCFRA (in respect of the Independent Audit Committee for Fire and Rescue) and that those Committees in place for the time being shall be adopted by the Combined Authority; and that the terms of reference of those Committees shall be amended so as to provide for their remit to extend to PCC Functions and FRA Functions, respectively, exercisable by the Mayor.
- 2.9.8 It is further proposed that the arrangements set out at paragraph 2.9.6 shall be reviewed by the Combined Authority during the initial term of the Mayor with a view to establishing whether it is in the public interest for there to be a single Audit Committee undertaking both the functions set out at paragraph 2.9.4 and the requirements of the Financial Management Code of Practice. Such a review shall:
- be undertaken jointly with the Chief Constable; and
  - have regard to any Self-Assessment of Good Practice undertaken by any of the Committees under the terms of the Chartered Institute of Public Finance & Accountancy guidance *Audit Committees: Practical Guidance for Local Authorities and Police*.

## 2.10 Appointments

- 2.10.1 The MCA will appoint to the four statutory positions being:
- Head of Paid Service (section 4 Local Government and Housing Act 1989) but see paragraph 2.10.5;
  - Chief Finance Officer (section 73 Local Government Act 1985);
  - Monitoring Officer (section 5 Local Government and Housing Act 1989);
  - Scrutiny Officer (section 9FB Local Government Act 2000).
- 2.10.2 These positions may be held by officers already serving in one or more Constituent Authorities save for that of Scrutiny Officer.
- 2.10.3 It is proposed that the Mayor may appoint one person as the Mayor's political adviser, and that the terms and conditions of any such appointment will be provided for by legal Order.
- 2.10.4 It is proposed that the functions of Head of Paid Service in respect of the following staff shall be exercised by the Chief Fire Officer:
- staff transferred from the PFCCFRA;
  - staff secured by the MCA for the purposes of carrying out the MCA's functions under:
    - section 6 of the 2004 Act; (fire safety);
    - section 7 of that Act (fire-fighting);
    - section 8 of that Act (road traffic accidents);
    - any order under section 9 of that Act (emergencies) which applies to the MCA;
    - section 2 of the Civil Contingencies Act 2004 and any regulations under that Act applying to a fire and rescue authority;
    - any other provision of or made under an enactment which confers functions on a fire and rescue authority.

## 2.11 Standing Orders

- 2.11.1 It is proposed that the Combined Authority will make standing orders for the regulation of its proceedings and business and may vary or revoke any such standing orders.

## 2.12 Remuneration

2.12.1 An allowance may be paid to:

- the Mayor;
- the Deputy Mayor, (provided that they are not a Leader of a Constituent Council);
- the Deputy Mayor for Policing and Crime (provided that they are not a Leader of a Constituent Council);
- Independent Persons.

2.12.2 The voting Constituent Council Members of the Combined Authority's Cabinet shall approve a scheme for allowances, following consideration of a report from an Independent Remuneration Panel, which the Combined Authority may appoint.

2.12.3 No remuneration is to be payable by the Combined Authority to its Constituent Council Members (other than allowances for travel and subsistence), provided always that a Constituent Council may, on the recommendation of an Independent Remuneration Panel, pay a special responsibility allowance to any Member appointed by it to the Combined Authority in respect of duties and responsibilities undertaken as a Member, or substitute Member, of the Combined Authority.

### **3.0 Functions of the Combined Authority as MCA**

3.0.1 The prime purpose of conferring functions on the Combined Authority is to improve the exercise of statutory functions in relation to the Combined Area. In pursuit of this prime purpose, the Combined Authority will take on those functions set out in the "minded to" Devolution Deal.

3.0.2 Mayoral Functions and PFCC Functions will be the responsibility of the Mayor, and are exercisable only by the Mayor, unless delegated by the Mayor to the Deputy Mayor or Deputy Mayor for Policing and Crime or delegated by the Mayor under such arrangements as are made by the Mayor in respect of FRA Functions. Mayoral Functions are listed in paragraph 3.1, and PFCC Functions addressed in paragraph 3.6.

3.0.3 All other functions of the Combined Authority will be Non-Mayoral Functions – see paragraph 3.2.

3.0.4 Where any Mayoral or Non-Mayoral Function is concurrent with any Constituent Council, (that is, where Constituent Councils share any function), arrangements for their exercise will be a matter for agreement between the Combined Authority and a Constituent Council.

3.0.5 It is proposed that the Constituent Councils and the Combined Authority will agree operating protocols for the exercise of concurrent functions by the Combined Authority where considered appropriate. These protocols will recognise the strategic role of the Combined Authority and safeguard the role of Constituent Councils in local decision making and delivery.

### **3.1 Functions exercised by the Mayor - overview**

#### **Mayoral Functions**

3.1.1 It is proposed that the Mayoral Functions will be:

- Functional power of competence.
- Housing and planning:
  - Power to designate a Mayoral Development Area and then set up a Mayoral Development Corporation (see consent requirements below).

- Housing and land acquisition powers (see consent requirements below) to support housing, regeneration, infrastructure and community development and wellbeing.
- Finance:
  - Power for the Mayor to set a precept on council tax to fund Mayoral Functions (resulting from the setting of the mayoral budget as set out below)
  - Power to charge business rate supplement (subject to ballot).
- Transport:
  - Power to draw up a local transport plan and strategies (the Combined Authority will be able to amend the Mayor's transport strategy if Three (3) out of Four (4) Constituent Council Members agree to do so).
  - Bus franchising powers.

3.1.2 For the purposes of the discharge of Mayoral Functions the Mayor may do anything that the Combined Authority may do under section 113A of the 2009 Act (functional power of competence).

3.1.3 As stated above, it is also proposed that the Mayor exercises PFCC Functions – see paragraph 3.6.

## 3.2 Non-Mayoral Functions - overview

3.2.1 The Combined Authority will have a 'function related general power of competence' under Chapter 3 of Part 1 of the Localism Act 2011.

