

CONSTITUTION

DRAFT FOR DISCUSSION

NOVEMBER 2016

NOTE. THIS DRAFT MAY REQUIRE AMENDMENT IN THE LIGHT OF ON-GOING DISCUSSIONS WITH STAKEHOLDERS AND DEVELOPMENTS IN THE EMERGING STATUTORY FRAMEWORK.

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FOREWORD

This document marks an important new stage in the development of the Tees Valley. It sets out the basis of how decisions will be taken within our Combined Authority, in keeping with principles of democracy and transparency, with effective and efficient decision-making.

The five Tees Valley authorities have demonstrated a commitment to collaboration - between ourselves, and with business and other partners – for many years. The creation of the Tees Valley Combined Authority in April 2016 created a clear statutory basis for an enhanced partnership. The Tees Valley has demonstrated its commitment to assume greater powers and responsibilities, with the resources to deliver them effectively. Our devolution deal with government, signed in October 2015, identified specific areas where responsibilities would be transferred from central government to our region. We are confident that, by making decisions closer to the people we represent, we can deliver better outcomes, and greater transformation of our economy and public services. The devolution deal is an important step, but we want to go further.

Successful devolution depends upon strong local arrangements for decision-making. The transfer of responsibilities from one tier of government to another will do nothing, in itself, to deliver more effectively for our citizens. To ensure that devolution secures better outcomes for our citizens, we have a responsibility to deliver better, more inclusive, and more transparent decision-making; meeting the aspirations of the Tees Valley more effectively than decision-making in Westminster and Whitehall.

This Constitution provides for a directly elected Mayor of the Tees Valley, required by government as a precondition for meaningful devolution, to become chair of our Combined Authority. We are clear that the Mayoral arrangements will only gain the confidence of the electorate if they secure support from across our diverse communities, meet the highest standards of democratic accountability, and are subject to robust checks and balances. This Constitution therefore provides for the Mayor's role to be embedded in the Combined Authority's collective decision-making arrangements. The Mayor will chair a Cabinet made up of the leaders of the five authorities, who together will form the Combined Authority's decision-making forum. They will need to work closely with leaders of the business community and other partners. The Constitution reinforces an ethos of collaboration and inclusion.

On behalf of our Councils, we endorse this Constitution, and commit to continue to work together to secure a great future for the Tees Valley.

NAMES AND SIGNATURES OF COUNCIL LEADERS

Introduction

1. The Tees Valley is defined as the area covered by five Constituent Authorities:
 - Stockton- on-Tees Borough Council;
 - Darlington Borough Council;
 - Hartlepool Borough Council;
 - Redcar and Cleveland Borough Council; and
 - Middlesbrough Council.

2. The Tees Valley Combined Authority (“The Combined Authority”) exists to further the sustainable and inclusive growth of the economy of the Tees Valley. It was established in April 2016 and has been built on a strong history of collaboration between the Constituent Authorities, the private sector and other partners.

3. The Combined Authority incorporates the role and responsibilities of the Local Enterprise Partnership for the Tees Valley, and the Transport Authority, and various other statutory and non-statutory responsibilities.

4. This constitution reflects:
 - Experience of effective management of collaborative arrangements operating within the Tees Valley for over 20 years;
 - The commitments entered into by government and the leaders of the Tees Valley, in the devolution deal signed in October 2015;
 - Interim constitutional arrangements put in place on the establishment of the Combined Authority in April 2016;
 - Proposals for a governance scheme established by the Tees Valley leaders, and which were subject to public consultation in July and August 2016;
 - Approval to the governance framework by the Constituent Authorities and the Combined Authority in November 2016;
 - The statutory framework established by parliament, summarised in Appendix I.

