

AGENDA ITEM 7**REPORT TO THE TEES VALLEY
COMBINED AUTHORITY CABINET****28 JUNE 2019****REPORT OF THE CHIEF EXECUTIVE****CONSTITUTION AMENDMENTS****SUMMARY**

The Constitution of the Combined Authority was agreed in May 2017 and was developed in consultation with the Constituent Authorities and in parallel to the legislative process which defined the specific powers and functions to be transferred the Combined Authority and the Mayor.

Since that time there have been changes to policies, processes, documents and legislation that need to be reflected in the Constitution. The Constitution has therefore been reviewed according to these areas to ensure it is up to date and fit for purpose. A table summarising the amendments can be found at Appendix 1. The tabled amendments were circulated to the Monitoring Officers of the five constituent authorities prior to finalising the updated document which can be found at Appendix 2.

Authority is delegated to the Monitoring Officer, in consultation with the Chief Executive, to make amendments to the Constitution, in order to reflect organisational or legislative changes, or to make any minor textual or grammatical corrections. Any other changes shall be agreed unanimously by Cabinet.

RECOMMENDATIONS

It is recommended that the Combined Authority Cabinet approve the Constitution.

DETAIL

1. The Combined Authority Constitution was last agreed in May 2017 following approval from the Cabinet following the election of the Tees Valley Mayor.
2. Since this time there have been changes to Combined Authority processes, policies and documents and legislative changes which need to be reflected in the Constitution. In particular recent counsel opinion has highlighted some areas of inconsistency with legislation that have been corrected.
3. The proposed amendments are set out in Appendix 1.

4. The current Constitution has therefore been reviewed and any necessary amendments have been made. The review has been led by the Monitoring Officer and the Chief Executive, the amendments have been shared with the Constituent Authorities, including each Monitoring Officer.
5. Many of the changes are administrative, for example to reflect updated job titles, to remove historical wording relating to the establishment of the Combined Authority as a Mayoral Authority. For transparency, Cabinet is also being given sight of these amendments.
6. There are, however, some amendments which Cabinet are being asked to approve which require some further explanation prior to a decision. These amendments are as follows:

6.1. The budget setting process.

- 6.1.1. We have undertaken an exercise to ensure that the budget setting process complies with the requirements imposed upon Combined Authority by various statutes, including national and Tees Valley specific statutory instruments. The main change is separating the budget setting process headings into Mayoral functions and Non-Mayoral functions for non-Investment Plan spending.
- 6.1.2. Mayoral functions are defined in statute as all powers in relation to the Mayoral Development Corporation, the power to pay grants under 31 Local Government Act 1972, and the development and implementation of policies relating to Local Transport Plans. For Mayoral functions the previous budget setting process still applies; the Mayor must still propose a draft budget for spending in these areas by 1st February each year, the Combined Authority must still meet by 8th February to either approve that draft budget or propose an alternative budget, the Mayor may make amendments and the Combined Authority (excluding the Mayor) may then decide to still impose their alternative budget in place of the Mayor's proposed budget.
- 6.1.3. Non-Mayoral functions are all other powers granted to the Combined Authority by statute, a list of which have been included in the draft Constitution. The approval process for non-Mayoral functions (outside of setting the Investment Plan) is the usual majority decision making process by Cabinet, and the Mayor must be part of that majority.
- 6.1.4. On top of both of the above procedures, the concept of the Investment Plan remains in place and unchanged. Any monies set aside for a particular project under the Investment Plan may not be reduced or amended without unanimous approval at Cabinet. Any new monies may not be included within the Investment Plan without unanimous approval at Cabinet. The Investment Plan will be approved annually (and thereafter for specific additional projects as required), in the absence of unanimous agreement as to changes the previous Investment Plan shall remain in place without amendment.

6.1.5. We have also removed the requirement in the constitution for the Mayor to publish a draft budget by December in the previous year, to give more flexibility around the consultation process with Constituent Authorities.

6.2. The LEP

6.2.1. The Constitution has been updated to comply with guidelines published following the LEP review.

6.2.2. Membership has been capped at a maximum of 20 representatives.

6.2.3. The private sector must make up 2/3rds of the membership.

6.2.4. There is also now a requirement for a Health Sector Representative (which can be from either the public or the private sector).

