

## Chief Executives' Group – North Yorkshire and York

6 November 2014

### York, North Yorkshire and East Riding LEP - Local Governance

#### **1 Purpose of the Report**

- 1.1 To consider and agree the preferred option for strengthening governance for York, North Yorkshire and East Riding for economic development and transport to maximise the opportunities of devolution and to attract investment

#### **2 Background**

- 2.1 The Government considers a range of factors when negotiating Growth Deals, including the strength of local partnerships. Strong partnerships can ensure that there is clear decision making over large areas, underpinned by a strong democratic mandate which simplifies the local government landscape for businesses, government and their agencies so that important investment decisions can be made in one place.
- 2.2 The extent and strength of local governance has been a major factor in City Deals and Growth Deals and appears to now be directly influencing the options for English devolution, with city regions being touted as the vehicle for achieving this following a vigorous and concerted campaign. This leaves an uncertain future for those area outwith city regions, such as the East Riding and parts of North Yorkshire. It is also reasonable to expect that the extent of governance arrangements established will also influence any review of LEP boundaries and arrangements following the election.
- 2.3 The recent Growth Deal offered by Government to the York, North Yorkshire and East Riding LEP area clearly took account of the limited progress made thus far in strengthening local governance for this area. However, the deal does require strengthened cooperation across YNYER in terms of planning and transport. The Deal requires that 'the LEP and local planning authorities commit to getting up-to-date Local Plans in place, deliver effective strategic planning by working together and across boundaries, and ensure delivery of housing in Local Plans'.
- 2.4 The Growth Deal also requires that 'The YNYER LEP (and its partners) and DfT (and its agencies) commit to working together proactively on long-term strategic road network planning to support local economic growth'. In order to secure greater responsibilities and finances, we need to demonstrate strong local governance.
- 2.5 To consider options for strengthening governance in the LEP area a Task and Finish group was set up to consider the alternatives and provide an options paper and recommendation back to the Chief Executives Group. The Group consists of Richard Flinton (North Yorkshire), Kersten England (York), Alan

Menzies (East Riding), Janet Waggott (Rydale), Jim Dillon (Scarborough), Andy Wilson (North York Moors) and James Farrar (York, North Yorkshire & East Riding LEP)

- 2.6 The Task & Finish group met in September 2014 and commissioned a report which provided an analysis and overview of governance and legal statuses. In addition it was agreed to produce a first draft of a high level spatial plan brought together, through engagement with Local Authorities from Local Plans and the LEP Strategic Economic Plan.

### 3 Potential Governance Arrangements

- 3.1 There are three models that are considered by government to be suitable for strengthening governance and ensuring that there is greater accountability for any public funding under the Growth Deal and for delivery of agreed projects and investments; namely:

- (A) A Formal Joint Committee
- (B) An Economic Prosperity Board (Similar to a Combined Authority but without the transport functions)
- (C) A Combined Authority

- 3.2 Transport issues remain a key barrier to delivery of strategic improvements, individual developments and many local plans. An Economic Prosperity Board, which excludes transport matters, therefore would not address the challenges and strategic growth issues of the LEP area. For the purposes of this paper we only consider Joint Committees and Combined Authorities.

- 3.3 The Table below provides a high level analysis of each model.

	<b>Existing Structure</b>	<b>Joint Committee</b>	<b>Combined Authority</b>
Addresses the long strategic economic challenges	Limited	Potentially – there is flexibility around which functions are included.	Yes – fully integrates transport and economic development and supports an agreed spatial approach and investment
Improves decision making	No. Very little joint decision making by local authorities.	Yes - Decisions can be formally delegated to a joint committee	Yes – Combined Authorities are approved by parliament with a formal legal status
Satisfies government demands for devolution	No	Partially - Recognised by Central Government as the minimum required to ensure suitable governance	Yes – Recognised by Central Government as the strongest form of local governance

		arrangements are in place	
Likely to increase investment attracted	No	Yes – to a lesser extent. Will enable the region to meet minimum requirements but unlikely to secure longer term funding	Yes – Allows for integration of budgets and the model most likely to achieve maximum devolution and maximise government investment.
Improves deliverability of Local Plans	No	Improved over current and could support a more strategic approach with HCA and developers  Addresses duty to co-operate	Yes – will support a more strategic approach with HCA and developers  Addresses duty to co-operate. If combined with shared elements of plan making this approach would support production of a Spatial Plan with development plan status.
Deliverable	Yes – already in place and functioning	Yes – Can be quickly and reasonably easily developed. The primary challenge will be agreeing responsibilities devolved to the Joint Committee	Would require all Local Authorities committing long term – A longer more formal process including consultation and approval by Secretary of State

