

The Solent Deal

Greater powers for South Hampshire & the Isle of Wight

APPENDIX 2

SOLENT

Mayoral Combined Authority Scheme

Annex 1

Scheme for the establishment of a Solent Mayoral Combined Authority

This Scheme is prepared and published by Portsmouth City Council, the Isle of Wight Council, and Southampton City Council under section 109 of Local Democracy Economic Development and Construction Act 2009, (the 2009 Act) as amended by the Cities and Local Government Development Act 2016 (the 2016 Act) and comprises proposals which were presented in a Strategic Governance Review (the Review) and a document titled "Draft Scheme").

Scheme for the Establishment of the Solent Mayoral Combined Authority

1. Following the completion of the Review, the Isle of Wight Council, Portsmouth City Council, and Southampton City Council, have prepared this Scheme, pursuant to section 109 of the 2009 Act, for the creation of a mayoral combined authority (Mayoral Combined Authority).

The following general powers, functions, and freedoms are sought, together with those described in more detail throughout this Scheme:

- Responsibility for a consolidated, devolved transport budget, with a multi-year settlement
- Responsibility for (and powers in relation to) franchised bus services
- Responsibility for a new Key Route Network of a local authority roads that will be managed and maintained by the Mayoral Combined Authority
- Powers over strategic planning, including the responsibility to propose future spatial plans for the Mayoral Combined Authority Area
- Retention of 100% of business rates, and powers over their allocation
- Responsibility for the 19+ Adult Education Budget

It is recognised that further powers may be agreed over time and comprised in future legislation.

Area of the Mayoral Combined Authority

2. The area of the Mayoral Combined Authority shall be the whole of the following constituent local authority areas:

- Portsmouth City Council
- Southampton City Council
- The Isle of Wight Council

Each of the above authorities will be the Solent Mayoral Combined Authority's constituent members, and *Constituent Authority* and *Constituent Authorities* will be construed accordingly.

Name of the Authority

3. The name of the Mayoral Combined Authority will be the *Solent Mayoral Combined Authority*.

Non-Constituent Authorities

4. The following local authorities, the Non-Constituent Authorities, shall be invited to appoint representative members:

- Hampshire County Council
- Fareham Borough Council
- East Hampshire Borough Council
- Eastleigh Borough Council
- Gosport Borough Council
- Havant Borough Council
- New Forest Borough Council
- Test Valley Borough Council
- Winchester City Council

Membership of the Solent Mayoral Combined Authority

5. The membership of the Mayoral Combined Authority shall be as follows (and *Member* and *Members* shall be construed accordingly):

- (1) The directly elected Mayor of the Mayoral Combined Authority (or Interim Mayor appointed in accordance with (4) below).
- (2) A single elected member appointed by each Constituent Authority. The elected member appointed must be the leader, deputy leader, directly elected mayor or deputy mayor of the relevant Constituent Authority (as appropriate) (*Constituent Authority Member*).
- (3) An alternative single elected member appointed by each Constituent Authority (which shall be either the leader, or directly elected mayor, or deputy leader, or deputy mayor (as the case may be)) to act as a Member of the Mayoral Combined Authority in the absence of the Member appointed under sub-paragraph (1) (*Substitute Member*).
- (4) An a separate elected member of a Constituent Authority, appointed by the unanimous agreement of the Constituent Authorities (failing which, a majority vote shall be acceptable), to act as Interim Mayor, such appointment to be for a period of up to six months (whereupon a member from a different Constituent Authority to the previous Interim Mayor shall be appointed as Interim Mayor) or up until the time that a directly elected Mayor is appointed (whichever is sooner).
- (5) Where a leader or deputy leader of a Constituent Authority is appointed as the Mayor or Interim Mayor, the Constituent Authority shall appoint the leader or deputy leader (not being the Mayor or Interim Mayor) as the member of the Mayoral Combined Authority, and shall appoint another member of the Constituent Authority as Substitute Member.

- (6) A Member voluntarily appointed by each of the Non-Constituent Authorities (*Non-Constituent Authority Member*), and the Chair of the Solent Local Enterprise Partnership (*Solent LEP Member*).