5. This Constitution is a living document and shall be amended as the Combined Authority develops. Authority is delegated to the Monitoring Officer, in consultation with the Managing Director, 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 the Combined Authority's Cabinet.
6. The Tees Valley Combined Authority (Election of Mayor) Order 2016 established the Combined Authority as a Mayoral Combined Authority. The first Mayor will be elected in May 2017, and serve for a three year term of office. The Tees Valley Mayor shall chair the Combined Authority and its Cabinet; with responsibilities, and checks and balances on the exercise of those responsibilities, as set out by this Constitution.
7. The Mayor and other Cabinet Members will work together in collaboration, in the interests of the people of the Tees Valley. This Constitution sets out arrangements to ensure the effective conduct of the Combined Authority's business, in this spirit of collaboration, mutual respect and transparency. All members will strive to work on the basis of consensus, taking decisions through agreement. These principles shall apply irrespective of the statutory basis for the exercise of those powers; whether through the powers and responsibilities of the Mayor, the Combined Authority, or the Local Enterprise Partnership. The powers of the Mayor are to be exercised through collaboration within the Combined Authority's Cabinet, and in partnership with all relevant stakeholders.

The Combined Authority Cabinet

8. The Members of the Combined Authority shall be known as the Combined Authority's Cabinet. All decisions of the Combined Authority, unless otherwise delegated, shall be taken by the Cabinet, according to the arrangements set out in this Constitution.

9. The Combined Authority shall hold an Annual Meeting in public, to consider any amendments to the Constitution, and for the Cabinet to make appointments to Combined Authority roles.
10. The members of Cabinet shall be the Leaders of the Constituent Authorities and the Tees Valley Mayor. The Constituent Authorities shall each nominate another elected member as a Substitute Member, with the authority to act in place of that Constituent Authority's Leader.
11. All Leaders shall be regarded as having equal status within the Combined Authority, irrespective of the governance arrangements applying within each Constituent Authority, or of the population residing within that authority.
Middlesbrough Council operates with a Mayoral model of governance. In this constitution, the phrase "Leaders" includes the Mayor of Middlesbrough, and the phrase "Mayor" in this Constitution applies only to the elected Tees Valley Mayor. All provisions for appointments by Hartlepool Council to the Combined Authority's committees shall be made in accordance with the committee system of governance applying specifically in that authority.
12. The Cabinet shall be chaired by the Mayor, or in their absence the Deputy Mayor.
13. The Mayor shall appoint a Deputy Mayor from amongst the Cabinet Members representing the Constituent Authorities, determined annually by rotation in the order set out in paragraph 1. In the event that a Cabinet Member does not wish to assume the role of Deputy Mayor, the Mayor shall invite the Cabinet Member from the next Constituent Authority in the order set out in paragraph 1.
14. The Deputy Mayor shall act in place of the Mayor if the Mayor leaves or resigns before the expiry of their term of office, is unable to chair a meeting of Cabinet, or is otherwise unable to act, until such time as the Mayor is able to act or a new Mayor is elected. Where the Deputy Mayor is required to act in place of the Mayor in connection with any matter, the Substitute Member for the Constituent Authority to which the Deputy Mayor belongs shall exercise that Constituent Authority's right to vote in relation to that matter.

15. The Chair of the Local Enterprise Partnership shall be entitled to attend Cabinet meetings on a non-voting basis, but with the right to fully participate in debate and to make proposals for consideration by Cabinet on behalf of the Local Enterprise Partnership. The Local Enterprise Partnership shall identify another member able to substitute for its Chair in the event that the Chair is unable to attend.
16. The quorum for meetings of Cabinet for any matter where a unanimous decision is required shall be all Cabinet Members or their Substitute Members. If the Deputy Mayor is acting in place of the Mayor, the quorum for that matter shall include the Substitute Member for the authority to which the Deputy Mayor belongs. The quorum for meetings shall otherwise be the Mayor or Deputy Mayor, and three of the five other Cabinet Members or their Substitute Members.
17. The proceedings of the Cabinet are not invalidated by any vacancy amongst its Members or Substitute Members, or by any defect in the appointment or qualifications of any Member or Substitute Member.
18. The Cabinet may establish sub-committees, working groups and partnership arrangements as necessary to support the work of the Combined Authority, and may determine terms of reference and membership as appropriate.
19. The Cabinet shall conduct its proceedings in accordance with its rules of procedure, set out in Appendix II.

Portfolio Responsibilities of Cabinet Members

20. The Cabinet Members, except the Mayor, may unanimously at the Annual Meeting agree an allocation of portfolio responsibilities between them, representing the principal responsibilities of the Combined Authority. In the event that unanimous agreement cannot be achieved, the Mayor shall propose the allocation of portfolios, except that no Leader shall be required to adopt a portfolio responsibility without their agreement.

