

 York & North Yorkshire  
Office for Policing, Fire,  
Crime and Commissioning

Part of the  York and  
North Yorkshire  
Combined Authority

Joint Independent Audit Committee (Policing & Crime) 13 June 2024

Independent Audit Committee (Fire & Rescue) 25 June 2024

Report of the Combined Authority Deputy Monitoring Officer for Mayoral  
Policing, Fire and Crime Functions

Annual Review – Codes of Corporate Governance & Constitutional  
Instruments

## **1. PURPOSE OF THE REPORT**

- 1.1. To update Members on the development and adoption of a codified Constitution for York & North Yorkshire Combined Authority, following the transfer of functions from the former Police, Fire & Crime Commissioner to the new Authority on 7 May 2024.
- 1.2. To amplify the informal presentations provided to Members prior to statutory transfer, by senior OPFCC officers on the topic of constitutional change.
- 1.3. To allow Members the opportunity to undertake their conventional annual review of the Codes of Corporate Governance and associated constitutional instruments.
- 1.4. To update Members on the broad approach to Audit Committee development under the new Combined Authority arrangements.
- 1.5. This paper is submitted in matching terms to both the JIAC and IAC given its relevance to both committees and the fused nature of the Combined Authority Constitution. Points of particular relevance to the remits of each individual Committee, will be highlighted as appropriate in the respective meetings.

## 2. BACKGROUND

- 2.1. The Police & Crime Commissioner for North Yorkshire ('PCC') and the North Yorkshire Police, Fire & Crime Commissioner Fire & Rescue Authority ('FRA'), were abolished at 23:59 on 6 May 2024.
- 2.2. The powers and duties of the PCC and FRA passed to the York & North Yorkshire Combined Authority on 7 May 2024. The Mayor was elected on the same day. As a matter of law, the powers of PCC vest in the Mayor and those of the FRA vest in the Combined Authority but are exercisable by the Mayor, rather than by the Combined Authority at large.
- 2.3. The Mayor may make arrangements for functions to be performed by delegates in much the same way that the PFCC did.
- 2.4. The Constitution sets out those Delegations, along with the Consents to the Chief Constable which permit the Chief Constable to exercise corporate leadership of North Yorkshire Police. Members will of course be aware that in strict terms, neither a PCC nor a Mayor with PCC powers, can delegate powers to the Chief Constable – hence the use of a Scheme of Consent.
- 2.5. In essence, the overarching aim of the OPFCC-led transition programme has been to align with the direction set by the Combined Authority, to transfer the governance architecture on an 'as is' basis with the minimum of necessary change, ensuring safe and legal operation of the Combined Authority's policing, fire and crime responsibilities. This concept became known as 'plug and play' for brevity and ease of reference throughout the transition programme.
- 2.6. The most up to date published version of the Combined Authority Constitution is set out at Appendix A.
- 2.7. The following table sets out the chronology of the development of the Constitution and highlights provisions which have been adopted, adjusted and refined which have relevant to the functions previously performed by the PFCC:

Date	Edition	Summary of Variations	Details relevant to Policing, Fire & Crime functions
22 January 2024	1	<p>Constitution approved by the CA</p> <p>Part 9 not included at this stage</p>	<p>First constitution approved.</p> <p>Chief Fire Officer designated as Chief Officer in Part 1</p> <p>Mayoral PCC and FRA functions set out in Part 2</p> <p>Delegations to Chief Fire Officer included in Part 3</p> <p>Deputy Mayor for Policing and Crime (Fire and Rescue Functions) provisions set out in Part 3</p> <p>Financial Procedures (single set) set out at Part 6</p> <p>Code of Corporate Governance set out in Part 7</p> <p>Allowances for Mayor et al set out at Part 8</p> <p>Part 9 (Police &amp; Crime Commissioner Functions) not included at this stage.</p>
18 March 2024	2	<p>Updated to take account of CA decisions made since January 2024</p>	<p><b>Part 1 – Introduction and Articles</b></p> <p><b>Section I (Officers), para 5</b></p> <p><b>Insertion of para 5.2 to read:</b></p> <p><i>5.2 The Combined Authority have appointed Veritau as their internal auditors. The Police and Crime and Fire and Rescue functions use RSM as their internal auditors. This arrangement will continue, with the Head of Internal Audit being appointed from either Veritau or RSM, to be determined by the Combined Authority. The Head of Internal Audit will obtain assurance from their partner internal auditor, which will then allow the Head of Internal Audit to provide overall assurance to the Combined Authority.</i></p> <p><b>Section I (Officers)</b></p> <p><b>Insertion of para 7 to read:</b></p>

