

LIVERPOOL CITY REGION COMBINED AUTHORITY

To: The Chair and Members of the LCR Combined Authority
Audit and Governance Committee

Meeting: Audit and Governance Committee – 2 October 2019
Members of the Combined Authority – 4 October 2019

Authority/Authorities Affected: All

EXEMPT/CONFIDENTIAL ITEM: No

REPORT OF THE MONITORING OFFICER

Constitution Update and Combined Authority Returning Officer

1. PURPOSE OF REPORT

- 1.1 Members will note that this report serves the dual meetings of the Audit and Governance meeting and the Combined Authority. The proposed constitutional amendments reflect the evolution of the Combined Authority and the continued journey of alignment with Merseytravel. To that end, it is proposed that these two statutory entities move forward with shared codes and procedure rules were possible.

Audit and Governance Committee

- 1.2 This report therefore requests the Audit and Governance Committee to consider the proposed changes to the Combined Authority's Constitution and to make recommendations to the Combined Authority Meeting.

Combined Authority

- 1.3 This report therefore goes on to request that the Combined Authority consider and approve the proposed changes to the Combined Authority's Constitution in light of any recommendations made by the Audit and Governance Committee.
- 1.4 Further the Combined Authority is asked to consider the appointment of the Combined Authority Returning Officer for the election due to take place in May 2020.

2. AUDIT AND GOVERNANCE COMMITTEE RECOMMENDATIONS

- 2.1 It is recommended that the Liverpool City Region Combined Authority Audit and Governance Committee:

- (a) Consider the report which sets out proposed revisions to the Liverpool City Region Combined Authority Constitution; and
- (b) Recommend to the Combined Authority the revised constitution in light of the proposed amendments set out in paragraphs 4.1 - 4.13 of the report and Appendices 1-3.
- (c) Consider whether any additional recommendations are to be made to the Combined Authority arising from the constitutional amendments proposed.

3. LIVERPOOL CITY REGION COMBINED AUTHORITY RECOMMENDATIONS

3.1 It is recommended that the Liverpool City Region Combined Authority

- (a) Consider the report which sets out proposed revisions to the Liverpool City Region Combined Authority Constitution;
- (b) Agree the revised constitution so that it is updated as set out in paragraphs 4.1-4.13 in the report and Appendices 1-3;
- (c) Determine whether to change (as set out in paragraph 4.14 of the report) the Combined Authority Constitution (Part 3, Bodies of the Constitution, Section A – The Combined Authority, paragraph 3.1 (d) (v) (1)), from a unanimous vote to a majority vote;
- (d) Agree to the appointment of Liverpool City Council Chief Executive (Head of Paid Service, Tony Reeves) as the Combined Authority Returning Officer (CARO) in respect of the Liverpool City Region Combined Authority Mayoral election, due to take place on Thursday May 7 2020 (paragraph 4.15-.19).

4. BACKGROUND

Constitutional Updates

- 4.1 Members will recall that a revised constitution was submitted and approved at the Combined Authority's annual meeting in May 2019. One of the changes made was for the Audit and Governance Committee to have a recognised and formal role in reviewing proposed changes to the constitution and to make recommendations to a subsequent meeting of the Combined Authority. This is the first opportunity since the adoption of the May 2019 constitution, for the Audit and Governance Committee to fulfil this role.
- 4.2 Some of the proposed changes relate to a desire by the Combined Authority and Merseytravel to have a common set of procedure rules and codes for staff to abide by. Members will appreciate that the Combined Authority and Merseytravel are two separate statutory entities. To optimise efficiency, keep costs to a minimum and to provide resilience the Combined Authority has been and continues to be co-located with and shares many resources, particularly corporate resources with Merseytravel.

- 4.3 In May 2017, the Combined Authority adopted a constitution that was fit for its new circumstances as a Mayoral Authority. Merseytravel already had its own constitution. Whilst the two statutory entities are born of different legislation, their constitutions provide for many of the same or similar codes and procedure rules. This means that staff are often navigating two sets of rules that are similar but not the same. To aid internal efficiency, staff confidence and to reduce duplication the changes proposed to the Combined Authority constitution are a blend of the best parts of each of the respective constitutions.
- 4.4 If the proposed changes to the Combined Authority constitution are agreed, it is anticipated that Merseytravel will likewise adopt these codes and procedure rules into the Merseytravel constitution.
- 4.5 Appendices 1, 2 and 3 to this report are therefore revised versions of the following:

Appendix 1	Officer Code of Conduct (to replace Part 6, Section B of the Constitution May 2019)
Appendix 2	Land Procedure Rules (to replace Part 5, Section D of the Constitution May 2019)
Appendix 3	Contract Procedure Rules (to replace Part 5, Section C of the Constitution May 2019)