21. The Cabinet may delegate functions to Cabinet members with portfolio responsibilities, and may agree that Cabinet members with portfolio responsibilities represent the Combined Authority on any matter within that portfolio.
22. The Chair of the Local Enterprise Partnership shall not hold a portfolio role, but shall seek to represent the views of the members of the Local Enterprise Partnership, and the wider business community, on all relevant matters.
23. This Constitution sets out some major decisions which require the unanimous agreement of the Combined Authority Cabinet: for changes to the Constitution (paragraph 5), approval of the Investment Plan (paragraph 30) and a proposal to create a transport levy (paragraph 39).
24. For all other decisions or set of decisions where, after reasonable efforts have been taken to secure a consensus, a consensus cannot be reached, decisions shall be taken according to a simple majority vote; except that the Mayor (or the Deputy Mayor if substituting for the Mayor) must be part of the majority.
25. Each member of Cabinet shall have one vote. The Chair shall not have a second or casting vote. If the vote is tied, it shall be deemed not to have been carried.
26. In the event that the Mayor (or in their absence the Deputy Mayor) opposes a proposal, but a majority of the Cabinet is in agreement, the proposal shall be deemed to have been neither carried nor rejected. In these circumstances, a decision shall be deferred for a future meeting, to allow adequate time for the scope for consensus to be explored, after which time an alternative proposal may be brought forward for consideration, with voting as set out in paragraph 24.

Strategies

27. The Combined Authority shall maintain and update as necessary a Strategic Economic Plan, setting out the long-term ambitions for the development of the economy, and summarising strategies and plans to enhance the sustainable and inclusive economic growth of the Tees Valley. The Plan will be developed in cooperation with Cabinet and the Local Enterprise Partnership, the wider business community, the Overview and Scrutiny committee, other stakeholders, and with public engagement and consultation. It shall be proposed by the Mayor to the Cabinet, for consideration and agreement.
28. The Strategic Economic Plan will incorporate a Strategic Transport Plan, fulfilling the statutory role of a local transport plan for the Tees Valley, and any other strategies and plans which the Combined Authority agree as necessary for the delivery of its functions.

Financial proposals

29. To meet its responsibilities, the Combined Authority holds capital and revenue funding; derived mainly from resources devolved from central government, and from the returns from past investments. Under the principles of devolution, allocation of these resources should be made through transparent and democratically accountable decision-making, in the best interests of the long-term economic and social benefit of the people of the Tees Valley. The Combined Authority's resources shall be considered as a single budget subject to decision-making arrangements set out in this Constitution; irrespective of the different decision-making arrangements in place for different Combined Authority functions.
30. Proposals for allocation of resources available to the Combined Authority shall be set out in an Investment Plan, to be adopted annually and amended as necessary through unanimous agreement by the Cabinet. The Investment Plan shall include:

- Estimates of the total resources available to the Combined Authority, on a medium-term basis;
- Identification of funding priorities;
- Existing commitments of funding to programmes and projects;
- Assessment of assets, liabilities, receipts and borrowing;
- Assessment of co-funding from other parties for Combined Authority programmes and projects.

31. Part of the Combined Authority's budget relates to funds devolved from central government for Highways Authority functions, exercised by the individual Constituent Authorities rather than by the Combined Authority. The allocation of these resources set out in Appendix VII shall be considered part of the Investment Plan, and therefore can only be amended through the unanimous agreement of Cabinet.

32. On an annual basis, the Managing Director and Chief Finance Officer shall prepare a draft Budget for the Combined Authority, consistent with statutory requirements and principles of sound financial management. The draft Budget shall be presented in the context of the agreed Investment Plan, identifying any consequential amendments to the Investment Plan which would require unanimous agreement.

33. The draft Budget shall be submitted to the Cabinet for consideration and approval, for the purposes of consultation, before the end of December each year. Approval by the Cabinet to consult on the budget proposals shall not be taken to pre-determine their final approval, with or without amendments, following consultation. Consultation shall take place on the draft Budget for such period of time, and with such consultees as the Cabinet shall determine; except that the consultation period shall not be less than four weeks, and the consultees shall include the Local Enterprise Partnership, the Overview and Scrutiny Committee, representative of the business community, higher and further education institutions, trade unions, and the Constituent Authorities.