#### 4 Assessment of the Governance options in relation to YNYER requirements

Governance Model	Analysis
Existing Structures	<p>Current structures supported short term funding secured through the LEP Local Growth Deal.</p> <p>Two tier local government in North Yorkshire results in a siloed approach,. and complicated negotiations between county and districts, delaying developments.</p> <p>There is no spatial plan at either a county or a LEP level and transport strategy in NY does not support Local Plan delivery. Relationships and joint working is varied across the LEP area.</p> <p>The existing model supports overlapping LEP areas for East Riding, York, Harrogate, Selby &amp; Craven however stronger governance in neighbouring areas places significant risk of long term sustainability.</p> <p>The current model has no formal legal status and would be insufficient to secure significant devolution through a deal with government. Funding would remain short term and inflexible.</p> <p>The staus quo means that it is more difficult for agencies such as the HCA and Highways Agency to understand anreact to strategic priorities. The HCA are moving to a 'continuous market engagement' model enabling a more strategic approach to identifying and delivering investments into housing priorities. This will involve working with local areas to understand the priorities and market failures and developing a funding package to address their specific needs. To maximise the potential for this approach, stronger collective governance, improved collaboration and joint working around a spatial plan will create the opportunity for more, and targeted investment to support delivery of local plans.</p> <p><b>This model does not meet local or national requirements and has significant risks in terms of achieving investment and devolution</b></p>
Joint Committee	<p>Seen by government as the minimum level of governance to support devolution. This is a flexible and relatively un-political model which allows for different relationships with different areas.</p> <p>There is flexibility around which powers are devolved to a joint committee, however a Local Authority may legally devolve powers.</p>

	<p>It supports spatial planning at a wider level and the duty to co-operate within local plans. This would enable wider regional working to help address some of the housing challenges within Local Plans and would support a stronger relationship with potential investment partners such as HCA &amp; Highways Agency. It would also likely provide greater flexibility over local growth funding received from government.</p> <p>It could be created quickly and easily and provide a vehicle to better integrate and provide coherence between current bodies such as Housing Board, Devolved Local Transport Body, Spatial Planning &amp; Transport Board.</p> <p>This model works well in an overlapping LEP area. Local Authorities can be members of separate Combined Authorities and Joint Committees.</p> <p><b>This would be an easy first step to build trust and a shared vision for the wider area. It would also demonstrate progress to government in strengthening local governance. This is the minimum recommendation</b></p>
<p>Combined Authority for York, North Yorkshire &amp; East Riding</p>	<p>A combined Authority would be the optimum solution, best positioning the region to maximise investment and devolution. The benefits of a combined authority would be;</p> <p>Recognised by Central Government as the highest form of governance with the ability to last in the long term.</p> <p>A Combined Authority can attract additional functions and powers in their own right and Ministers have consistently stated that they would prefer to devolve powers to combined authorities because the types of powers that can be devolved would affect whole regions and across Council boundaries.</p> <p>A Combined Authority has full decision making powers that are given to it through an Order from the Secretary of State.</p> <p>This would enable effective spatial planning integrating strategic transport and local plans. This integrated approach would reduce delays caused by the current fragmented two tier approach and better align local growth and transport agendas.</p> <p>This approach could pool the limited resources of authorities, particularly within the 2-tier area, to provide a more capable</p>