3.2.2 It is proposed that the Combined Authority exercise the following additional Non-Mayoral Functions:

- a) The Combined Authority will become the **Local Transport Authority** for the Combined Area under the Transport Act 2000.
- b) **Transport-related powers** to set up and coordinate a Key Route Network on behalf of the Mayor (unless otherwise agreed locally, all operational responsibility for Key Route Network roads will remain with the Constituent Councils) (see further paragraph 3.3.3).
- c) **Transport-related powers** to collect contributions from utility companies for diversionary works needed as a result of highways works carried out on the Key Route Network (see further paragraph 3.3.3).
- d) Powers to operate a **permit scheme** designed to control the carrying out of works on the Key Route Network (see further paragraph 3.3.3).
- e) **Adult education and skills functions** (see further paragraph 3.4).
- f) **Housing and Land functions** relating to compulsory purchase, plus provision of housing and land, land acquisition and disposal, and development and regeneration of land (see further paragraph 3.5).
- g) **Economic development** – duty to prepare an assessment of economic conditions (see further paragraph 3.5.3.2).
- h) **Finance** – power to borrow up to an agreed cap for non-transport functions (see further paragraph 4.2.3).

3.2.3 It is proposed that all functions given or transferred to the Combined Authority that are not exercisable only by the Mayor (which Mayoral Functions are listed in paragraphs 3.2 and 3.3) will be discharged by the Cabinet.

3.2.4 The Cabinet will exercise its powers and duties concurrently with the Constituent Authorities (where Constituent Authorities have the same functions). No Constituent Council will cede any existing non-transport functions to the Combined Authority without the express agreement of the Constituent Council.

- 3.2.5 Notwithstanding the above, it is proposed that a Constituent Council and the Combined Authority may enter into arrangements under Section 101 of the Local Government Act 1972 and/or Section 9EA of the Local Government Act 2000 and the Local Authorities (Arrangements for Discharge of Functions) (England) Regulations 2012 to allow the delegation of functions from a Constituent Council to the Combined Authority. In all such cases, acceptance of a delegation will require the agreement of Cabinet and the relevant Constituent Council.
- 3.2.6 Under Section 101 of the Local Government Act 1972 it is proposed that the Combined Authority may enter into arrangements with a Constituent Council to allow for the delegation of Non-Mayoral Functions to a Constituent Council. In all such cases, the decision to delegate any function will require the agreement of Cabinet.
- 3.2.7 The Combined Authority may also enter into joint arrangements with any Constituent Council or other local authority, in respect of Non-Mayoral Functions, in accordance with S101(5) of the Local Government Act 1972.

### **3.3 Transport**

- 3.3.1 The Mayor will be given the functions in Part 2 of the Transport Act 2000 to produce a Local Transport Plan and strategies. Members of the Combined Authority will be able to amend the Local Transport Plan and strategies if a majority of Members agree to do so.
- 3.3.2 The Combined Authority will become the Local Transport Authority for the Combined Area under the Transport Act 2000.
- 3.3.3 [It is proposed that the Combined Authority is to become a Constituent Authority of Transport for the North ("TfN") and that the proposed regulations which are to be made under the Local Transport Act 2008 to create TfN as a Sub-National Transport Body for the North of England will be amended accordingly].

#### **3.3.2 Consolidated Transport Budget**

- 3.3.2.1 The Mayor will be responsible for a devolved and consolidated multi-year local transport budget for the Combined Area including all relevant devolved highways funding, to enable greater surety of funding, more effective and efficient long-term asset management and procurement arrangements. This budget will be fully devolved and provide a firm funding settlement for a [ ]-year period starting in [ ].
- 3.3.2.2 It is proposed that the Combined Authority will be able to exercise the functions of a minister of the Crown contained in Section 31 of the Local Government Act 2003 to pay grants to the Constituent Councils for exercising highway functions. This function is a Mayoral Function exercisable concurrently with a Minister of the Crown.

#### **3.3.3 Key Route Network**



- 3.3.3.1 The Combined Authority will take on highways powers to set up and coordinate a Key Route Network (KRN) on behalf of the Mayor. The strategy for the KRN will be developed, agreed and co-ordinated by the Combined Authority on behalf of the Mayor. The Combined Authority will be the Highway Authority for the KRN for the purposes of exercising the powers of the Highways Act 1980 and the relevant other primary and secondary legislation.
- 3.3.3.2 Additionally, the Government intends to legislate so that the Mayor will have a power of direction, allowing them to direct highway authorities on exercising their highway powers with regard to the KRN.
- 3.3.3.3 In partnership with Constituent Councils, the Combined Authority and the Mayor will develop a single strategic asset management plan, and where practical, work towards streamlined contractual and delivery arrangements across the Combined Area.
- 3.3.3.4 It is proposed to grant the Combined Authority functions in relation to the KRN as more particularly set out below. These will enable the KRN to be defined and allow the KRN roads to be strategically managed and coordinated at the York and North Yorkshire level by the Combined Authority on behalf of the Mayor. However, unless otherwise agreed locally, all operational responsibility for highways will remain with the Constituent Councils. As such the specific functions of the Combined Authority which relate to operational management of the roads within the KRN will only be exercised with the unanimous approval of the Four (4) Members of the Combined Authority appointed by the Constituent Councils.
- 3.3.3.5 The Combined Authority will be granted the following powers:
- a) Powers equivalent to those contained within the Road Traffic Regulation Act 1984 in relation to traffic orders (including sections 1, 2(4), 9, 23 and 65) and the power to enter into agreements as if it were a traffic authority pursuant to section 121A. The Combined Authority will only exercise such functions with the unanimous approval of the Four (4) Members of the Combined Authority appointed by the Constituent Councils;
  - b) [Powers contained in the New Roads and Street Works Act 1991, the Traffic Management Act 2004 and the Traffic Management Permit Scheme (England) Regulations 2007 to enable the Combined Authority to manage street works and issue permit schemes to manage disruption and bid to the Secretary of State for Transport to seek approval to operate a lane rental scheme in relation to KRN roads, including seeking contributions from utility companies through lane rental and exercising the power to create an updated lane rental scheme as needed (subject to the Secretary of State's agreement) together with powers relating to moving traffic offences. The Combined Authority will only exercise such functions with the unanimous approval of the Four (4) Members of the Combined Authority appointed by the Constituent Councils. ]
  - c) The Combined Authority will be granted, in respect of the KRN, powers in relation to the enforcement of bus lane contraventions pursuant to the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005. The Combined Authority will only exercise such functions with the approval of the Four (4) Members of the Combined Authority appointed by the Constituent Councils. The outcome will be to ensure a consistent approach to the enforcement of bus lanes.
- 3.3.3.6 The Combined Authority will be granted functions equivalent to the below, concurrently with the relevant Constituent Council, unless otherwise stated:
- a) Section 6 of the Highways Act 1980 (enabling the Secretary of State or Highways England to delegate or enter into an agreement with a county council, metropolitan district council or London borough council in relation to the construction, improvement or maintenance of trunk roads). It is proposed that the section should be modified to include the Combined Authority amongst the authorities to which such functions may

be delegated, to support better integration between local and national networks, or the equivalent legislative provision in order to achieve the aim of better integration.