34. Having taken into account the draft Budget prepared by the Managing Director and Chief Finance Officer, the consultation responses, and any other relevant factor, the Mayor shall then propose the Combined Authority's Budget to Cabinet. Unanimous approval is required for any aspect of the Budget which requires amendment to the Investment Plan.
35. If any aspect of the Budget put forward by the Mayor is rejected, the Managing Director and Chief Finance Officer shall re-submit the Budget with amendments they deem necessary to secure Cabinet agreement, consistent with statutory requirements and principles of sound financial management. These proposals shall then be submitted for approval by the Cabinet.
36. If the Cabinet fails to agree the Combined Authority's Budget in sufficient time to set a Budget which meets statutory requirements, the Chief Finance Officer shall use their statutory powers, in consultation with the Managing Director and Monitoring Officer, to set a Budget which meets statutory requirements.
37. Proposals for expenditure of resources shall be submitted as necessary to Cabinet by the Managing Director and Chief Finance Officer, for approval by Cabinet; except that any proposals requiring amendment to the Investment Plan shall require unanimous agreement.
38. The Cabinet shall not take a decision which has a direct financial impact upon any of the Constituent Authorities, as determined by the Chief Finance Officer, without the approval of the Cabinet member representing that authority.
39. Combined Authorities are intended to have the statutory power to levy for their transport functions. Unlike some Combined Authorities, the Tees Valley Combined Authority is not responsible for operating transport services, and there is therefore no current need to exercise this power. Should the situation arise, any such levy shall only be approved with the unanimous agreement of the Cabinet, and shall require amendments to the Constitution to determine the means on which any levy should be determined.

40. As a condition for the receipt of devolved funding, the Combined Authority has agreed an Assurance Framework with central government. A copy is attached at Appendix VI.

Tees Valley Local Enterprise Partnership

41. The Tees Valley Local Enterprise Partnership is the principal forum for collaboration between the public and private sectors, for improving the economy of the Tees Valley. It forms part of a national network of Local Enterprise Partnerships designated by central government.
42. The Combined Authority shall be the accountable body for the Local Enterprise Partnership, and shall employ the officers who support it.
43. The Membership shall comprise:
- The Tees Valley Mayor and other Cabinet members
 - Nine members appointed from the private sector.
 - A representative of Higher Education
 - A representative of Further Education
44. Private and education sector members of the Local Enterprise Partnership shall become Associate Members of the Combined Authority.
45. The term of office of private and education sector Members of the Local Enterprise Partnership shall be two years extendable by one further term of two years, unless otherwise agreed by the Cabinet.
46. The Local Enterprise Partnership shall appoint one of its private sector members to be its Chair.
47. To ensure wider representation of the business community in the Combined Authority's work, members of the Local Enterprise Partnership, and a wider

representative group of other members of the business community, will be invited to join a Tees Valley Business Leadership Group. The Group will:

- Support and offer advice to the Combined Authority and Local Enterprise Partnership on their responsibilities,
- Champion and promote specific initiatives from the perspective of business.
- Participate in Thematic Working Groups, as appropriate.
- Influence the development of the Combined Authority's strategies and policies.
- Represent the Tees Valley nationally and internationally.
- Ensure a strong business influence over decision-making.
- Support the development and delivery of the Strategic Economic Plan

Overview and Scrutiny

48. The Combined Authority has established an Overview and Scrutiny Committee, in line with the statutory requirements set out in the Combined Authorities (Overview and Scrutiny, Access to Information and Audit Committees) Order 2016.
49. The membership of the Committee shall comprise fifteen members, three nominated from each of the Constituent Authorities. Members of the Committee taken as a whole shall reflect so far as reasonably practicable the balance of political parties for the time being prevailing among members of the Constituent Authorities collectively. Arrangements for determining political balance are set out in Appendix VIII.
50. The members of the Overview and Scrutiny Committee must be Members of the Constituent Authorities and shall not include any Members who are also Members or Substitute Members of the Combined Authority's Cabinet or its Sub-Committees nor any officer of the Combined Authority or of any of the Constituent Authorities