6.2.5. There is a requirement for a Business Representative with observer status, whose position will rotate annually.

6.2.6. The representative from Higher Education is specified to be the Vice Chancellor of Teesside University.

6.2.7. The Further Education representative is to be collectively identified by the Further Education colleges operating within the Tees Valley.

6.2.8. The term of office for all Combined Authority Cabinet Members is tied to their political term of office. The Higher Education and Further Education representatives will reflect organisational positions held. The term of office for the Business Representative is set out above. The term of all other LEP Members shall be 2 years, extendable by one further term of 2 years unless otherwise agreed by Cabinet.

6.3. Agreement to financial detriment

6.3.1. We have included a new clause 25 which proposes that no decision of the Combined Authority which results in all of the risks, costs or financial detriments being borne solely or mainly by a single Constituent Authority may be taken without the agreement of that Constituent Authority.

6.3.2. The aim of the above clause is to ensure that no Constituent Authority can have a decision imposed upon it by the other Constituent Authorities to its sole financial detriment unless it consents.

6.3.3. This reflects the drafting from a previous version of the Constitution, and also ties in with the general principle of consensus which the Constitution seeks to achieve.

6.4. Cabinet Rules of Procedure

6.4.1. We have amended the rules to make it clear that it is the chair that agrees items of business for the Cabinet agenda, and that any business raised under

the category “any other business” at Cabinet meetings shall be for information only and not business requiring a decision, unless agreed by the Chair.

6.5. Overview and Scrutiny Rules of Procedure

6.5.1. We have updated the rules of procedure for all committees. For Overview and Scrutiny it should be noted that the procedure is being amended to remove the requirement to send all Combined Authority decisions to Overview and Scrutiny within 2 days, and replace this with a requirement to send only key decisions within 2 days.

6.5.2. This reflects the fact that the Combined Authority is a very different organisation with a much broader remit that was provided for by the previous draft of the Constitution. Many smaller and low value operational decisions are being made more frequently, for example by delegated decision, and it is no longer appropriate to include a requirement that every decision is to be seen by Overview and Scrutiny within 2 days.

6.5.3. All non-key decisions will still be available to Overview and Scrutiny in the usual manner, for example all delegated decisions will still be published and available to Overview and Scrutiny, it is only the 2 day requirement which we are removing.

6.6. Allocation of funding to Highways Authorities

6.6.1. Appendix V currently details a specific financial amount of annual funding to be passed on to the individual Constituent Authorities from the devolved transport element of the single pot.

6.6.2. As the amount of funding received from the Department of Transport may fluctuate in the future, it is considered undesirable to express this figure as a fixed amount and it is proposed to amend Appendix V to grant each Constituent Authority the amount of the transport pot as directed by the Department of Transport from 2020/21 onwards.

6.7. Independent Groups and political balance

6.7.1. The Combined Authority is obliged to ensure political balance on committees which reflects the political balance of the Tees Valley as far as is reasonably practicable.

6.7.2. Following the recent local elections, the number of independent members across the Tees Valley has greatly increased and the Combined Authority wishes to ensure the proper representation at TVCA level of these additional members.

6.7.3. Appendix VI is therefore being amended to remove the statement about independent members across individual authorities and wider groups, in order to ensure greater flexibility in our calculations of independent members.

7. The finalised updated document will be published following approval from the Cabinet.

FINANCIAL IMPLICATIONS

8. There are no direct financial implications arising from this report. The report relates to the Constitution for the Combined Authority, which has embedded within it the statutory financial regulations.

LEGAL IMPLICATIONS

9. The Report relates to the Constitution for the Combined Authority which sets out the appropriate statutory framework and is legally binding.

RISK ASSESSMENT

10. The Constitution amendments are categorised as low risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

CONSULTATION & COMMUNICATION

11. Consultation has been undertaken with the relevant officers within the Combined Authority and with the constituent authorities, including each Monitoring Officer.

EQUALITY & DIVERSITY

12. Not Applicable

LOCAL ENTERPRISE PARTNERSHIP

13. Not Applicable

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