

The Solent Deal

Greater powers for South Hampshire & the Isle of Wight

SOLENT **Governance Scheme** (Draft for consultation)

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Annex 1

Draft 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 112 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") . It is prepared to support an analysis of whether the creation of a combined authority under section 109 of the 2009 would improve the exercise of statutory functions in relation to the area.

Establishment of the Solent Mayoral Combined Authority

1. A mayoral combined authority (Mayoral Combined Authority) will be established pursuant to section 103, 105 and 113D of the 2009 Act. It shall come into existence on

Area of the Authority

2. The area of the Mayoral Combined Authority shall be 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 and the Solent Local Enterprise Partnership

3A. The Mayoral Combined Authority shall invite Members from the following local authorities:

- Hampshire County Council
- Fareham Borough Council
- East Hampshire Borough Council
- Eastleigh Borough Council
- Gosport Borough Council
- Havant Borough Council
- New Forest Borough Council

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- Test Valley Borough Council
- Winchester City Council

Together with the Solent Local Enterprise Partnership

Membership of the Solent Mayoral Combined Authority

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

- (1) The Mayor of the Mayoral Combined Authority (or Interim Mayor appointed in accordance with sub-paragraph (4) below).
- (2) Each Constituent Authority shall appoint one of its elected members to be a member of the Mayoral Combined Authority. The elected member appointed must be the leader, deputy leader, directly elected mayor or deputy mayor of the relevant Constituent Authority (as appropriate).
- (3) Each Constituent Authority is to appoint another of its elected members (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) ("the substitute member").
- (4) An additional member appointed up until the time that a directly elected Mayor is appointed (and appointed for a period of up to two years only, unless reappointed) to be known as Interim Mayor, appointed by the Constituent Authorities together, deciding unanimously, provided that member is an elected member of a Constituent Authority, holding office at the date of application for the position of Interim Mayor and on the date of appointment.
- (5) A member appointed by each of the Non-Constituent Authorities, and the Solent LEP

Mayor and Interim Mayor

5. Upon appointment and taking office, a directly elected Mayor (Mayor) will chair the Mayoral Combined Authority and will exercise the powers of the Mayoral Combined Authority (including those powers and functions developed to the Mayoral Combined Authority) in accordance with this scheme.

6. Up until the appointment and taking office of the Mayor the powers and functions of the Mayoral Combined Authority shall be exercisable by the Members acting unanimously.

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

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8. A Constituent Authority may at any time terminate the appointment of a Member (including a Substitute Member), upon a notifying to the Monitoring Officer of the Mayoral Combined Authority in writing (including by email) save it may not terminate the appointment of the Mayor.

9. If a Member (including a Substitute Member) of the Mayoral Combined Authority ceases to be a member of the Constituent Authority, the Member will automatically cease to be a member of the Mayoral Combined Authority, and the Constituent Member and the Constituent Authority will appoint a replacement as soon as possible.

10. The Mayor will allocate portfolios of functions to Members. 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

11. 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, where its independent remuneration panel established under regulation 20 of the Local Authorities (Members' Allowances) (England) Regulations 2003 so resolves, pay a special responsibility allowance to any elected member appointed by it to the Mayoral Combined Authority 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

12. The Mayoral Combined Authority recognises the benefits that additional members may bring to it in the in carrying out its functions. Where there is a unanimous decision to do so, the Mayoral Combined Authority may co-opt additional members onto the Mayoral Combined Authority on such terms as determined by the Mayoral Combined Authority and detailed within the constitution of the Mayoral Combined Authority.

Quorum

13. The quorum for meetings of the Mayoral Combined Authority shall be three (3).

Voting

14. Save for any functions and powers exercisable only by the Mayor, Constituent Members of the Mayoral Combined Authority will have one vote. The Chair will have a casting vote.