	<p>and resilient team.</p> <p>It would maximise the potential for devolution of powers and funding and provide greatest flexibility in identifying and investing in local priorities</p> <p>A new Combined Authority is created by Order and cannot be disbanded or altered without the approval of the Secretary of State.</p> <p>This model provides the least flexibility in terms of change as the structure is more secure and harder to amend.</p> <p>In addition, Local Authorities are not allowed to be constituent members of more than one combined authority.</p> <p><b>Would require all Local Authorities to commit. The current situation in overlapping areas with East Riding a member of the Humber Joint Committee and York a non-constituent member of Leeds City Region Combined Authority make this a more complicated approach at the current time.</b></p> <p><b>Deliverability of this model could be revisited following the 2015 elections.</b></p>
<p>Combined Authority For North Yorkshire plus a Joint Committee with York &amp; East Riding</p>	<p>As stated above a combined Authority would be the optimum solution providing greatest confidence to government to support devolution of funding and powers. The strengths of a Combined Authority are detailed above.</p> <p>With the complications of the East Riding &amp; York memberships of neighbouring LEP structures, an alternative option would be to create a Combined Authority at a North Yorkshire level with a wider Joint Committee including York &amp; East Riding to support the LEP functional economic geography.</p> <p>This would address the challenges of planning growth in a two tier authority area, whilst supporting wider spatial planning and prioritisation with York and East Riding. It would send a strong message to government about local governance and position the area for devolution.</p> <p>Timeframes for creating a Combined Authority are long and it would go beyond the General Election. There would be the option for York and/or East Riding to join a Combined Authority at a later date.</p> <p>This would deliver the benefits detailed in the Combined Authority section above whilst supporting the functional</p>

	<p>economic geography of the LEP</p> <p>The potential downside of this model is the resource requirement to service two new entities with more complicated governance. It could also encourage the 'break up' of the LEP geography post election 2015.</p> <p><b>This would be a strong model and a significant step forward, however with an election in 2015 it may be best reconsidered as part of a review considering a Combined Authority at a LEP level post elections.</b></p>
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- 4.1 Conclusion: The optimum model, which would maximise investment into the region would be a Combined Authority. However with overlapping LEP areas and the General Election in 2015, a Joint Committee should be progressed immediately with a Combined Authority at either a LEP or North Yorkshire level reconsidered post-election 2015.
- 4.2 A Joint Committee can be quickly and easily delivered, and could evolve into a Combined Authority post May 2015.
- 4.3 A key discussion point is what powers would be devolved to a joint committee. Across the country joint committees have been created with some or all of the following functions
- Powers with regard to setting and reviewing objectives for strategic infrastructure investments across the area
  - Transport Functions
  - Economic Development and Regeneration Functions
  - Funding
  - [other specific legislative powers]
  - Creation of jobs/houses etc
- 4.4 Should we decide to progress to a Combined Authority post May 2015, we will need to move quickly and demonstrate;
- A strong evidence base** – quantifying the contribution of our area to the national economy, in a way that stands up to scrutiny by economists and policy makers;
- An Economic 'Model'** – Create the rationale for equitable focus, investment and devolved responsibilities.
- Leadership** – the ability to speak with one voice and gain consensus from all of our constituents;
- Delivery Capability** – convincing decision makers that there is both strength and depth in resource to carry through the proposition to delivery.
- Clear Economic Priorities** – demonstrating to government the ability to prioritise at a regional level and deliver maximum economic impact

**A clear Business case** – demonstrating value for money, impact and economic of scale  
**Strong governance** – Clear membership, governance and voting rights.

Appendix 1 provides a high level comparison of the three models legal statuses.

Appendix 2 provides draft Heads of Terms for a Joint Committee.

## **5 Recommendations**

- 5.1 A report is presented to LGNYY recommending a Joint Committee for York, North Yorkshire and East Riding is formed immediately, with a review of the potential for a Combined Authority post-May 2015.

## **6 Appendices**

- 6.1 **Appendix 1** provides a high level comparison of the three models and the legal issues.
- 6.2 **Appendix 2** provides draft Heads of Terms for a Joint Committee

**James Farrar**

Chief Operating Officer – York, North Yorkshire & East Riding Local Enterprise Partnership

6 November 2014

## Appendix 1: HIGH LEVEL COMPARISON OF DIFFERENT GOVERNANCE MODELS

	<b>Existing Structure</b>	<b>Joint Committee</b>	<b>Combined Authority</b>
<b>Achievability</b>	Already in Place and has functioned to date.	Easy to set up with agreement by each authority.	Takes time to set up: <ol style="list-style-type: none"> <li>1. Review of existing and future arrangements</li> <li>2. development of a scheme</li> <li>3. approval of Secretary of State followed by draft order being laid before Parliament.</li> </ol>
<b>Governance</b>	Not recognised by Central Government as a secure way to make decisions across the region	Recognised by Central Government as the minimum required to ensure suitable governance arrangements are in place  Decisions can be formally delegated to a joint committee.	Recognised by Central Government as the highest form of governance with the ability to last in the long term.