- 4.6 **Officer Code of Conduct** - In relation to the Officer Code of Conduct (Appendix 1), this is essentially the same as the current Officer Code of Conduct in spirit, but has been revised to reflect the context of gifts, hospitality etc. that exist in the Combined Authority's business and experience to date. The key change is the application of the Code to staff employed by both statutory entities with one exception. The exception is in paragraph 13.4 of Appendix 1. Statutorily the provision identified in paragraph 13.4 does not apply to employees in Merseytravel, but staff will be asked to abide by this in any event.
- 4.7 **Land Procedure Rules** - In relation to the Land Procedure Rules (Appendix 2), Members of the Combined Authority will recall that a view was expressed that Members were content for land transactions to be delegated to officers. This revision to the Land Procedure Rules effects this change as requested. See paragraph 6 of the Land Procedure Rules
- 4.8 **Contract Procedure Rules** - In relation to the Contract Procedure Rules (Appendix 3), the real benefit of these changes is clarity for staff. Merseytravel had a strong set of contract procedure rules which were more detailed about roles and responsibilities and authority to act. These rules have been refined to reflect the Combined Authority and it is proposed that these be adopted as part of the Combined Authority's constitution.
- 4.9 Further work will be undertaken to consider the Financial Procedure Rules and it is likely that these will be presented in due course.
- 4.10 There are a small number of miscellaneous changes that are requested for approval as well. These miscellaneous changes relate to Strategic Investment Fund pre-development funding and the process for the appointment of co-opted members.

4.11 **Strategic Investment Fund** – In relation to the SIF officers continue to abide by the previously agreed Assurance Framework. Some day to day administrative delegations would help officers greatly to ensure that LCRCA processes are effective and optimised. Those delegations relate to four areas of activity as follows:

- ***Pre-Development funding decisions***
- ***Use of SIF funds for particular projects***
- ***Use of Thematic Funds***

A new heading will be added to the Constitution so that all SIF related delegations are grouped together. These will be formed in **Part 3, Section G** under the heading of **General Delegations to the Head of Paid Service, Directors and Monitoring Officer**

4.12 ***Pre-Development funding decisions***

In relation to **SIF pre-development funding decisions**, Members will recall that in October 2018 a report was considered which included the following information:

4.4 Pre-development Funding

The City Region’s leadership considers project development to be a significant barrier to growth. The absence of high-impact, investment ready projects is a risk to SIF. The risk is that the CA finds it has more funds than projects and struggles therefore to generate the economic growth it was established to enable.

The CA cannot reach its potential without acting to improve the City Region’s project development capacity.

Project development requires the commitment of risk funding and dedicated personnel from an early stage. Austerity has reduced project sponsors’ ability to provide this funding and personnel, particularly in the public sector. The inability to develop projects damages most those sectors with long planning cycles. The CA considers the pipeline of projects able to absorb Transforming Cities Funds and to establish a funding partnership with Homes England (which is focused on volume delivery and therefore on larger housing sites) at highest risk.

In order to commit SIF funds in an orderly way, the CA must intervene to expand and improve the pipeline of projects that it might fund. The CA can provide risk funding and expertise to help analyse markets, identify opportunities and develop projects towards a deliverable state. Pre-development funding can be drawn from the CA’s gain share revenue allocation; a small portion of Transforming Cities funding; and Growing Places Funding.

The CA proposes to allocate up to 2% of non-transport funding and 6% of transport funding to pre-development for a period of two years. This sum is reflected in the project commission table below. Please refer to Annex 2 for guidelines to be applied to pre-development funding.”

The following recommendation was agreed at that meeting in light of the above information.

“the allocation of pre-development funding to support Round II investment be approved; “

- 4.13 It is now considered helpful by officers for this position to be recognised in the Constitution. It is therefore proposed to include the following at **Part 3, Section G** of the Constitution to be inserted as follows:

“To note that where the Combined Authority has agreed to the allocation of predevelopment funding as a % of the Strategic Investment Funds that officers are authorised to make decisions to spend this funding in excess of the key decision thresholds. Such decisions will be reported quarterly to the Combined Authority.”

- 4.14 This step will allow decisions to be made quickly and efficiently with respect to pre-development support which is required to develop ideas/initiatives into projects. If this is agreed, Part 4, Section B of the Constitution also needs to be amended regarding key decisions, so that all parts of the constitution are consistent.

4.15 ***Use of Strategic Investment Funds (SIF) for particular projects***

Members will appreciate that the very nature of the SIF is that a number of funds from government are amalgamated together to ensure best effect in funding decisions. To date officer reports requesting consideration of SIF applications have generally tended to identify which constituent part of the Strategic Investment Fund might be deployed for that particular application. For example a project may say that it will be funded from Town Centres Fund, but it could also be funded from the Local Growth Fund. To that end officers seek a delegation to be able to change the identified source of fund to use the money for best effect. All such changes will be from within the overall Strategic Investment Fund. Such changes might occur due to the date by which expenditure has to be committed, or during a more detailed consideration of the project. Any such changes would be reported to members through the SIF Quarterly update report. It is therefore proposed that the delegation to officers be included as follows:

“Where an approval for a SIF application identifies and attributes a specific part of the Strategic Investment Fund (SIF) to the application, that officers are authorised to attribute other funds from within the Strategic Investment Fund and any such changes will be reported to members of the Combined Authority by way of the SIF quarterly update report.”