The Role of Mayor, Constituent Members, Solent LEP Member, Non-Constituent Members

Mayor

6. The Mayor shall oversee the delivery of functions by the Mayoral Combined Authority, all work areas, initiatives, and projects, and shall be the initiator of plans, policies, budget plans, and strategies, for the consideration of the Constituent Members. While some functions, projects, or initiatives, may be lead upon by Constituent Members following a delegation made in accordance with this Scheme, the Mayor shall continue to oversee all areas.

Constituent Members

7. The Constituent Members shall jointly make decisions with the Mayor, scrutinising, challenging, and promoting recommendations brought before them. In addition to this, Constituent Members may individually lead on certain functions, projects, or initiatives, where a delegation has been made to them, in accordance with this Scheme (and subject to the supervisory role of the Mayor referred to at paragraph 6), above.

Solent LEP Member

8. The Solent LEP Member shall be a decision-maker, alongside the Mayor and Constituent Members, in relation to the matters described at paragraph 21.

Non-Constituent Members

9. The Non-Constituent Members shall participate on a voluntary basis in an advisory and non-voting capacity, in meetings of the Mayoral Combined Authority.

Co-optees

10. Any individual co-opted by the Mayoral Combined Authority or the joint Overview and Scrutiny Committee, shall participate on a voluntary basis, and in an advisory and non-voting capacity, in meetings of the Mayoral Combined Authority, or the joint Overview and Scrutiny Committee.

Mayor, Interim Mayor, Members

11. Upon appointment and taking office, the Mayor will chair the Mayoral Combined Authority. The Non-Constituent Authority Members shall be invited to participate in meetings, initiatives, and discussions by the agreement of the Constituent Members, and Mayor/Interim Mayor.

12. Up until the appointment and taking office of the Mayor the Interim Mayor will chair the Mayoral Combined Authority. Where the Mayor/Interim Mayor is absent from a meeting, the participating Constituent Members shall elect a chair for the duration of that meeting.

13. Each Member shall when acting in their role as Member, promote the best interests and objectives of the Mayoral Combined Authority Area.

14. A Constituent Authority, Non-Constituent Authority, and the Solent Local Enterprise Partnership may at any time terminate the appointment of their respectively appointed Member, which shall take effect upon the receipt of a notification to the Monitoring Officer of the Mayoral Combined Authority in writing (including by email) save in the case of a Constituent Authority it may not terminate the appointment of the Interim Mayor, and in the case of the Solent Local Enterprise Partnership, a termination shall only be effective where appointee is no longer the Chair of the Solent Local Enterprise Partnership.

15. If a Member of the Mayoral Combined Authority ceases to be a member of the Constituent Authority, Non-Constituent Authority, or the Solent Local Enterprise Partnership (or where the participation of a given Member is terminated in accordance with paragraph 9), the Member will automatically cease to be a member of the Mayoral Combined Authority, and the Constituent Authority, or Solent Local Enterprise Partnership (as the case may be) will appoint a replacement as soon as practicable, in accordance with the requirements of paragraph 5. In the case of a Non-Constituent Authority, the Non-Constituent Authority may (but shall not be required to) appoint a replacement and shall notify the Monitoring Officer of the Mayoral Combined Authority of its intention to do so.

16. The Mayor will allocate portfolios of functions to Constituent Members, which they shall have a special responsibility for overseeing, but shall not enjoy any decision-making power over unless a delegation is made in accordance with paragraph 18. Appointments will be the first business transacted at the Annual Meeting of the Mayoral Combined Authority and the appointments will be for the forthcoming municipal year.

Remuneration of Members

17. No additional remuneration shall be payable by the Mayoral Combined Authority to its Members other than allowances for travel and subsistence. A Constituent Authority may, pay a special responsibility allowance to any Constituent Authority Member in respect of those duties and responsibilities undertaken in role as Member of the Mayoral Combined Authority. The cost of any such special responsibility allowance will be met by the relevant Constituent Authority.

Co-Opted Members

18. The Mayoral Combined Authority may, upon a unanimous decision of the Constituent Members and the Mayor/Interim Mayor, co-opt additional members onto the Mayoral Combined Authority where it is likely to be beneficial to do so for the carrying out of its functions, on such terms as they determine.

Quorum

19. The quorum for meetings of the Mayoral Combined Authority shall be three (3) (being Constituent Members or Mayor/Interim Mayor).