Date	Edition	Summary of Variations	Details relevant to Policing, Fire & Crime functions
			<p><i>7 Policing, Fire and Crime</i></p> <p><i>7.1 The Statutory Officers must make arrangements to ensure that their responsibilities in respect of the Policing, Fire and Crime elements of the Y&amp;NYCA powers and duties, are carried out robustly and effectively.</i></p> <p><i>7.2 Those arrangements must ensure compliance with all prevailing statutory and non-statutory guidance to Elected Local Policing Bodies and Fire and Rescue Authorities for the carrying out of the responsibilities of:</i></p> <p><i>7.2.1 Head of Paid Service for the staff employed by the Combined Authority deployed wholly or partly in relation to the Mayor’s PCC functions;</i></p> <p><i>7.2.2 Head of Paid Service for the staff employed by the Combined Authority deployed wholly or partly in relation to the Mayor’s FRA functions;</i></p> <p><i>7.2.3 Monitoring Officer in respect of the Mayor’s PCC and FRA functions; Section 73 Officer in respect of the Mayor’s PCC and FRA functions.</i></p> <p><i>7.3 Those arrangements must be set out in writing (in the form of Protocols and/or schemes of sub-delegation, delegating functions to Officers engaged by the Combined Authority deployed wholly or partly in relation to the Mayor’s PCC or FRA functions as the case may be) and subjected to regular review.</i></p> <p><b>Section K (Finance, Contracts and Legal Matters),</b></p> <p><i>para 1.1 1.1 The management of the Y&amp;NYCA’s financial affairs will be conducted in accordance with the Financial Procedures set out in Part 6 of this Constitution.</i></p> <p><i>Part 3 – Y&amp;NYCA Functions reserved to the Mayor</i></p> <p><b>Section BI, subsection 6 (Fire and Rescue)</b></p> <p><i>6.6 The Mayor will set the Fire and Rescue element of the general precept after consultation with the public of North Yorkshire, the Police, Fire and Crime Panel and the Chief Fire Officer. The policing precept is set separately.</i></p> <p><b>Section D, para 3 (c) and (d) (Fire and Rescue Functions)</b></p>

Date	Edition	Summary of Variations	Details relevant to Policing, Fire & Crime functions
			<p><i>Deletion of sub paras c and d on the basis that the local auditor for Fire and Rescue will be the same as appointed for the Combined Authority:</i></p> <p><b>Section E, para 2 (General delegations to all Chief Officers)</b>  <b>Insertion of para 2.1 to read:</b></p> <p><i>2.1 Any reference to these delegations in relation to the Chief Fire Officer are limited in scope to Fire and Rescue functions only. All other Chief Officers have these general delegations in respect of the Combined Authority as a whole.</i></p> <p><b>Part 7 Codes and Guidance</b>  <b>Section E, subsection 8 (Code of Corporate Governance, Managing Risks and Performance)</b>  <b>Amendment to para 8.7 to read:</b></p> <p><i>8.7 An independent audit committee will operate in line with the guidance of the Financial Management Code of Practice, in relation to the Mayor's Police and Crime functions.</i></p> <p><b>Inclusion of Part 9 – Police and Crime Commissioner Functions, containing the following summary provisions:</b></p> <ul style="list-style-type: none"> <li>• Introduction and Statement of Corporate Governance;</li> <li>• Mayor's PCC Scheme of Consent and Scheme of Delegation;</li> <li>• Appendices as follows <ul style="list-style-type: none"> <li>○ Terms of reference for <ul style="list-style-type: none"> <li>A. PCC Joint Independent Audit Committee,</li> <li>B. the Fire and Rescue Independent Audit Committee;</li> <li>C. and Executive Board<sup>1</sup></li> </ul> </li> </ul> </li> </ul>

<sup>1</sup> The Terms of Reference for Executive Board included as Appendix C in this iteration of the Constitution, omitted the Fire & Rescue Authority/Fire & Rescue Service, expect in the title/heading.