- b) Section 8 of the Highways Act 1980 (enabling local highway authorities and Highways England to enter into agreements with other such authorities in relation to the construction, improvement, maintenance etc. of a highway for which any party to the agreement is the highway authority). It is proposed that the section be modified to allow the Combined Authority to be a party to such agreement as if it were a local highway authority, with the consent of any affected highway authority, or the equivalent legislative provisions in order to allow the Combined Authority to be party to such agreements.

3.3.3.7 Under the Automated and Electric Vehicles Act 2018, the Mayor will have the power to request from the Secretary of State local regulations requiring large fuel retailers to provide electric vehicle charging points within the Combined Area.

### **3.3.4 Buses**

3.3.4.1 The Combined Authority will be granted powers under section 154 of the Transport Act 2000 to make grants to bus operators.

3.3.4.2 As an MCA, the Combined Authority will become a franchising authority under the Transport Act 2000. This Act provides for the Mayor to carry out functions in relation to making, varying or revoking a franchising scheme.

## **3.4 Adult Education / Skills and Employment**

3.4.1 It is proposed that the Combined Authority will be given devolved functions in respect of Adult Education and will control the Adult Education Budget (AEB) from academic year 2025/26 subject to readiness conditions and parliamentary approval of the required secondary legislation conferring the appropriate functions. These arrangements do not cover apprenticeships or traineeships, even though the latter is funded through the AEB.

3.4.2 These functions include those set out in the following sections of the Apprenticeships, Skills, Children and Learning Act 2009:

- a) section 86 (education and training for persons aged 19 or over and others subject to adult detention);
- b) section 87 (learning aims for persons aged 19 or over: provision of facilities);
- c) section 88 (learning aims for persons aged 19 or over: payment of tuition fees);
- d) section 90 (encouragement of education and training for persons aged 19 or over and others subject to adult detention);
- e) section 100 (provision of financial resources);
- f) 115 (persons with special educational needs) of the Apprenticeships, Skills, Children and Learning Act 2009.

3.4.3 Should the Combined Authority be given the functions set out in this Section 3, then it is proposed that, for the purposes of data sharing, the Combined Authority should be treated as a "Local Authority" for the purposes of Section 122 of the Apprenticeships, Skills Children and Learning Act 2009 and Section 72 of the Welfare Reform and Pensions Act 1999 (Supply of information for certain purposes) so that the Combined Authority can supply and receive information related to employment or training of persons in the Combined Area.

3.4.4 In addition, the Combined Authority will also have the following authority functions to be held concurrently with Constituent Councils:

- a) section 514A of the Education Act 1996 (provision of boarding accommodations);



- b) section 560A of the Education Act 1996 (functions related to the provision of work experience);
- c) sections 10 and 12 of the Education and Skills Act 2008 to ensure that its functions are exercised so as to promote the effective participation in education and training of relevant persons in its area aged 16 and 17, and to make arrangements to enable it to establish (so far as possible) the identities of such relevant persons;
- d) sections 68, 70, 71 and 85 of the Education and Skills Act 2008 to make available to young persons and relevant young adults such support services as it considers appropriate to encourage, enable and assist the effective participation of such persons in education and training, and functions relating to co-operation with other authorities;
- e) section 13A of the Education Act 1996 to ensure that their education and training functions are exercised with a view to promoting high standards, fair access to opportunity for education and training, and the fulfilment of learning potential;
- f) section 51A of the Further and Higher Education Act 1992 to require relevant institutions in the further education sector to provide appropriate education to specified individuals aged between 16 and 18 years.

3.4.5 It is proposed that the MCA will have the duties under Sections 15ZA, 15ZB, 15ZC, 17 and 18A(1)(b) of the Education Act 1996 and the powers under section 514A and 560A of that Act that relate to duties and powers concerning the provision of education and training for persons over compulsory school age.

3.4.6 [It is proposed that the Combined Authority will establish an [Inclusive Growth Board] with the aims of:

- a) Improving the marked disparities in educational attainment that exists within the Combined Area;
- b) Increasing attainment in Science, Technology, Engineering and Mathematics (STEM) subjects;
- c) Deepening the approach to careers information, advice and guidance through the adoption of the Good Career Guidance benchmarks; and
- d) Achieving excellence in teaching, leadership and school governance.

3.4.7 The Board will be responsible for advising on the better coordination of employment, skills and health services across the Combined Area with the aim of increasing the number of people moving into work].

## **3.5 Housing and Planning Functions**

### **3.5.1 Housing**

3.5.1.1 In order to exercise the functions outlined in the “minded to” Devolution Deal, it is proposed that the Combined Authority will be granted the following powers concurrently with the Constituent Councils or Homes England as appropriate.

3.5.1.2 It is proposed that the Combined Authority will be granted devolution of the objectives and functions of Homes England under section 2(1) of the Housing and Regeneration Act 2008 (to be exercised only in respect of the Combined Area) and the following powers contained in the 2008 Act will be exercised by the Combined Authority concurrently with Homes England:

- a) Section 3 (principal power);
- b) Section 4 (general powers);
- c) Section 5 (powers to provide housing or other land);
- d) Section 6 (powers for regeneration, development or effective use of land);
- e) Section 7 (powers in relation to infrastructure);

- f) Section 8 (powers to deal with land etc);
- g) Section 9 (acquisition of land);
- h) Section 10 (restrictions on disposal of land);
- i) Section 11 (main powers in relation to acquired land);
- j) Section 12 (powers in relation to, and for, statutory undertakers);
- k) Section 19 (power to give financial assistance);
- l) Paragraphs 19 and 20 of Schedule 3 (powers in relation to burial grounds and consecrated land etc.);
- m) Paragraphs 1,2,3,4,6,10 and 20 of Schedule 4 (extinguishment or removal powers for the HCA).