Voting

20. The Constituent Members and the Mayor/Interim Mayor of the Mayoral Combined Authority will have one unweighted vote: the Mayor/Interim Mayor will have no second or casting vote. It is intended that decisions will be made by consensus. Where this is not possible, matters will be put to a vote and will require a majority vote of the Constituent Members and Mayor/Interim Mayor present and voting, apart from:

- Any decision requiring unanimity (described at paragraph 23 below)
- The specific exceptions described at paragraph 24

21. Non-Constituent Authority Members will not have voting rights. The Solent LEP Member may vote on matters relating the following functions:

Functions – Strategic Planning

Functions – Economic Development, Employment and Skills, and Regeneration

Functions –Transport

excepting any matters within those categories of functions expressly reserved to the Mayor/Interim Mayor and Constituent Members at paragraphs 23 and 24.

22. On the requisition of any one Member, made before a vote is taken, the voting on any matter shall be recorded so as to show how each Member voted and there shall also be recorded any member abstaining from voting. Where any member abstains from voting then they shall be deemed to have consented to the decision of the majority such that:

- in any decision which requires unanimity and where the abstaining member represents a Constituent Authority directly affected by the decision the matter may pass notwithstanding that the abstaining Member does not form part of the majority provided that all other directly affected Constituent Authorities (through their appointed member) vote in favour or abstain; and
- in any decision requiring unanimous support, the abstention of a Member will not prevent the matter passing provided all other Members vote in support or abstain (if all Members abstain the matter shall not pass).

23. The following matters require unanimity of support from Constituent Members and Mayor/Interim Mayor present:

- The co-option of additional voting or non-voting Members (including Co-opted Members) onto the Mayoral Combined Authority
- Amendments to the Constitution, including the making of any scheme of delegation
- Adoption of the Spatial Strategy/Plan
- Adoption of an annual budget and medium term financial plan, including the determination of any contributions from the Constituent Authorities and the distribution of pooled Business Rates
- Approval of borrowing limits, the treasury management strategy and the investment strategy
- Establishment of and membership in companies and/or other structures (including legal partnerships)

- Setting of any transport levy
- The adoption of key plans and strategies as determined by the Mayoral Combined Authority in its standing orders
- Approval to receive new powers and responsibilities from central Government
- Determination of questions relating to Members allowances

The Solent LEP Member may not vote on these matters.

24. The Mayoral Combined Authority may not adopt any plan or strategy prepared by the Mayor/Interim Mayor (including the Transport Plan) unless the Mayor has first consulted the Constituent Members. The Constituent Members may reject a plan or strategy prepared by the Mayor/Interim Mayor where a majority of the Constituent Members resolves to do so. The Solent LEP Member shall not vote on these matters.

Executive arrangements

25. Executive arrangements (within the meaning of the Local Government Act 2000) shall not apply to the Mayoral Combined Authority. However, the discharge of the functions of the Mayoral Combined Authority will be subject to the scrutiny arrangements set out in paras 26 to 30 below.

Committees and Sub-Committees

Scrutiny arrangements

26. The requirement to ensure accountability and transparency will be fulfilled by the Mayoral Combined Authority by establishing a joint Overview and Scrutiny Committee of at least three (3) members drawn from the Constituent Authorities (which reflects the political balance of the Constituent Authorities) to exercise scrutiny functions over the Mayoral Combined Authority in accordance with the provisions of Section 104 and Schedule 5A of the 2009 Act.

27. The membership of the Overview and Scrutiny Committee must not include a Mayoral Combined Authority Member or a member of the executive of a Constituent Authority.

28. The Overview and Scrutiny Committee will have the power to:

- Require Mayoral Combined Authority members and officers to attend meetings and answer questions
- Invite others to attend the meetings
- Review or scrutinise decisions or other actions taken by the Mayoral Combined Authority
- Make (and publish) reports or recommendations to the Mayoral Combined Authority
- Require that a decision that has not been implemented be reconsidered by the members of the Mayoral Combined Authority

29 The Overview and Scrutiny Committee may appoint sub-committees to deal with matters within its remit and will have the power to co-opt additional non-voting representatives for specific scrutiny tasks where it would be beneficial to the functions carried out by the committee to do so.

30. Where the Overview and Scrutiny Committee makes a report it may also publish it and require a response from the Mayoral Combined Authority. The notice published must give the Mayoral Combined Authority at least two months to consider the report.