Date	Edition	Summary of Variations	Details relevant to Policing, Fire & Crime functions
			<ul style="list-style-type: none"> <li>• Provisions which relate to a Deputy Mayor for Policing and Crime.</li> <li>• Provisions permitting the Mayor to opt, upon commencement of their office to delegate any Fire and Rescue Functions to the Deputy Mayor for Policing and Crime, or to a Fire Committee.</li> <li>• A scheme of sub-delegation (intended to complement an appointment of Deputy Monitoring Officer and Deputy Section 73 Officer for specific functions from the Interim Monitoring Officer and Interim Section 73 Officer to allow key officers of the Police, Fire and Crime Commissioners Office to be able to continue working on the 7 May 2024 in a seamless manner.</li> <li>• Fused Financial Regulations and Contract Procedure Rules applicable to the Combined Authority including both the PCC and Fire and Rescue Functions.</li> </ul>
12 April 2024	3	Amendment to Part 4, Section A, paragraphs 2.1 to 2.6 (Audit and governance Committee) under Monitoring Officer decision.	<p>None of direct relevance to Policing, Fire or Crime</p> <p>The full detail of the amendments made on this date are set out in a Decision Record at <a href="https://yorknorthyorks-ca.gov.uk/wp-content/uploads/2024/04/240411-Urgent-Decision-Constitutional-Amendment.pdf">https://yorknorthyorks-ca.gov.uk/wp-content/uploads/2024/04/240411-Urgent-Decision-Constitutional-Amendment.pdf</a></p>
7 May 2024	4	Amendments to Part 9 (PCC & FRA Functions – Governance Documents) under Monitoring Officer urgent decision.	<p>55 Amendments, a summary of which is as follows:</p> <ul style="list-style-type: none"> <li>• Inclusion of Financial Regulations and Contract Procedure Rules – ensuring that financial arrangements of both Police, Fire and Crime Functions can continue to operate. PCC and FRA sets of Fin Regs and Contract Rules to operate in addition to the Combined Authority Regulations and Rules, until a full review can be undertaken.</li> <li>• Amendment to the Terms of Reference for the Executive Board restoring Fire and Rescue Service to membership of the Board.</li> <li>• Clarification around the Lead Finance Officer within OPFCC and the Fire and Rescue Service Amendment to the Scheme of Delegation</li> </ul>

Date	Edition	Summary of Variations	Details relevant to Policing, Fire & Crime functions
			<p>to provide clarity around the main delegations within this service area.</p> <ul style="list-style-type: none"> <li>• Finalisation of naming conventions for post titles.</li> <li>• Legislative provisions updated to reflect York and North Yorkshire Combined Authority Order 2023 (eg re Fire funding)</li> <li>• Legal &amp; typographical corrections.</li> </ul> <p>The full detail of the amendments made on this date are set out in an Urgent Officer Decision Notice at <a href="https://yorknorthyorks-ca.gov.uk/wp-content/uploads/2024/05/240507-Urgent-Decision-Constitutional-Amendment.pdf">https://yorknorthyorks-ca.gov.uk/wp-content/uploads/2024/05/240507-Urgent-Decision-Constitutional-Amendment.pdf</a></p>
31 May 2024	5		<p>Additional Delegations to officers added as follows:</p> <ul style="list-style-type: none"> <li>• Vetting decisions in respect of the Chief Constable (in accordance with prevailing College of Policing Guidance)</li> <li>• Vetting Decisions in respect of staff within the OPFCC</li> </ul>