15. Members appointed by the Non-Constituent Authorities will not have voting rights save for the Member appointed by the Local Enterprise Partnership may vote on matters relating to economic development, regeneration, infrastructure, transport and on the Growth Board but will not be permitted to vote on the Constituent Authorities the matters described

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at paragraph 17 below, or on a given decision the Mayor votes the observe of all of the Constituent Authorities vote.

16. 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:

- a. 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
- b. 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).

17. It is intended that decisions will be made by consensus. When this is not possible, matters will be put to a vote and will require a majority vote of the members present and voting, apart from the following matters which require unanimity of constituent members present:

- The co-option of additional voting or non-voting Members onto the Mayoral Combined Authority;
- Amendments to the governance scheme and its successor Constitution;
- Adoption of the Spatial Strategy;
- Adoption of an annual budget and medium term financial plan, including the determination of any contributions from the Constituent Authorities;
- Approval of borrowing limits, the treasury management strategy and the investment strategy;
- Establishment of companies and/or other structures;
- 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;
- Consideration of questions relating to Members allowances.

Note: It is not intended that the Chair has a casting vote in the case of equality of voting. In such circumstances, if a simple majority cannot be achieved the motion before the Mayoral Combined Authority is defeated.

Executive arrangements

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18. Executive arrangements (within the meaning of the Local Government Act 2000) shall not apply to the Mayoral Combined Authority. The discharge of the functions of the Mayoral Combined Authority will be subject to scrutiny arrangements set out in paras 19 -23 below.

Scrutiny arrangements

19 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 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 (including, where appropriate, over its boards, sub-boards) in accordance with the provisions of S.104 and Schedule 5A of the 2009 Act.

20. 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.

21. The Overview and Scrutiny Committee will have the power to-

- Invite 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 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.

22. 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 representatives for specific scrutiny tasks.

23. 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 two months to consider the report.

Audit Committee

24. The Mayoral Combined Authority will establish an Audit Committee of 3 members drawn from the Constituent Authorities 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;

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- 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.

25. The members of the Audit Committee will reflect the political balance of the constituent councils, must not include a Mayoral Combined Authority member or a member of the Executive of a constituent authority, and the expectation will be that the members chosen will have the skills and experience as set out in the CIPFA guidance on Audit Committees.

Functions, Powers and Duties of the Mayoral Combined Authority

26. The Mayoral Combined Authority's ambition will be to create more skilled and better paid jobs, bring more investment into the area, reform public services and reduce the regions welfare bill. Unless otherwise stated, where the powers listed below are also vested in the Constituent Authorities, they will be exercised by the Mayoral Combined Authority on a concurrent basis and no powers are intended to be ceded to the Mayoral Combined Authority by the Constituent Authorities.

27. By virtue of Sections 99 and 102A of the Local Transport Act 2000, the Mayoral Combined Authority will have broad wellbeing powers, which can be exercised in conjunction with the general powers granted to it by Section 113A of the 2009 Act and section 164 of the Transport Act 2000.

28. The Mayoral Combined Authority requests the Secretary of State to order that the General Power of Competence under Part 1 of the Localism Act 2011, has effect in relation to the Mayoral Combined Authority, pursuant to section 113D of the 2009 Act.

29. The Mayoral Combined Authority requests the Secretary of State to designate the Mayoral Combined Authority as a 'Specified Body' pursuant to Section 33(3) (k) of the Value Added Tax Act 1994.

30. The powers and duties of the Mayoral Combined Authority in relation to the exercise of the functions shall be as described below.

Functions – Economic Development and Regeneration

31. The Mayoral Combined Authority will have responsibility for a significant programme of investment in transport and economic infrastructure and will influence and align with government investment in order to boost economic growth. 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. Having regard to the duty to co-operate, effective alignment between decision-making on transport and decisions on other areas of policy, such as land use, economic development and wider regeneration, will be a key aim.

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32. Unless otherwise stated, powers will be exercised by the Mayoral Combined Authority on a concurrent basis.