<b>Flexibility</b>	Completely flexible	<p>Each Authority delegates its powers to the Joint Committee – could be different for each authority. Each authority, subject to any agreement, can then revoke those delegations.</p> <p>The Committee can easily flex to accommodate more powers as time develops.</p> <p>There is a concern that that such a model would not have the permanence and accountability that exists within a Combined Authority to attract, for example longer term infrastructure funding.</p> <p>Provides a flexible approach to the current position where there are overlapping LEP Boundaries.</p>	<p>A new Combined Authority is created by Order and cannot be disbanded or altered without the approval of the Secretary of State.</p> <p>This model provides the least flexibility in terms of change as the structure is more secure and harder to amend.</p> <p>In addition, Local Authorities are not allowed to be constituent members of more than one combined authority.</p>

<b>Funding</b>	Least likely to attract the most funding	Gives Government some assurance that governance arrangements are in place	Provides the model that Government is promoting to secure the most confidence in attracting funding.
<b>Administration</b>	Least burdensome administratively.	Relative lack of bureaucracy – joint committee will require officer support.  The Committee will need an authority to host the Committee and provide all necessary secretarial, legal and financial support (including Section 151 and Monitoring Officer Roles).	Creates a completely new authority that needs to be administered.
<b>Decision making</b>	Has no formal decision making power	Has some decision making powers that are delegated from each authority. Each authority can choose what powers and functions to delegate either exclusively or mutually to the Joint Committee..	Has full decision making powers that are given to it through an Order from the Secretary of State. Functions can be exercised exclusively or mutually with each local authority.
<b>Legal Basis</b>	Informal arrangement	Section 101(5) Local Government Act 1972 enables two or more local authorities to discharge any of their	The Local Democracy, Economic Development and Construction Act 2009 provides the legal basis for creating

		<p>functions jointly and arrange for the discharge of those functions by a Joint Committee.</p> <p>If Executive Functions are being delegated to the Joint Committee, the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012/1019 states the Committee should contain Executive Members.</p> <p>Regulations further state that the Committee would not allow for any co-option.</p>	<p>Combined Authorities and Economic Prosperity Boards.</p> <p>A Statutory Order needs to be passed to set up a new Combined Authority/Economic Prosperity Board.</p> <p>A Combined Authority can attract additional functions and powers in their own right, including the general power of competence.</p> <p>The Localism Act 2011 allows ministers to devolve powers to Councils, but ministers have consistently stated that they would prefer to devolve powers to combined authorities because the types of powers that can be devolved would affect whole regions and across Council boundaries.</p>
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## **Appendix 2 – Joint Committee Heads of Terms**

In the Government's response to the Heseltine Review ("No Stone Unturned"), it was stated that they consider that a "Joint Committee of Leaders" is a minimum (with a Combined Authority being the strongest) governance arrangements to provide binding and long lived decision making structures in the area for devolving funding into the area.

Legally Councils can discharge their functions through Joint Committees and they can be comparatively easy to set up. How the Joint Committee is formed depends on whether it is carrying out Executive/Cabinet Functions or non-Executive (Council or Committee) functions or a combination of both.

A Joint Committee has no corporate status and is not a separate legal entity. All of the committee's assets therefore must be held by one of the constituent Councils in trust for the others as the lead authority or held jointly by each authority.

The Constitution of a Joint Committee is generally contained in a formal agreement entered into by the authorities concerned. The Agreement should cover a number of areas:

- The number of members of the joint committee
- The number of members which each authority may appoint
- The terms of office and other related matters

### **MEMBERSHIP OF THE JOINT COMMITTEE**

Normally if the Joint Committee is exercising Executive Functions, every member appointed to the Joint Committee must be a member of that authority's Executive/Cabinet.