51. The Chair of the Overview and Scrutiny Committee shall be appointed by the Cabinet from amongst the members of the Committee, following a proposal put to them by the Overview and Scrutiny Committee; except that the Chair shall not be a member of a registered political party of which the Mayor is also a member. Where the Mayor is not a member of a registered political party, the Chair of the Committee shall not be a member of a political party represented by a majority of Members of the Combined Authority. The Cabinet shall also appoint a Vice-Chair of the Overview and Scrutiny Committee.
52. The Committee can submit reports or recommendations to the Combined Authority Cabinet. Where it does so, Cabinet must respond to the Committee's reports or recommendations within two months beginning with the date on which the Cabinet received those reports or recommendations.
53. The Committee may establish temporary working groups to consider specific issues in more depth and to report back to the Committee.
54. The Committee may review or scrutinise decisions made, or other action taken in connection with the discharge of the Combined Authority's or the Mayor's functions, and where a decision has not been implemented the Committee may direct, while it is under review or scrutiny, that it is not to be implemented for up to 14 days, and may also recommend that the decision be reconsidered. Procedures for the application of this "call-in" power shall be agreed between the Cabinet and Overview and Scrutiny Committee, and set out in the rules of procedure.
55. Members or officers of the Combined Authority must comply with any reasonable request from the Committee to attend before it to answer questions, or to submit information. The Committee can invite other persons to attend its meetings to provide evidence and contribute to its deliberations.
56. The quorum for meetings of the Committee shall be ten members, representing no fewer than four Constituent Authorities.

57. Each member of the Committee has one vote and no member has a casting vote. Any questions that need to be decided by a vote shall be decided by a simple majority of the members present and voting on those matters.
58. The Committee shall be established and shall conduct its proceedings in accordance with the Overview and Scrutiny Committee rules of procedure which are set out at Appendix IV of the Constitution.

Tees Valley Transport Committee

59. The Combined Authority has established a Transport Committee. The purpose of the Transport Committee is to review the transport strategy and policies of the Combined Authority; to review transport services operating within the Tees Valley; to oversee the Combined Authorities representation on external bodies with transport responsibilities, including Transport for the North and Rail North; and to receive delegations and make recommendations on transport matters to the Cabinet.
60. The Transport Committee shall be chaired by the Cabinet member with portfolio responsibilities for the Combined Authority's transport functions.
61. The membership of the Committee shall comprise the executive members with portfolio responsibility for transport within each Constituent Authority. The Cabinet shall appoint the Vice-Chair of the Transport Committee from amongst the members of the Transport Committee. The Vice-Chair shall assume the responsibilities of Chair in the absence of the Chair.
62. The Local Enterprise Partnership shall nominate one of its private sector members to attend Transport Committee meetings on a non-voting basis, with the right to fully participate in its deliberations. The Constituent Authorities and the Local Enterprise Partnership shall each nominate another of their members as a Substitute Member, with the authority to act as their representative.

63. The Cabinet may delegate any transport-related function to the Transport Committee. The Transport Committee may, through its Chair, make proposals to the Cabinet for decision.
64. The Transport Committee shall meet no less than twice a year. The quorum for the Committee is three. Voting shall be on the basis of one member one vote. Any decisions which are tied shall be deemed not to have been carried.
65. The Transport Committee shall conduct its proceedings in accordance with the Rules of Procedure set out at Appendix III of this Constitution.

Audit and Governance

66. The Combined Authority has established an Audit and Governance Committee, for the purposes of assuring sound governance, effective internal control and financial management of the Combined Authority, and that the Combined Authority observes high standards of conduct in public office. The Committee meets the requirements of the Combined Authorities (Overview and Scrutiny, Access to Information and Audit Committees) Order 2016.
67. Each Constituent Authority shall nominate a Member and Substitute Member from amongst the Members of that authority with current or recent experience of having served on its Audit or Governance committees, and who is not also a Member or Substitute Member of the Combined Authority Cabinet or its Sub-Committees. The Members nominated by the Constituent Authorities shall reflect, so far as reasonably practicable, the balance of political parties for the time being prevailing among members of the Constituent Authorities collectively. Arrangements for determining political balance are set out in Appendix VIII. The Substitute members shall have the authority to act in the place of that Constituent Authority's representative.
68. The membership of the Committee shall also include an independent person for the purposes of providing advice in relation to standards matters under the

Localism Act 2011, and at least one other independent person to assist the Committee in the discharge of its financial functions.