### 3. OTHER GOVERNANCE ARRANGEMENTS OF RELEVANCE TO PCC AND FRA FUNCTIONS

#### 3.1. Statutory Officer Robustness and Effectiveness

- 3.2. The Constitution (at Part 1, Section I, Paragraph 7) requires the Head of Paid Service, s73 Officer and Monitoring Officer to make arrangements to ensure that the PCC and FRA functions have robust and effective ‘statutory officer’ oversight, aligning to the prevailing statutory and non-statutory guidance.
- 3.3. Such guidance includes but is not limited to
- 3.3.1. The Policing Protocol Order 2023
  - 3.3.2. The [Financial Management Code of Practice](#)
  - 3.3.3. The APCC Non-Statutory Guidance developed in partnership with the Home Office, entitled [Police And Crime Commissioner Guidance: The role and responsibilities of PCCs](#)
  - 3.3.4. The APACE Statement on the Role of the Monitoring Officer
  - 3.3.5. CIPFA Guidance
  - 3.3.6. Local Government Association Guidance
- 3.4. On 7 May 2024 personal appointments were made by the Interim Monitoring Officer and the Interim Section 73 Officer, to Simon Dennis and Michael Porter respectively. Taken together with the sub-delegations set out in the Constitution (principally in Part 9) these personal appointments make designated deputisation arrangements which broadly mirror and preserve in essence the pre-transfer responsibilities of the PFCC Monitoring Officer and PFCC Chief Finance Officer respectively, even though the formal obligation upon a PFCC to make such statutory officer appointments for PCC and FRA functions, does not apply to the Mayor<sup>2</sup>.
- 3.5. It follows that Simon Dennis, as the Deputy Monitoring Officer for Mayoral Policing, Fire and Crime Functions has been allocated responsibility as follows:
- 3.5.1. *To act as Deputy Monitoring Officer in relation to Police and Crime and Fire and Rescue Functions of the Combined Authority.*
  - 3.5.2. *To ensure that the Mayor, when exercising their Police and Crime and Fire and Rescue Functions, carries out these Functions lawfully, ensuring lawfulness and fairness in decision making.*

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<sup>2</sup> Schedule 6 to the York and North Yorkshire Combined Authority Order 2023, disapplies various statutory provisions applicable to PCCs – see <https://www.legislation.gov.uk/uksi/2023/1432/schedule/6>



- 3.5.3. *To ensure that the Deputy Mayor for Policing and Crime (if appointed), when exercising their Police and Crime Functions (and Fire and Rescue Functions if delegated), carries out these Functions lawfully, ensuring lawfulness and fairness in decision making.*
- 3.5.4. *To report to the Monitoring Officer and the Mayor/Deputy Mayor for Policing and Crime any matters that the Deputy Monitoring Officer believes is, or may be, illegal or amount to maladministration.*
- 3.5.5. *To provide advice and guidance on the conduct of the Mayor or Deputy Mayor for Policing and Crime (if appointed) in relation to their exercise of Police and Crime Functions and Fire and Rescue Functions (if applicable).*
- 3.5.6. *Delegations/sub-delegations from the Mayor which can be found in Part 9 of the Constitution of the Combined Authority. In the event of a conflict with the provisions of this deputy appointment and the Constitution, the provisions (including the delegations and sub-delegations) of the Constitution have precedence.*
- 3.6. It follows that Michael Porter, as the Deputy s73 Officer has been allocated responsibility as follows
  - 3.6.1. *Deputy Section 73 Officer in relation to Police, Fire and Crime Functions of the Combined Authority, in particular the detailed financial management responsibilities of the Section 73 Officer as set out in the Financial Regulations within Part 9 of the Constitution of the Combined authority.*
  - 3.6.2. *In respect of Police and Crime Functions of the Combined Authority, to act as financial advisor to the Mayor or Deputy Mayor for Policing and Crime (if appointed) exercising their Police and Crime Functions. This includes a responsibility to manage the Mayor's Police and Crime financial affairs as set out in sections 112 and 114 of the Local Government Finance Act 1988 and the Accounts and Audit Regulations 2003 (as amended).*
  - 3.6.3. *In respect of the Fire and Rescue Functions of the Combined Authority, to act as financial advisor to the Mayor or Deputy Mayor for Policing and Crime (if Fire and Rescue Functions are delegated) exercising their Fire and Rescue Functions.*
  - 3.6.4. *To sign contracts on behalf of the Combined Authority, limited to Policing and Crime and Fire and Rescue matters, irrespective of the value once they have been approved in accordance with the Constitution, except those which are required to be executed under the common seal of the Combined Authority.*
  - 3.6.5. *Delegations/sub-delegations from the Mayor which can be found in Part 9 of the Constitution of the Combined Authority. In the event of a conflict with the*