Audit Committee

31. The Mayoral Combined Authority will establish an Audit Committee of three (3) members drawn from the Constituent Authorities (not being the Constituent Authority Members, or Mayor, or Interim Mayor) and will be responsible for:

- Reviewing and scrutinising the Mayoral Combined Authority's financial affairs
- Reviewing and assessing the Mayoral Combined Authority's risk management control and corporate governance arrangements
- Reviewing and assessing the economy, efficiency and effectiveness with which resources have been used in discharging the Mayoral Combined Authority's functions
- Making reports and recommendations to the Mayoral Combined Authority in relation to reviews conducted under the above

32. The members of the Audit Committee will reflect the political balance of the Constituent Local Authorities, and must not include a Mayoral Combined Authority Member or a member of the Executive of a constituent authority. The expectation will be that the members chosen will have the skills and experience described in the CIPFA guidance on Audit Committees.

Sub-Committees

33. The Mayoral Combined Authority may establish sub-committees to focus on specific Mayoral Combined Authority work areas.

Functions - Overall Purpose

34. The purpose of the Mayoral Combined Authority (*Purpose*) is the exercise of statutory functions in relation to economic development, regeneration, and transport in the Mayoral Combined Authority Area in an improved manner leading to an enhancement of the economic conditions and performance of the Mayoral Combined Authority Area: that is the creation of more skilled and better paid jobs, more inward investment, a reformation of public services and a positive effect upon the factors which may contribute to the welfare bill of the Mayoral Combined Authority Area. The related interventions will have differential spatial impacts across the Mayoral Combined Authority area, but should aid delivery of key growth projects in the emerging and future local plans of Constituent Authorities.

35. The primary focus of the Mayoral Combined Authority is to take responsibility for a programme of investment in transport and economic infrastructure and will influence and align with Government investment in order to achieve the Purpose. In pursuit of this, the

Mayoral Combined Authority will have the following powers, described thematically, by function. These powers will be exercised concurrently by the Mayoral Combined Authority and the Constituent Authorities, and the Mayoral Combined Authority will and the Constituent Authorities seek to cooperate with each other and the Non-Constituent Authorities.

Functions - General Powers and Duties of the Mayoral Combined Authority

36. The Mayoral Combined Authority shall have the following general powers and duties (together with any which the secretary of state considers necessary) to be exercised in furtherance of its specific functions:

- The power to do anything the Mayoral Combined Authority considers appropriate:
 - for the purposes of carrying out (or connected to) any of its functions
 - purposes incidental to and/or indirectly incidental to carrying out its functions; or,
 - for a commercial purpose
(section 113A of the 2009 Act)
- Designation as a *Specified Body* pursuant to section 33(3)(k) of the Value Added Tax Act 1994
- The power to instigate and defend legal proceedings (section 222, Local Government Act 1972)
- The power to research and the collect information in relation to the exercise of any of its functions (subsection 1(a) and (b) of section 88, Local Government Act 1985)
- the duty to appoint a Head of Paid Service, a Monitoring Officer and an Officer with responsibility for the administration of the Mayoral Combined Authority’s financial affairs (sections 4 and 5, Local Government and Housing Act 1989, and section 151, Local Government Act 1972)
- the power to raise money by borrowing (section 1, Local Government Act 2003)
- the power to appoint staff and to enter into agreements with other public bodies for the secondment of staff (section 113, Local Government Act 1972)
- the duty (without prejudice to any other obligation) to exercise its functions with due regard to the need to prevent crime and disorder, the misuse of drugs and alcohol or re-offending in its area (section 17, Crime and Disorder Act 1998)
- The function of a local authority to take such steps as it considers appropriate for improving the health of the people in its area (section 2B, National Health Service Act 2006)

Functions - Strategic Planning

37. The Mayoral Combined Authority will have powers adopt a non-statutory spatial development strategy for the Mayoral Combined Authority Area - which may be considered by the Constituent Authorities in their local planning frameworks - to enabling the Mayoral Combined Authority to act as the forum for local authorities to exercise the Duty to Cooperate, in respect of strategic planning matters.