69. Members of the Committee must not include any Officer of the Combined Authority or of the Constituent Authorities.
70. The Chair of the Committee shall be determined annually by the Cabinet from amongst the Members nominated by the Constituent Authorities.
71. The quorum for meetings of the Committee shall be five of the total number of seven members of the Committee.
72. Decisions shall be taken by way of consensus wherever possible. If a vote is required, voting shall be on the basis of one member one vote. Any decisions which are tied shall be deemed to have been not carried.
73. The Committee shall conduct its proceedings in accordance with the Rules of Procedure set out at Appendix V of this Constitution.

Mayoral Development Corporations

74. Under the Tees Valley (Functions) Order 2016, the Mayor can propose the creation of Mayoral Development Corporations. A Mayoral Development Corporation is a body corporate having the name given to it in the notification to the Secretary of State.
75. On receipt of a proposal from the Mayor to create a Mayoral Development Corporation, Cabinet can agree the proposal by majority vote, provided that such a majority includes the Cabinet member of any Constituent Authority in whose council area any land proposed to form part of the Mayoral Development Corporation lies. Any financial implications for the Combined Authority arising from the creation of a Mayoral Development Corporation shall require Cabinet

agreement through the arrangements for financial decision-making set out in this Constitution.

76. A proposal to create a Mayoral Development Corporation, or to designate an area of land as part of a Mayoral Development Corporation area, must be the subject of prior consultation with certain statutory consultees, including each Constituent Authority whose administrative area contains any part of the proposed Mayoral Development Corporation area.
77. A document stating that an area of the land is proposed to be designated as a Mayoral Development area must also be laid before the Overview and Scrutiny Committee, allowing for a consideration period for the document of at least 21 days beginning with the date the document is laid before the Committee.
78. Regard must be given to any comments from any of the consultees. If there are any comments from the Overview and Scrutiny Committee or any of the Constituent Authorities that are not accepted, a statement must be published giving the reasons for the non-acceptance.
79. Subject to the statutory requirements, and prior to an Order establishing a Mayoral Development Corporation being made, the Cabinet may decide that a Mayoral Development Corporation is to assume certain planning powers for the whole or any portion of the Mayoral Development Corporation's area, provided that such a majority includes any Cabinet member of a Constituent Authority in whose council area any land proposed to form part of the Mayoral Development Corporation's area lies.
80. The Mayor shall make proposals to the Cabinet to appoint the Chair and Members of the Mayoral Development Corporation (being no less than six), which shall include at least one member appointed by each Constituent Council whose administrative area includes any part of the Mayoral Development Corporation area.

81. The Constitution of the Mayoral Development Corporation shall be approved by the Cabinet.

Officers

82. The Cabinet shall appoint as Officers of the Combined Authority:

- A Managing Director, fulfilling the responsibilities of the Head of Paid Service, with overall responsibility for the Combined Authority's operations and staff.
- A Monitoring Officer, for the purpose of, amongst other things, providing advice on the Combined Authority's powers and duties, and guidance in relation to standards of conduct.
- A Chief Finance Officer to fulfil the statutory requirements for financial management, including section 73 of Local Government Act 1985.

83. The Cabinet shall also appoint one of the Combined Authority's Officers to be a Scrutiny Officer, to promote the role of, and provide support to, the Overview and Scrutiny Committee, and support and guidance to the members of the Combined Authority in relation to the functions of the Committee.

84. The responsibilities of, and delegations to, the Managing Director, the Monitoring Officer and the Chief Finance Officer are as set out in Appendix IX of this Constitution.

85. The Chief Executives of the Constituent Authorities shall appoint officers from their authorities as appropriate to assist the Cabinet, Managing Director, Chief Finance Officer and Monitoring Officer in the exercise of their functions.