Legislation provides that where a Joint Committee comprises five or more local authorities, the membership of the joint committee may be either Executive or Non-Executive members.

However it should be noted that the Government would expect that the Joint Committee in this case would consist of the Leaders of each constituent council.

### **DRAFT HEADS OF TERMS FOR A PROPOSED JOINT COMMITTEE**

Draft heads of terms for a proposed Joint Committee are attached below.

If there is agreement to progress with the proposal to create a joint Committee, it is suggested that a meeting is arranged with the Chief Legal Officers from each constituent authority to produce a full Terms of Reference for the proposed Committee.

## HEADS OF TERMS FOR A POTENTIAL JOINT COMMITTEE

### Section 1 : Context and Purpose

- 1.1 The Joint Committee is set up under the provisions of Section 102 of the Local Government Act 1972.
- 1.2 The Joint Committee aims to bring local authority partners in the region in a robust, formally constituted arrangement which will drive future investment in growth and jobs in the region.

### Section 2: Functions and Funding

2.1 The [insert name] Joint Committee will act as a Joint Committee under Section 9EB of the Local Government Act 2000 and pursuant to Regulation 11 of the Local Authorities (Arrangement for the Discharge of Functions)(England) Regulations 2012 *[if Joint Committee is delegated Executive Powers]* and section 101 and 102 of the Local Government Act 1972 *[if delegated Council/Committee Powers][or both]*

2.2. The [insert name] Joint Committee will comprise of the following local authorities:

- Craven District Council
- Harrogate District Council
- Selby District Council
- Ryedale District Council
- Scarborough District Council
- Hambleton District Council
- Richmondshire District Council
- City of York Council
- East Riding of Yorkshire Council
- North Yorkshire County Council
- North York Moors
- Yorkshire Dales National Park Authority
- North York Moors National Park Authority

(the “Constituent Authorities” )

2.3 Political Proportionality rules will not apply to the Joint Committee

2.4 The overarching aim of the Joint Committee is to *[provide its constituent local authorities with a forum in which to address collaboratively issues relating to economic development, regeneration and strategic planning within its area*

*and to enable collective decision making on a wider geographical area from the Constituent Authorities]*

### **Membership and voting rights**

- 2.5 The Joint Committee comprises the Leader of each of the Constituent Authorities. The term of office of each member shall be for as long as the member is the Leader of the appointing Council.
- 2.6 Non-voting advisers, including a representative from the LEP (and Associate Councils) may attend the Joint Committee from any or all of the Parties or from other organisations as agreed. These advisers may participate in the debate but may not vote.

### **Sub-committees**

- 2.7 The Joint Committee may establish sub-committees as it may determine.

### **Voting**

- 2.8 [Voting will be weighted in accordance with the existing rules of voting – to be drafted]

### **New Membership and cessation of membership**

- 2.9 New Councils may join the Joint Committee provided that the Executive and full Council of the joining parties *[if delegating Executive and Council functions]* and of all the Parties to the agreement

### **Chair and Deputy Chair**

- 2.10 The Chair and Deputy Chair of the Joint Committee will be appointed from its members annually

### **Quorum**

- 2.11 The Quorum of the Joint Committee will be [insert number] members

### **General Remit**

*[this is purely a draft and will need to reflect the combined ambitions of the partners]*

- 2.12 The general remit of the Joint Committee is to :  
(a) act as the local public sector decision making body for strategic economic development across the region

(b) to develop and subsequently monitor investment plans utilising Government and EU funds

(c) To be the Accountable body for decision making on the Local Growth Fund and EU funding streams as allocated by the YNYER LEP

(d) to own, monitor and review the emerging economic strategies and associated investment plans

(e) to hold to account relevant bodies whose work impacts on the economic well-being of the region

**Specific delegated Functions:**

*[Local Authorities can choose which specific functions they wish to delegate to the Joint Committee. A number of similar Joint Committees have been set up across the country which include having the following powers delegated to it]:*

- Powers with regard to setting and reviewing objectives for strategic infrastructure investments across the area
- Transport Functions
- Economic Development and Regeneration Functions
- Funding
- [other specific legislative powers]
- Creation of jobs/houses etc