*provisions of this deputy appointment and the Constitution, the provisions (including the delegations and sub-delegations) of the Constitution have precedence.*

3.7. It has been agreed in principle that the following non-statutory protocols should be reviewed and refreshed to assist the smooth operation of the new arrangements:

3.7.1. the Memorandum of Understanding between the PCC and the Chief Constable (adopted in 2014)

3.7.2. the Monitoring Officer Protocol (last refreshed 2023)

3.7.3. the Chief Finance Officer Protocol (adopted in 2014)

### **3.8. Audit Committee Continuity**

3.9. The Interim Deputy Monitoring Officer of the Combined Authority has indicated that the process to review, refine and codify Audit and Governance Committee arrangements across the Combined Authority, is a process that will take between a year and eighteen months – following which it may well be that a period of transition will be required.

3.10. It follows that the current JIAC and IAC arrangements are expected to remain in place for at least the current financial year, and until the completion of that programme of review and transition.

### **3.11. Deputy Mayor for Policing and Crime**

3.12. Members will by now be aware that Mayor David Skaith has selected a preferred appointee for the role of Deputy Mayor for Policing and Crime.

3.13. Councillor Jo Coles will appear before the Police, Fire and Crime Panel on 12 June 2024 at a confirmation hearing. Subject to the approval of the Panel, Jo Coles will take up post on 8 July 2024.

3.14. The Mayor has indicated that he intends to delegate Fire and Rescue functions to the Deputy Mayor for Policing and Crime, meaning that the role will operate as (and be known as) Deputy Mayor for Policing, Fire and Crime or 'DMPFC'.

- 3.15. Further details of the terms of appointment are set out in the papers for the Police, Fire and Crime Panel which can be viewed [here](#).
- 3.16. Details of the granular delegations to be made to the DMPFC are yet to be worked through and will be reported to the Combined Authority (and of course to Members of these Committees) in due course. Those delegations will affect some of the arrangements set out in this paper – and in effect, will set out how the DMPFC and Officers will work together as a team to discharge the functions of PCC and FRA. Certain reserved functions can only be carried out by the Mayor, as before under the PFCC model. Certain functions previously reserved to the PFCC, can only be delegated to the DMPFC.
- 3.17. During the period between 7 May 2024 and the commencement in post of the DMPFC, Mayor Skaith was content to authorise the Corporate Director of the OPFCC to exercise general urgency powers by reference to normal conventions, so that robust continuity was maintained in the immediate term. This has worked smoothly to date.

#### **4. COMMENTARY**

4.1. The development of the Constitution was a lengthy and complex endeavour, with fluctuating and uncertain timescales and dependencies. A non-exhaustive list of the objective circumstantial factors were

4.1.1. This is the first occasion upon which a transfer of an existing Police, Fire & Crime Commissioner governance architecture has been attempted. It is also the first occasion when the functions of PCC and FRA have been incorporated into a Combined Authority at the same time. It is notable than in York & North Yorkshire, the Combined Authority was itself only constituted in January 2024.

4.1.2. There was some delay in the passing of the secondary legislation<sup>3</sup> creating the Combined Authority, which meant that some uncertainty endured for longer than was convenient, about the detailed manner in which the Devolution Scheme (upon which the public had been consulted) had been transferred into legislation.