4.16 ***Use of Thematic Funds***

From time to time the Combined Authority may determine that it wishes from within the overall Strategic Investment Fund to create smaller thematic funds to spend on specific purposes. Examples included later in the agenda are the BREXIT Resilience fund and the Inward Investment fund. In order for these Thematic funds to be distributed in accordance with the principles agreed by members, there needs to be specific delegations to officers. Accordingly it is requested that the following delegation be included in the Constitution in **Part 3, Section G**, as described above.

“Following Combined Authority approval of the creation of a Thematic Fund, Officers be authorised to expend Thematic Funds in accordance with;

- *The principles identified in the economic case supporting the decision to create the Thematic Fund.*
- *The processes outlined in the Assurance Framework up to and including the SIF Investment Panel.*
- *Decisions to spend this funding can be in excess of the key decision thresholds*

Such expenditure will be reported to members of the Combined Authority by way of the SIF quarterly update report.”

4.17 At **Part 3, Bodies of the Constitution, Section A – The Combined Authority** (paragraph 3.1 (d)), it is noted that the Combined Authority has opted to have a unanimous vote in relation to the co-option of members onto the Combined Authority. This is a local choice not a statutory requirement. Members are asked to consider as to whether this local choice should continue or whether it should change to a majority vote. For Members ease the relevant extract from the constitution is set out below.

“(d) A decision on a question relating to any of the matters specified below, where such a question does not relate to the exercise of a general function exercisable only by the Metro Mayor in accordance with the Orders, requires a unanimous vote in favour by all members of the Combined Authority appointed by the constituent councils, or substitute members, acting in place of those members, present and voting on that question to be carried at a meeting of the Combined Authority. The matters referred to are:

- (i) the determination and review of any transitional arrangements on transport;*
- (ii) all matters relating to the constitution of the Combined Authority;*
- (iii) amendments to the standing orders of the Combined Authority;*
- (iv) all matters relating to the management, maintenance and funding of the Key Route Network of local roads which are to be maintained by the Combined Authority; and*
- (v) such matters as may be determined by the Combined Authority and set out in the standing orders within this Constitution, which are currently :*
 - (1) the co-option of additional members onto the Combined Authority.”*

5. APPOINTMENT OF COMBINED AUTHORITY RETURNING OFFICE MAY 2020

- 5.1 The Combined Authorities (Mayoral Elections) Order 2017 provides that each Combined Authority must appoint one of its officers or one of the officers of a constituent council to be the Combined Authority Returning Officer (CARO). If the latter this will normally be a Local Returning Officer.
- 5.2 The CARO will have overall responsibility for the election of the Mayor and may, for example, give to a Returning Officer of a constituent council directions relating to the conduct of the election. In addition the CARO will be responsible for accepting nominations and coordinating the regional result.

- 5.3 As this is a legal requirement, there are no other options other than to formally appoint a CARO to ensure the City Region Combined Authority undertake their statutory duty and to ensure that the election is fair, transparent and that everyone has confidence in the result.
- 5.4 Following local discussions, it is proposed that the Chief Executive of Liverpool City Council (Head of Paid Service), Tony Reeves be appointed to this position and that he be supported by the Combined Authority's Monitoring Officer (Jill Coule) as one of his Deputy CARO's.

6. RESOURCE IMPLICATIONS

- 6.1 **Financial**
None arising from the contents of this report.
- 6.2 **Human Resources**
None arising from the contents of this report
- 6.3 **Physical Assets**
None arising from the contents of this report
- 6.4 **Information Technology**
None arising from the contents of this report

7. RISKS AND MITIGATION

- 7.1 Keeping the constitution up to date helps to ensure that the Combined Authority rules, procedures and requirements are fit for purpose and can provide assurance to the Audit and Governance Committee and beyond.
- 7.2 Early appointment of the CARO, will allow appropriate preparation to be undertaken for the election of the Metro Mayor in May 2020.

8. EQUALITY AND DIVERSITY IMPLICATIONS

- 8.1 None arising from the contents of this report

9. COMMUNICATION ISSUES

- 9.1 None arising from the contents of this report

10. CONCLUSION

- 10.1 This report requests the Audit and Governance Committee to make recommendations to the Combined Authority Meeting regarding the proposed constitutional amendments set out in the report and in Appendices 1-3.

- 10.2 This report requests the Combined Authority to consider and approve the proposed changes to the Combined Authority's Constitution in light of any recommendations made by the Audit and Governance Committee.
- 10.3 Further the Combined Authority is asked to consider the appointment of the Combined Authority Retuning Officer for the election due to take place in May 2020.

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Appendices:

Appendix One – Officer Code of Conduct

Appendix Two – Land Procedure Rules

Appendix Three – Contract Procedure Rules

Background Documents:

Nil