3.5.1.3 These functions will be Non-Mayoral with the exception of the specific Homes England compulsory purchase powers in section 9 of the 2008 Act (see below).

3.5.1.4 The objectives in section 2(1) of the 2008 Act are to provide the Combined Authority with the necessary powers:

- a) to improve the supply and quality of housing;
- b) to secure the regeneration or development of land or infrastructure;
- c) to support in other ways the creation, regeneration and development of communities or their continued well-being; and
- d) to contribute to the achievement of sustainable development and good design.

3.5.1.5 The functions in this section include powers enabling the achievement of the above objectives. Such powers include the power of compulsory purchase contained in section 9 of the 2008 Act (subject to the authorisation of the Secretary of State). In order to achieve the objectives above, it is proposed that the Combined Authority should also have the benefit of exemption from section 23 of the Land Compensation Act 1961, which is enjoyed by Homes England under section 23(3)(d) of that Act.

3.5.1.6 As set out above, it is proposed that the exercise of the compulsory purchase power contained in section 9 of the 2008 Act, will only be exercisable by the Mayor with the consent of the Lead Member of the Combined Authority appointed by the Constituent Council for the area(s) of land to be compulsorily acquired and the Secretary of State.

3.5.1.7 It is proposed that the Combined Authority should be granted the power to acquire land for the development of housing under section 17 of the Housing Act 1985 and the associated sections 11, 12, 15(1) and 18. It is proposed that the power to acquire land compulsorily under Section 17(3) of the Housing Act 1985 will be a Mayoral Function but will require the consent of the Lead Member of the Combined Authority appointed by the Constituent Council for the area(s) of land to be compulsorily acquired and the Secretary of State. The conferral of such powers on the Combined Authority will be entirely without prejudice to the exercise of those powers by the Constituent Councils which will exercise those powers concurrently.

3.5.1.8 It is proposed that the Combined Authority will be considered “a local housing authority” for the purposes of Section 8(1) of the Housing Act 1985 (periodical review of housing needs) that will require the Combined Authority as a “local housing authority” to consider housing conditions in the Combined Authority area and the needs of the area with respect to the provision of further housing accommodation.

### **3.5.2 Mayoral Development Corporation**

3.5.2.1 It is proposed that the Mayor will have the power to designate an area a Mayoral Development Area (“MDA”) and so create a Mayoral Development Corporation (“MDC”) to help drive regeneration and expedite housing delivery on complex schemes in the area.

The advantage of MDCs is that they have most of the powers of an Urban Development Corporation but are controlled locally rather than by the Secretary of State.

3.5.2.2 It is proposed that Part 8, Chapter 2 of the Localism Act 2011 be modified so that references to the GLA, Greater London and the London Mayor would include the Combined Authority and the Mayor. This would enable the Combined Authority to have functions for the Combined Area corresponding to the following functions contained in the Localism Act 2011 that the Mayor of London has:

- a) Section 197 (designation of Mayoral development areas);
- b) Section 199 (exclusion of land from Mayoral development areas);
- c) Section 200 (transfers of property etc. to a Mayoral development corporation);
- d) Section 202 (functions in relation to town and country planning);
- e) Section 204 (removal or restriction of planning functions);
- f) Section 214 (powers in relation to discretionary relief from non-domestic rates);
- g) Section 215 (reviews);
- h) Section 216 (transfers of property, rights and liabilities);
- i) Section 217 (dissolution: final steps);
- j) Section 219 (guidance by the Mayor);
- k) Section 220 (directions by the Mayor);
- l) Section 221 (consents);
- m) Paragraph 1 of Schedule 21 (membership);
- n) Paragraph 2 of Schedule 21 (terms of appointment of members);
- o) Paragraph 3 of Schedule 21 (staff);
- p) Paragraph 4 of Schedule 21 (remuneration etc: members and staff);
- q) Paragraph 6 of Schedule 21 (committees); and
- r) Paragraph 8 of Schedule 21 (proceedings and meetings).

3.5.2.3 It is proposed that the Mayor's power to designate an area a MDA under Section 197 of the Localism Act 2011 will require the consent of the Lead Member of the Combined Authority appointed by the Constituent Council whose local government area contains any part of the MDA.

3.5.2.4 It is further proposed that the Mayor's power to exclude land from a MDA under Section 199 of the Localism Act 2011 will require the consent of the Lead Member of the Combined Authority appointed by the Constituent Council whose local government area contains any part of the area to be excluded from the MDA.

3.5.2.5 It is also proposed that the London Mayor's power under section 202 of the Localism Act 2011 to decide that a MDC should have certain planning functions in relation to the whole or part of a MDA should be modified in relation to the Mayor so that the Mayor can only exercise this power with the consent of the Lead Member of the Combined Authority appointed by the Constituent Council whose local government area contains any part of the MDA concerned.

### 3.5.3 Economic Development and Regeneration

3.5.3.1 It is proposed that the Combined Authority will have a duty to prepare an assessment of economic conditions under section 69 of the 2009 Act, concurrently with the Constituent Councils.

3.5.3.2 It is proposed that the Combined Authority will have powers that would allow it to drive strategic economic growth across the functional economic area. This means functions such as:

- setting the area's growth strategy;
- setting the area's economic strategies;

- setting the investment strategy for the area's Investment Fund;
- making decisions with regard to the Investment Fund;
- a co-ordinated approach to inward investment.

3.5.3.3 In addition, the Combined Authority have other powers relating to the provision of further education that would contribute to the economic improvement of the functional economic area.

## **3.6 PFCC Functions**

### **3.6.1 Legislative Context**

3.6.1.1 The Police Reform and Social Responsibility Act 2011 (the 2011 Act) and the 2018 Order established the position of PFCC for North Yorkshire and specifies the core functions of a PFCC and it is proposed that these will be exercisable by the Mayor.