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<sup>3</sup> The York and North Yorkshire Combined Authority Order 2023 was made on 19 December 2023, coming into force on 20 December 2023 (except some PCC provisions which came into force on 7 May 2024). See <https://www.legislation.gov.uk/uksi/2023/1432/contents>

- 4.1.3. There was exploratory dialogue and correspondence between the Association of PCCs and individual PCCs from several areas across the country (including but not limited to North Yorkshire) and Ministers, seeking flexibility in the model and legislation for Combined Authorities and County Combined Authorities, to permit Mayors at their discretion to make additional appointments of statutory officers for policing and crime on the one hand, and fire on the other, to ensure that the effectiveness of governance and internal control is not diluted by the mandatory fusion of those roles into a single structure of three such statutory officers. The option of such flexibility was not supported by Ministers.
- 4.1.4. The complexity of the work required to develop a functional codified set of financial and contract regulations, for example, exceeded the time available.
- 4.2. As the Constitution is further refined and adjusted over time, lessons to be learned from the process of its development will be noted and built upon.
- 4.3. The Chief Constable remains a separate corporation sole after 7 May 2024. Arrangements for the maintenance of a separate Police Fund, are the same under the Combined Authority as under the PFCC model.
- 4.4. The Combined Authority becomes the Fire and Rescue Authority under the new model. There is no formal requirement to maintain a separate Fire Fund; and no separate fire precept.
- 4.5. The Combined Authority became the employer of all of the staff employed by the former Police, Fire and Crime Commissioner; and all of the staff serving in North Yorkshire Fire and Rescue Service.
- 4.6. Some complexities are already emerging which carry financial impacts, hitherto unanticipated. For example, the harmonisation of Local Government Pension Scheme employer pension contributions across the three bodies of staff now employed by the Combined Authority, creates a recurring pressure on the Fire and Rescue Authority Medium Term Financial Plan. This has been reported to the Combined Authority and the Executive Board.
- 4.7. These new arrangements (and the differences between them) will take time to refine and embed.
- 4.8. The position set out at paragraph 3.8 will, it is hoped, afford Members the certainty and continuity to continue confidently to discharge their respective terms of reference on an ongoing basis.
- 4.9. Noting that the provisions of the Constitution other than Part 9, were subjected to scrutiny by the Audit and Governance Committees of the Constituent Authorities (North Yorkshire Council and City of York Council) but that there was no practicable

opportunity for such scrutiny in respect of Part 9 and the other PCC and FRA provisions, Members may feel able to bring such scrutiny to bear as part of this annual review, for the benefit of the Mayor, the Combined Authority and the public of York and North Yorkshire.

- 4.10. Members' assistance with the process of further reviewing and perfecting the Constitution (in respect of the PCC and FRA functions of the Mayor) and refining ways of working to take advantage of the Combined Authority model, will be of great assistance.

## **5. RECOMMENDATIONS**

### 5.1. Members are invited to

- 5.1.1. Review the information provided in respect of the development of the Constitution, with special regard to the provisions relating to (as a particular focus for JIAC) the Police and Crime Commissioner functions and (as a particular focus for IAC) the Fire and Rescue Authority functions; and
- 5.1.2. Review and feed back on the Constitution in its most recent iteration, to inform its further refinement by the Combined Authority during the course of its first year of operation, as planned.
- 5.1.3. Note the proposed next steps set out at paragraph 3.7
- 5.1.4. Note the proposed arrangements for preservation of the Joint Independent Audit Committee (Policing and Crime) and Independent Audit Committee (Fire and Rescue) as set out at paragraphs 3.8 - 3.10
- 5.1.5. Make such observations as they think fit on the matters set out in this annual review, the first in respect of the new constitutional arrangements.
- 5.1.6. Indicate what further reports Members require 'in year' to exercise oversight of constitutional frameworks, under the new arrangements.

## **6. AUTHOR**

Simon Dennis

Corporate Director OPFCC

Combined Authority Deputy Monitoring Officer for Mayoral Policing, Fire and Crime Functions

5 June 2024

## **APPENDIX A**

The Combined Authority Constitution in its most recent published form is accessible at <https://yorknorthyorks-ca.gov.uk/governance-and-meetings/policy-and-procedures/>