Functions – Economic Development, Employment and Skills, and Regeneration

38. The Mayoral Combined Authority will be focused on the Purpose, and the powers of the Constituent Authorities and the Solent Local Enterprise Partnership relevant to the Purpose will be exercised concurrently, not ceded to the Mayoral Combined Authority, unless the Constituent Members, Mayor/Interim Mayor, and Solent LEP Member unanimously agree that the exercise of those responsibilities by the Mayoral Combined Authority alone would promote the achievement of the purposes. The responsibilities include:

- an investment plan in relation to economic development, employment and skills, and/or regeneration
- an inward investment strategy
- a strategy and activity plan for place-based marketing
- economic assessments and research to provide an evidence base for future economic strategy
- a long-term strategy for promoting investment in housing and regeneration
- acting as accountable body for interventions, projects and programmes for whole Mayoral Combined Authority Area interventions
- a strategic plan for skills delivery across the Mayoral Combined Authority Area
- acting as a focus for the One Public Estate programme and developing proposals for public sector locational hubs in city, town and district centres allowing local, regional and national public sector bodies to take advantage of modern integrated working to reduce costs, improve productivity and offer better services to the communities of the Mayoral Combined Authority
- identification and realisation of funding opportunities

39. The Mayoral Combined Authority shall have the following functions in relation to the above responsibilities, and *economic development, employment and skills, and regeneration* in general:

- Such functions of the constituent councils as are exercisable by them for the purpose of economic development and regeneration in reliance on the general power of competence (section 1, Localism Act 2011, (and any other specific power))
- the power to acquire land by agreement or compulsorily for the purpose of any of its functions and to dispose of such land (sections 120 and 121, Local Government Act 1972 (and any other specific power))
- The duty of a local authority to prepare an assessment of economic conditions in its area (section 69, 2009 Act)
- The power of a local authority to arrange for the publication within their area of information relating to the functions of the authority, etc (section 142(2), Local Government Act 1972)

- The power of a local authority to encourage persons to visit their area, etc (section 144, Local Government Act 1972)
- The duty to secure that enough suitable education and training is provided to meet the reasonable needs of 16-19 year olds, 19-25 year olds who are subject to learning difficulty assessment and persons who are subject to youth detention. The duty to co-operate with local authorities exercising these duties (section 15ZA, 15ZB, 15ZC, 18A, 18A(1)(b), 514A, and 560A, Education Act 1996)
- The duty to cause a review to be conducted of quality for the time being, and the likely future quality within the relevant period, of air within the authority's area and associated duties, duty to designate air quality management areas (section 82, Environment Act 1995)
- The power to designate air quality management areas, and duties in relation to any designated area (sections 83 and 84, Environment Act 1995)

Functions - Transport

40. The Mayoral Combined Authority will have the following responsibilities and functions:

- Developing and keeping under review a single, Local Transport Plan (or its equivalent) for the Mayoral Combined Authority Area, which will include high level policy for major investments (e.g. freight, cycle, rail, highway maintenance, new transport infrastructure, traffic management), and set the long-term strategic transport vision and outcomes for the Mayoral Combined Authority Area, having regard to the Strategic Economic Plan as it is from time to time adopted by the Solent Enterprise Partnership, and prepared with the engagement with and coordination of key stakeholders (such as contiguous local authorities), (section 108, Transport Act 2000)
- Taking responsibility for a devolved and consolidated multi-year local transport budget for the area of the Combined Authority, including all relevant devolved highways funding, and acting as accountable body for transport schemes, such as devolved major transport schemes (and their functions)
- Setting the transport levy for the Mayoral Combined Authority Area (section 74, Local Government Finance Act 1988)
- The duty to prepare a report on the levels of local road transport and a forecast of the growth in those levels in relation to the Mayoral Combined Authority Area (section 2, Road Traffic Reduction Act 1997)
- Powers for the franchising of bus services in the Mayoral Combined Authority Area (it is anticipated that this will be enabled through the *Bus Services Bill*, the main features of the relevant powers are anticipated to include:
 - Control over all ticketing arrangements for franchised services- including fares, ticket types, branding and marketing
 - Affording flexibility to operators to set some or all aspects of ticketing arrangements commercially