3.6.1.2 The order providing for the Mayor to exercise the functions of a PFCC must provide that there is to be no directly elected PFCC in the Combined Authority area from a specified date.

### **3.6.2 Policing, Fire and Crime Proposals**

3.6.2.1 The Mayor will carry out the PFCC Functions in relation to the Combined Area, which corresponds to the North Yorkshire police area and area of the PFCCFRA. This will provide for a single directly accountable individual responsible for the discharge of the PFCC's Functions, which will be consistent with the current PFCC model and ambition for local people to have a single point direct accountability. Key PFCC Functions in North Yorkshire include but are not limited to:

- securing the maintenance of an efficient and effective police force and holding the Chief Constable to account;
- securing the maintenance of an efficient and effective fire and rescue authority and holding the Chief Fire Officer to account;
- issuing a Police and Crime Plan and Fire and Rescue Plan (or a Police, Fire and Crime Plan), and an Integrated Risk Management Plan;
- appointing and having the power to remove a Chief Constable and being the Appropriate Authority for Chief Constable complaints and conduct;
- appointing the Chief Fire Officer and Deputy Chief Fire Officer;
- being the employer of all Fire and Rescue staff;
- Customer Service functions – including:
  - the handling of functions in relation to complaints against the Police under 'Model 3' of the police complaints reforms (the local policing body having given notice to the Chief Constable under s13A Police Reform Act 2002);
  - the handling of complaints against North Yorkshire Fire and Rescue Service;
  - the handling of expressions of appreciation in respect of North Yorkshire Police and North Yorkshire Fire and Rescue Service;
- issuing Annual Reports on policing and crime services and on fire and rescue services, including an annual fire and rescue statement;

- setting budgets for North Yorkshire Police and North Yorkshire Fire and Rescue Service, and determining the policing and fire and rescue precepts for the Combined Area;
- commissioning policing and crime services, specifically needs assessment and cope and recovery services for victims of crime, and fire and rescue services in the Combined Area;
- enhancing the delivery of criminal justice in the Combined Area and working with partners to improve public safety;
- approving a pay policy statement prepared for the purposes of section 38 of the Localism Act 2011 (pay policy statements);
- approving arrangements to enter into a reinforcement scheme under section 13 of the Fire and Rescue Services Act 2004 (reinforcement schemes);
- approving arrangements with other employers of fire-fighters under section 15 of the Fire and Rescue Services Act 2004 (arrangements with other employers of fire-fighters);
- approving arrangements under section 16 of the Fire and Rescue Services Act 2004 (arrangements for discharge of functions by others);
- approving plans, modifications to plans and additions to plans for the purpose of ensuring that:
  - so far as is reasonably practicable, the Combined Authority is able to perform its fire and rescue functions if an emergency occurs, and
  - the Combined Authority is able to perform its fire and rescue functions so far as necessary or desirable for the purpose of preventing an emergency, or reducing, controlling or mitigating the effects of an emergency, or taking other action in connection with it;
- approving any arrangements for the co-operation of the Authority in relation to its fire and rescue functions with other Category 1 responders and Category 2 responders in respect of:
  - the performance of the Authority's duty as a fire and rescue authority under section 2 of the Civil Contingencies Act 2004, and
  - any duties under subordinate legislation made in exercise of powers under that Act management plan;
- Maintaining an Independent Custody Visitor Scheme for the Combined Area.

3.6.2.2 In accordance with the 2009 Act, any PFCC Function is to be taken to be a function of the Combined Authority exercisable by the Mayor acting individually, or by a person acting under arrangements with the Mayor in accordance Schedule 5C of the 2009 Act or as delegated in accordance with this Scheme – see further below.

3.6.2.3 Under the 2011 Act and 2018 Order, the PFCC is simultaneously:

- a Corporation Sole in its capacity as local policing body; and
- separately a Corporation Sole in its capacity as fire and rescue authority

Carrying out the functions of the PFCCFRA. As set out above, it is proposed that the PFCC Functions will be exercised by the Mayor who will have the sole responsibility for the PFCC Functions. However, the following will transfer to the Combined Authority as body corporate although the decision-making in respect of these functions, after the transfer, will remain with the Mayor:

- Real and Personal Property, Rights and Liabilities;
- Appointments;
- Borrowing;
- Contracts.

3.6.2.4 It is proposed that the existing Codes of Corporate Governance (including Schemes of Delegation and Consent) for the time being in place in respect of the PFCCFRA, be adopted by the Combined Authority and interpreted mutatis mutandis in respect of the PFCC Functions exercisable by the Mayor.

3.6.2.5 It is further proposed that the arrangements set out at paragraph 3.6.2.4 shall be reviewed by the Combined Authority during the initial term of the Mayor with a view to establishing whether it is in the public interest for arrangements should be made to consolidate the Codes of Corporate Governance with those adopted by the Combined Authority and in particular whether to do so accords with the requirements of the Financial Management Code of Practice.

### **3.6.3 Deputy Mayor for Policing and Crime and Delegation of FRA Functions**

3.6.3.1 Where an Order provides for the Mayor to exercise PCC Functions, the Secretary of State must by order authorise the Mayor to appoint a Deputy Mayor for Policing and Crime. The 2009 Act precludes the appointment as Deputy Mayor for Policing and Crime of:

- the Deputy Mayor;
- any person listed in section 18(6) of the 2011 Act; or
- any other person of a description specified by order.

3.6.3.2 The Mayor may make suitable arrangements for the delegation of FRA Functions.

### **3.6.4 PCC Functions**

3.6.4.1 A Mayor may delegate any PCC Function to a Deputy Mayor for Policing and Crime, with the exception of functions reserved by Order in accordance with the 2009 Act as exercisable only by the Mayor, as follows:

- issuing a police and crime plan;
- calculating a council tax or budget requirement;
- appointing, suspending or calling on a Chief Constable to retire or resign;
- appointing, suspending or dismissing the Chief Fire Officer; and
- any other function specified by Order.