33. It is proposed that the Mayoral Combined Authority will be focused on strategic economic growth. The Constituent Authorities and the Solent Local Enterprise Partnership need not cede responsibility for local functions to the Mayoral Combined Authority unless they believe pooling responsibility would demonstrably improve economic conditions and wider service reform. Those local powers and functions that could sit with the Mayoral Combined Authority, be undertaken by the Solent Local Enterprise Partnership or be undertaken jointly between the Solent Local Enterprise and Mayoral Combined Authority include:

- the Investment Plan for the area;
- an inward investment strategy for the sub-region;
- the strategy and activity for place based marketing across the sub region;
- economic assessment and research to provide an evidence base for economic strategy;
- the long-term strategic vision for housing and regeneration investment to support economic growth;
- the accountable body for interventions, projects and programmes that correspond to priorities that cover the whole of the sub-region;
- strategic plan for skills delivery across the sub-region;
- acting as the key decision making forum and accountable body for public service reform programmes and external funding opportunities that enable reform and cover the Sub region;
- Appointing staff required to administer the Mayoral Combined Authority and support the implementation of its decisions.

Functions - Transport

34. The Mayoral Combined Authority will fulfil directly or commission the role of Local Transport Authority for each of the Constituent Authorities.

35. The Mayoral Combined Authority will exercise any function of the Secretary of State delegated to the Mayoral Combined Authority by order of the Secretary of State pursuant to Section 86 LTA and Section 104(and 148 1) (1 LDEDCA. Such functions will be exercised subject to any condition imposed by the order).

36. The Mayoral Combined Authority's role in this will encompass:

- Setting the long-term strategic transport vision and outcomes for the sub-region;
- Agreeing the development and approval of a single, sub regional Local Transport Plan (or its equivalent), which will include high level policy responsibility for major

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investments (e.g. freight, cycle, rail, highway maintenance, new transport infrastructure, traffic management);

- Agreeing a long-term transport investment strategy to contribute to the Strategic Economic Plan as it is from time to time adopted by the Solent Enterprise Partnership to deliver the strategic economic vision and outcomes (which includes housing, employment and skills);
- Acting as accountable body for Transport Schemes, e.g. devolved major transport scheme funding;
- Setting the transport levy for the sub region if required.

Functions – Public Service Reform

37. 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.

Funding, Transfer of Property, Rights and Liabilities

Funding

38. 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.

39. The core principle in determining the Levy or the Differential Levy shall be that the total contribution from each Constituent Authority for funding transport services for the year does not exceed the equivalent cost for the year as it would have been calculated under previous arrangements.

40. The costs of administering the Mayoral Combined Authority, that are reasonably attributable to the exercise of its functions (and any start-up costs) relating to economic development, housing and regeneration, and public service reform shall be met by the Constituent Authorities on a proportionate and equitable basis. Equitable basis also means where possible the constituent councils will meet these costs in kind.

41. Any cost incurred by the Mayoral Combined Authority that is not in relation to the administration of the Mayoral Combined Authority or subject to the Levy and Differential Levy shall be met by the Constituent Authorities on a suitable apportionment basis.

42. The Mayoral Combined Authority will approve the annual budget for the purpose of expenditure.

Transfer of Property, Right and Liabilities

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43. A transfer scheme of property, rights and liabilities existing at the transfer date and relevant to the transport functions of each Constituent Authority shall be prepared by each of the Constituent Authorities as soon as reasonably practicable including rights and liabilities in relation to contracts of employment, but these will be ring-fenced under the terms of a Mayoral Combined Authority agreement to the Constituent Authorities and the Solent Local Enterprise Partnership

Statutory Officers

44. 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 as appointees to those statutory roles or not.

Delegations

45. As lawfully permitted, 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 the Scheme of Delegation within the Constitution.