- Affording the right to cross-boundary operators to participate in the ticketing scheme)
- Responsibility for the management and maintenance of a *Key Route Network* of local authority roads within the Mayoral Combined Authority Area, (and the Mayoral Combined Authority shall be empowered with such appropriate functions in relation to the management and maintenance of highways as are necessary to do so, including:
 - The duty of a local traffic authority to manage their road network with a view to securing the expeditious movement of traffic on its own roads, and facilitating the same on the roads of other authorities (sections 16 and 17, Traffic Management Act 2004)
 - The duty of a local authority to prepare and carry out a programme of measures to promote road safety, including road safety studies, accident prevention schemes and the provision of information and advice (section 39, Road Traffic Act 1988)
 - Power to promote a local charging scheme (section 164, Transport Act 2000)

Functions – Public Service Reform

41. The Mayoral Combined Authority will act as a forum to coordinate the development and delivery of a public service reform plan alongside wider partners in the public, private and voluntary sectors in the relation to the whole of the Mayoral Combined Authority Area.

42. The Mayoral Combined Authority will act as the key decision making forum and accountable body for the plan referred to in paragraph 43 and any related external funding provision.

Functions - Housing

43. The Mayoral Combined Authority will develop a general and site-specific delivery plan for housing, and will identify opportunities for working with the Constituent Authorities, the Solent Local Enterprise Partnership, and government agencies such as the Homes and Communities Agency, to support the delivery of housing (including the regeneration of existing housing stock of the two cities, and the Isle of Wight) whether acting as enabler, funder, or lead delivery body.

44. The Mayoral Combined Authority will have the following function (together with anything else that the secretary of state considers necessary):

- The duty of local housing authorities to consider conditions in their area and the needs of the district with respect to the provision of further housing accommodation (section 8(1), Housing Act 1985)

(the delivery of housing development, acquisition of land, and the building of dwellings under section 9, Housing Act 1985, will remain an exclusive function of the Constituent Authorities).

Funding - Transfer of Property, Rights and Liabilities

Funding

45. The Mayoral Combined Authority will be funded by way of a *Single Pot* capital grant, of £30million per annum, being a mix of capital (75%) and revenue (25%) and will have the power to borrow in relation to its functions. It would, in addition, retain 100% of any business rates received by the Constituent Authorities (including any uplift in business rates growth), to be re-invested in both further growth opportunities and in sustaining public services. Accrued business rates will be pooled between the Constituent Authorities, and decisions on their distribution will be made in accordance with the voting arrangements described above (that is, a unanimous vote of the Constituent Members and Mayor/Interim Mayor).

46. As is described at paragraph 41, above, the Mayoral Combined Authority as a levying body under section 74 of the Local Government Finance Act 1988 shall have the power to issue a levy to its Constituent Authorities in respect of the expenses and liabilities of the Mayoral Combined Authority which are reasonably attributable to the exercise of its functions relating to transport. (The core principle in determining the levy shall be that the total contribution from each Constituent Authority for funding transport services for the year shall not exceed the equivalent cost for the year as it would have been calculated under previous arrangements).

47. Any unmet costs in relation to the administration of the Mayoral Combined Authority that are reasonably attributable to the exercise of its functions (and any start-up costs) shall be met (actually, or in kind) by the Constituent Authorities on a proportionate and equitable basis, based on population.

Transfer of Property, Right and Liabilities, and appointment of statutory officers

48. A transfer scheme of property, rights and liabilities existing at the transfer date and relevant to the transport functions of the Mayoral Combined Authority shall be prepared and agreed as soon as reasonably practicable including rights and liabilities in relation to contracts of employment.

49. The Mayoral Combined Authority shall appoint any statutory or proper officer posts, and in particular:

- Head of Paid Service
- S151 Officer
- Monitoring Officer

It is anticipated that these positions will be undertaken by officers already serving in one or more of the Constituent Authorities whether serving as appointees to those statutory roles or not.

Delegations

50. The Mayoral Combined Authority may make arrangements for the exercise of any of the Mayoral Combined Authority's Functions by Committees, Sub-Committees, Officers, joint committees or other local authorities pursuant to section 101 of the Local Government Act 1972. Where the Mayoral Combined Authority elects to make such arrangements the detail of the functions to be discharged and any conditions on such discharge shall be recorded in a scheme of delegation within the constitution of the Mayoral Combined Authority.

51. The Mayoral Combined Authority will review the scheme of delegation at least annually as part of any review of its Constitution.

52. The Mayoral Combined Authority may establish such committee or sub-committees as it considers appropriate and may delegate powers and functions accordingly.