3.6.4.2 PCC Functions that may only be exercised by the Mayor and/or the Deputy Mayor for Policing and Crime are:

- determining police crime objectives;
- attendance at a meeting of a Police Fire and Crime Panel in compliance with a requirement by the panel to do so;
- preparing an annual report;
- appointing a local auditor under section 7 of the Local Audit and Accountability Act 2014 (“the 2014 Act”); and
- deciding whether to enter into a liability limitation agreement under section 14.

3.6.4.3 In addition, the Mayor, must by order be authorised to arrange for any other person to exercise any PCC Functions, such as an officer of the Combined Authority, but such an order must prevent the Mayor from arranging for a person to exercise:

- Any PCC Function if the person is listed in section 18(6) of the 2011 Act
- Any PCC Function listed in section 18(7) of the 2011 Act, or
- Any other PCC Function specified by order.



3.6.4.4 The Deputy Mayor for Policing and Crime must also by order be authorised to arrange for any other person to exercise any PCC Functions exercisable by the Deputy Mayor for Policing and Crime, but such an order must prevent the Deputy Mayor for Policing and Crime from arranging for a person to exercise:

- Any PCC Function if the person is listed in section 18(6) of the 2011 Act,
- Any PCC Function of a kind listed in section 18(7)(b),(c) or (d) of the 2011 Act, (determining police and crime objectives, attending at a meeting of the Police Fire and Crime Panel in compliance with a requirement, or preparing an annual report to a Policing Fire and Crime Panel), or
- Any other kind of PCC Function specified by order.

### **3.6.5 Transfer of properties, rights and liabilities**

3.6.5.1 All property, rights and liabilities which are property, rights and liabilities of the PFCC will transfer and vest in the Combined Authority, subject to any exceptions to be agreed. However, all decisions relating to PFCC Functions (and relating to assets and liabilities etc.) will be for the Mayor unless delegated as set out above. The Order will also provide for:

- all functions in relation to such property, rights and liabilities to be exercised by the Mayor;
- all decisions relating to such property, rights and liabilities to be made by the Mayor;
- any receipts arising from such property, rights and liabilities (whether arising from their use, sale, disposal or otherwise) are to be paid into the Police Fund kept by the Mayor by virtue of section 21 of the 2011 Act.

### **3.6.6 Continuity**

3.6.6.1 The transfer of the functions of the PFCC, and the transfer of property, rights and liabilities, do not affect the validity of anything done before the abolition or transfer.

3.6.6.2 The Combined Authority is to be substituted for the PFCC in any instruments, contracts or legal proceedings which relate to any of the functions, property rights or liabilities transferred and which were made and commenced before the transfer and anything which was made or done by the PFCC in connection with any of the functions, property rights or liabilities transferred before the transfer has effect as if made or done by the Combined Authority, subject to any exceptions to be agreed.

3.6.6.3 The Mayor may adopt:

- One or more Monitoring Officer Protocol(s);
- A Chief Finance Officer Protocol referencing the Code of Practice on Financial Management;
- A Memorandum of Understanding between the Mayor and the Chief Constable;
- An Information Sharing Agreement and Data Processing Contract between the Mayor, the Combined Authority and the Chief Constable.

### **3.6.7 Staff of the Police Fire and Crime Commissioner**

3.6.7.1 The staff employed by the PFCC as local policing body; and the staff employed by the PFCCFRA, will transfer to the Combined Authority under a statutory transfer order which will replicate the characteristics of a TUPE transfer.

### **3.6.8 Police Fire and Crime Panel**

3.6.8.1 Scrutiny of the discharge of PFCC Functions will be performed by a Police Fire and Crime Panel established in relation to the Combined Area by order in accordance with the 2011

Act, which carries out functions of a police and crime panel (as set out in section 28 and section 29 of the 2011 Act) to effectively scrutinise the actions and decisions of the Mayor and Deputy Mayor for Policing and Crime, supporting them in the effective exercise of PFCC functions and enabling them to be scrutinised in public.

3.6.8.2 The functions of the Panel include reviewing:

- a draft police fire and crime plan,
- the annual report(s) in respect of PFCC Functions,
- proposed senior appointments,
- any proposed precept for PFCC Functions, (including a power of veto), and
- the appointment, suspension or removal of the Chief Constable.

3.6.8.3 In accordance with the 2011 Act, the Secretary of State must also by order provide for the Police Fire and Crime Panel to have power to suspend the Mayor, in respect of the exercise of PFCC Functions, in circumstances corresponding to those mentioned in section 30(1) of the 2011 in relation to a PFCC.

3.6.8.4 In accordance with section 29 of the 2011 Act, the Police Fire and Crime Panel may require the Mayor and members of staff to attend before the Panel to answer any question which appears to the Panel to be necessary in order for it to carry out its functions. If the Panel requires the Mayor to attend, it may also request the Chief Constable to attend on the same occasion. The Panel may also require the Mayor to respond in writing to any report or recommendation the Panel makes to the Mayor.

3.6.8.5 The Police Fire and Crime Panel will exercise the same functions under sections 28 and 29 of the 2011 Act, as police fire and crime panels under the PFCC model, but with some minor modifications, such as reflecting that the Panel only scrutinises the policing component of the precept, which forms a separately identifiable component of a wider Combined Authority precept, rather than the whole precept.

3.6.8.6 The Police Fire and Crime Panel may by order have oversight functions in relation to any Mayoral Function that is exercised by the Deputy Mayor for Policing and Crime. Any such order may disapply or modify provisions relating to the Overview and Scrutiny Committee, in relation to any Mayoral Function coming within the remit of the Panel.

### **3.6.9 Police Fund and Fire Fund**

3.6.9.1 The Mayor will be required to maintain a separate fund in relation to receipts arising and liabilities incurred in the exercise of:

- PCC Functions (the Police Fund); and
- FRA Functions (the Fire Fund)

The Police Fund and Fire Fund will be kept separate to each other and the Mayor's General Fund (see paragraph 4 below) and all receipts arising in respect of PCC and FRA Functions will be paid into the Police Fund or the Fire Fund as the case may be, and liabilities incurred in the exercise of PCC Functions or FRA Functions must likewise be paid out of the Police Fund or Fire Fund as the case may be.