46. The Mayoral Combined Authority will review the Scheme of Delegation at least annually as part of any review of its Constitution.

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

Powers and duties transferred to the Mayor

48. Transport

(a) Functions of Central Government

The Mayor shall exercise any function of Central Government delegated to the Mayoral Combined Authority pursuant to any order made by the Secretary of State under Section 86, Local Transport Act 2008 and/or Section 104(1)(b), Local Democracy, Economic Development and Construction Act 2009 and/or Sections 15 to 19, Localism Act 2011.

(b) Section 108, Section 109 and Section 112, Local Transport Act 2000

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The duty to develop and keep under review policies relating to transport in its area and to carry out its functions to implement those policies.

(c) Section 2, Road Traffic Reduction Act 1997

The duty to prepare a report on the levels of local road transport and a forecast of the growth in those levels.

49. Powers and duties transferred to the Mayoral Combined Authority

Economic Development and Regeneration,

(a) Localism Act 2011

Such functions of the constituent councils as are exercisable for the purpose of economic development and regeneration in reliance on the general power of competence under Section 1, Localism Act 2011.

(b) Section 99 and Section 102A, Local Transport Act 2008

The power to promote well-being in the area of the Mayoral Combined Authority.

(c) Section 113A, Local Democracy, Economic Development and Construction Act 2009

The power to do anything the Mayoral Combined Authority considers appropriate: for the purposes of carrying out any of its functions; purposes incidental to and/or indirectly incidental to carrying out its functions; connected to any of its functions; for a commercial purpose.

(d) Section 69, Local Democracy, Economic Development and Construction Act 2009

The duty of a local authority to prepare an assessment of economic conditions in its area.

(e) Section 142(2), Local Government Act 1972

The power of a local authority to arrange for the publication within their area of information relating to the functions of the authority, etc.

(f) Section 144, Local Government Act 1972

The power of a local authority to encourage persons to visit their area, etc.

(g) Sections 15ZA, 15ZB, 15ZC, 17A, 18A, 514A and 560A, Education Act 1996 (as inserted by Part 2 of the Apprenticeships, Skills Children and Learning Act 2009)

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

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assessment and persons who are subject to youth detention. The duty to co-operate with local authorities exercising these duties.

(h) Section 88(1)(a) and (b), Local Government Act 1985

Power to exercise the functions under the above provisions relating to the research and collection of information whether or not a scheme is made under Section 88.

50. Powers and duties transferred to the Mayoral Combined Authority

Housing, Health, and Environmental

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

(b) The duties under section 82 of the Environment Act 1995 (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), section 83 of the Environment Act 1995 (duty to designate air quality management areas), and section 84 of the Environment Act 1995 (duties in relation to designated area).

(c) The function of a local authority under Section 2B of the National Health Service Act 2006, to take such steps as it considers appropriate for improving the health of the people in its area (this duty would be exercised concurrently with the Constituent Authorities).

51. Incidental Powers of the Mayoral Combined Authority

(a) Section 142(2) of the Local Government Act 1972 (the power to arrange for publication of information etc. relating to the functions of the authority).

(b) Section 222 of the Local Government Act 1972 (the power to instigate and defend legal proceedings).

(c) the power to exercise any of the functions described in subsection 1(a) and (b) of section 88 of the Local Government Act 1985 (research and collection of information) whether or not a scheme is made under that section.

(d) The Mayoral Combined Authority shall have such other powers and duties as are conferred on a combined authority by any enactment. Without prejudice to the generality of the foregoing, such powers and duties include:

- (i) 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 (the Treasurer);

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- (ii) the power to borrow money for a purpose relevant to its transport functions only;
- (iii) the power to appoint staff and to enter into agreements with other local authorities for the secondment of staff;
- (iv) the power to acquire land by agreement or compulsorily for the purpose of any of its functions and to dispose of such land;
- (v) the power to pay subscriptions to the funds of local authority associations;
- (v) 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;

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