3.6.9.2 Money paid into the Police Fund will be reserved for policing and money paid into the Fire Fund must be reserved for fire and rescue. For example, receipts from the sale of police assets would have to be spent on matters relating to policing. In line with statutory guidance for PFCCs, as set out in the Financial Management Code of Practice, the Mayor would have to publicly account for expenditure from the Police Fund and the Fire Fund.



- 3.6.9.3 The Police Fund, which will include precept income, will also include reserves maintained for policing and crime reduction. The Local Government Finance Act 1992 requires billing and precepting authorities in England and Wales to have regard to the level of reserves needed for meeting estimated future expenditure when calculating the budget requirement. Reserves should be maintained in accordance with the relevant guidance, agreed accounting principles and locally agreed financial regulations and schemes of governance.
- 3.6.9.4 The Mayor is responsible for expenditure on PFCC Functions.
- 3.6.9.5 Money in the Police Fund can only be spent on PCC Functions and matters that are incidental to those PCC Functions. Money in the Fire Fund can only be spent on FRA Functions and matters that are incidental to those FRA Functions.
- 3.6.9.6 Decisions on the sale of police or fire assets and reinvestment of receipts must be made by the Mayor and money paid into the Police Fund or the Fire Fund as the case may be.

### **3.6.10 Borrowing**

- 3.6.10.1 The Mayor will be ultimately responsible for decisions relating to borrowing in relation to PFCC Functions, (as laid out in the Financial Management Code of Practice), but may delegate them in practice. The cost of such borrowing will be met from the Police Fund or the Fire Fund as the case may be and as above kept separate to the discharge of other Combined Authority functions, which are not PFCC Functions. This does not detract from the legal status of the Combined Authority as the borrowing party.

### **3.6.11 Contracts**

- 3.6.11.1 Decisions on entering into contracts regarding police matters are functions of a PFCC under the PFCC model (with some scope for consent to the Chief Constable). As such and in keeping with the PFCC model the Mayor will have ultimate responsibility for all contracts relating to police and fire matters, although they may provide consent for contracts to be entered into by the Chief Constable or delegation to another person subject to such delegation being in accordance with the law.
- 3.6.11.2 Decisions on the issuing of policing-related grants would also rest with the Mayor or anyone to whom they delegate responsibility.
- 3.6.11.3 Subject to paragraph 3.6.2.4 but in any event, a Scheme of Consent will be established by the Mayor setting out the extent of consents from the Mayor to the Chief Constable.

### **3.6.12 Police and Crime Plan, Fire and Rescue Plan, Fire and Rescue Statement and Integrated Risk Management Plan**

- 3.6.12.1 The Police and Crime Plan which involves consideration of the strategic policing requirement is a key public facing deliverable. The provisions on police and crime plans as set out in the 2011 Act will still apply to the Mayor carrying out PCC Functions.
- 3.6.12.2 The provisions on Fire and Rescue Plans and Fire and Rescue Statements as set out in the Fire and Rescue Services Act 2004 will apply to the Mayor carrying out FRA Functions.

3.6.12.3 The provisions on integrated risk management plans prepared and published in accordance with the requirements of the Fire and Rescue national Framework prepared by the Secretary of State under section 21 of the Fire and Rescue Services Act 2004 will apply to the Mayor carrying out FRA Functions.

### **3.6.13 Policing Protocol**

3.2.13.1 The Mayor will be required by order to have regard to the Policing Protocol issued by the Secretary of State under section 79 of the 2011 Act.

3.2.13.2 The Policing Protocol sets out ways in which relevant persons should, in the Secretary of State's view, exercise or refrain from exercising functions so as to encourage maintain or improve working relationships (including co-operative working) between relevant persons, and limit or prevent the overlapping or conflicting exercise of functions.

### **3.6.14 North Yorkshire Police and North Yorkshire Fire & Rescue Service**

3.6.14.1 The Chief Constable of North Yorkshire Police remains a Corporation sole as set out in legislation and accordingly North Yorkshire Police will retain its distinct organisational profile.

3.6.14.2 As set out in paragraph 2.10.5 the Chief Fire Officer shall exercise the functions of Head of Paid Service in respect of the staff transferred from the PFCCFRA and accordingly North Yorkshire Fire & Rescue Service shall retain its distinct organisational profile.

### **3.6.15 Complaints about Conduct (PCC and FRA Functions)**

#### PCC Functions

3.6.15.1 The Order will make provision in respect of its procedures for making, handling and investigating complaints and/or conduct matters in respect of the Mayor and Deputy Mayor for Policing and Crime and relating to the carrying out of PCC Functions.

#### FRA Functions

3.6.15.2 The Order will make provision in respect of procedures for making, handling and investigating of complaints and/or conduct matters in respect of the Mayor (including the Mayor's delegate(s)) and relating to the carrying out of FRA Functions.

### **3.6.16 Consequential amendment and modification requirements**

3.6.16.1 The following consequential amendment and modification requirements of enactments may be required in their application to the Combined Authority with PFCC Functions:

### **3.6.17 Primary Legislation**

- Amendments to the Police Reform and Social Responsibility Act 2011
- Modifications to the Local Government Act 1972
- Police (Property) Act 1897
- Trustee Investments Act 1961
- Pensions (Increase) Act 1971
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government, Planning and Land Act 1980
- Local Government Finance Act 1988
- Local Government Finance Act 1992
- Road Traffic Act 1988

- Local Government and Housing Act 1989
- Police Act 1996
- Police Reform Act 2002
- Proceeds of Crime Act 2002
- Railways and Transport Safety Act 2003
- Local Government Act 2003
- Fire and Rescue Services Act 2004
- Civil Contingencies Act 2004
- Local Government and Public Involvement in Health Act 2007
- Local Democracy, Economic Development and Construction Act 2009
- Police Reform and Social Responsibility Act 2011
- Localism Act 2011
- Local Audit and Accountability Act 2014

### **3.6.18 Secondary legislation**

- Motor Vehicles (Third Party Risks) Regulations 1972
- Official Secrets Act 1989(Prescription) Order 1990
- Police (Disposal of Sound Equipment) Regulations 1995
- Police (Property) Regulations 1997
- Health and Safety (Enforcing Authority) Regulations 1998
- Motor Vehicles (Driving Licences) Regulations 1999
- Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999
- Motor Vehicles (Access to Driver Licensing Records) Regulations 2001
- Police and Criminal Evidence Act 1984 (Drug Testing of Persons in Police Detention) (Prescribed Persons) Regulations 2001
- Police Regulations 2003
- Docking of Working Dogs' Tails (England) Regulations 2007
- REACH Enforcement Regulations 2008
- Elected Local Policing Bodies (Specified Information) Order 2011
- Policing Protocol Order 2011
- Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012
- Police Appeals Tribunals Rules 2012
- Police and Crime Commissioner (Disqualification) (Supplementary Provisions) Regulations 2012
- Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012
- Local Government Pension Scheme Regulations 2013
- Local Audit (Auditor Resignation and Removal) Regulations 2014
- Combined Authorities (Mayors) (Filling of Vacancies) Order 2017
- Police, Fire and Crime Commissioner for North Yorkshire (Fire and Rescue Authority) Order 2018

### **3.7 Miscellaneous**

- 3.7.1 For the avoidance of doubt, the Combined Authority will be a body specified for the purposes of Section 33 of the Value Added Tax Act 1994. This will entitle the Combined Authority to claim refunds of Value Added Tax charged on supplies to, and acquisitions or importations by the Combined Authority.

### **3.8 Information Sharing**

- 3.8.1 It is proposed that sections 17A and 115 of the Crime and Disorder Act 1998 should be amended to give the Combined Authority the same standing as a Local or Public Authority for the purpose of information sharing, given that the Mayor will be exercising PFCC Functions.
- 3.8.2 It is proposed that a non statutory Information Sharing Agreement will be established between the Chief Constable and the Combined Authority.

### **3.9 Incidental Provisions**

- 3.9.1 It is proposed that the following provisions are to have effect as if the Combined Authority were a “local authority” for the purposes of the functions therein which the Combined Authority will exercise concurrently with the Constituent Councils:
- a) Section 113 of the Local Government Act 1972 (the power to place staff at the disposal of other local authorities);
  - b) Section 142(2) of the Local Government Act 1972 (the power to arrange for publication of information etc relating to the functions of the Combined Authority);
  - c) Section 144 of the Local Government Act 1972 (the power to encourage visitors and provide conference and other facilities);
  - d) Section 145 of the Local Government Act 1972 (the power to provide and support cultural activities and entertainments);
  - e) Section 222 of the Local Government Act 1972 (the power to prosecute and defend legal proceedings); and
  - f) Section 69 of the Local Democracy, Economic Development and Construction Act 2009 (duty to prepare an assessment of economic conditions).
- 3.9.2 It is proposed that the Combined Authority will have the power to exercise any of the functions described in subsection (1)(a) and (b) of section 88 of the Local Government Act 1985 (research and collection of information) whether or not a scheme is made under that section. For the purposes of section 88(1) of the Local Government Act 1985 references to “that area” are to be taken as a reference to the Combined Area.
- 3.9.3 Section 13 of the Local Government and Housing Act 1989 (voting rights of members of certain committees) will have effect in relation to the Combined Area.
- 3.9.4 It is proposed that the Combined Authority will be included in Part 2 of Schedule 3 (pension funds) to the Local Government Pension Scheme Regulations 2013.

## **4.0 Finance and Investment**

### **4.1 Levy**

- 4.1.1 The Combined Authority will have the power to issue a levy to its Constituent Councils in respect of transport functions under section 74 of the Local Government Finance Act 1988 (levies) and in accordance with the Transport Levying Bodies Regulations 1992.

### **4.2 Funding of the Mayor and the Combined Authority**

- 4.2.1 Section 107G of the Local Democracy, Economic Development and Construction Act 2009, allows the Secretary of State to make an Order to make provision for the costs of a Mayor for the area of a Combined Authority that are incurred in, or in connection with, the exercise of Mayoral functions to be met from precepts issued by the Combined Authority under section 40 of the Local Government Finance Act 1992.

- 4.2.1 Scrutiny of the Mayoral Budget (and any Mayoral Precepts) will fall within the remit of the Overview and Scrutiny Committee of the Combined Authority. The Budget may be amended if 3 out of 4 Constituent Council Members agree to do so (excluding the Mayor) as set out above.
- 4.2.2 In order to enable the Combined Authority to invest in economically productive infrastructure Regulations should be made pursuant to section 74 of the Local Government Finance Act 1988 to enable the Combined Authority to issue a levy, or levies, to its Constituent Authorities, to meet the expenditure of the Combined Authority that is reasonably attributable to the exercise of non-mayoral functions. Constituent Councils will be able to pay an agreed contribution to meet the cost of Mayoral Functions.
- 4.2.3 It is proposed that Regulations will be made pursuant to section 23 (5) of the Local Government Act 2003 to extend the Combined Authority borrowing powers (for transport functions and policing functions) to other priority infrastructure projects, including but not limited to: transport, highways, housing, investment and economic regeneration, as relevant to the exercise of its functions, both Mayoral and non-Mayoral, within an agreed debt cap with HM Treasury.
- 4.2.4 Provision should also be made for the Constituent Councils to meet the costs of the Combined Authority and how the costs are to be apportioned between the Constituent Councils.

### **4.3 Business Rate Supplement**

- 4.3.1 It is proposed that the Mayor will have the power, with the agreement of the Combined Authority and in consultation with the business community by way of ballot, to raise a Business Rate Supplement to fund infrastructure investment. The Combined Authority will be a levying authority for the purposes of the Business Rates Supplement Act 2009 and the Constituent Councils shall be deemed to be acting jointly through the Combined Authority in accordance with Section 2(3) of the Business Rates Supplement Act 2009.

### **4.4 Mayor's General Fund**

- 4.4.1 It is proposed that provision will be made for the Mayor to keep a fund (to be known as the Mayor's "General Fund") in relation to receipts arising, and liabilities incurred, in the exercise of the Mayor's Mayoral Functions. All of the Mayor's receipts in respect of the exercise of the Mayoral Functions must be paid into the General Fund, and the Mayor's expenditure in respect of Mayoral Functions must be paid out of the General Fund. The Mayor must keep accounts of payments made into or out of the General Fund.