



PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	POLICY AND RESOURCES
DATE:	19 JUNE 2014
REPORT OF THE:	HEAD OF ECONOMY AND INFRASTRUCTURE JULIAN RUDD
TITLE OF REPORT:	PROPOSED LEGISLATION CHANGES RE COMBINED AUTHORITIES AND ECONOMIC PROSPERITY BOARDS
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 To agree a Ryedale District Council response to current proposals to amend legislation relating to combined authorities and economic prosperity boards.

2.0 RECOMMENDATION

- 2.1 It is recommended that the 'proposed comments' within this report be forwarded to DCLG as the response of this Council to the proposal to amend legislation relating to combined authorities and economic prosperity boards.

3.0 REASON FOR RECOMMENDATION

- 3.1 To safeguard the interests of the economy, businesses and residents of Ryedale and the functional economic area within which it falls.

4.0 SIGNIFICANT RISKS

- 4.1 There are no significant risks.

5.0 POLICY CONTEXT AND CONSULTATION

- 5.1 This matter relates to Council Aim 2: 'To create the conditions for economic success in Ryedale'.
- 5.2 This report is in response to a consultation by Government with local authorities, LEPs, the CBI, the LGA and the Institute of Directors on potential legislative changes regarding the establishment of combined authorities. No formal local consultation has been undertaken to inform this Council's response.

REPORT

6.0 REPORT DETAILS

Background

- 6.1 The Local Democracy, Economic Development and Construction Act 2009 enables the creation of Combined Authorities (CAs) and Economic Prosperity Boards (EPBs). CAs are a type of authority which may be set up, by the Secretary of State, at the request of local authorities in a specified area in order to undertake joint functions relating to effective delivery of sustainable economic development and regeneration, including transport. Some provisions are taken from the Local Transport Act 2008, including the power to transfer the functions of an integrated transport authority to the combined authority. EPBs are subject to the same statutory process, and can pool economic development and regeneration powers, but not assume transport duties. Both are intended to be sub-regional structures designed to support growth, and, in the case of CAs, transport. EPBs and CAs operate within the wider framework of national policies, regional strategies and sustainable community strategies.
- 6.2 The Department for Communities & Local Government recently launched a consultation to seek views on proposals to amend legislation relating to CAs & EPBs. The consultation has arisen from the Government's response to the Heseltine Review. This stated that they would set out a "view of a future where local authorities put economic development at the heart of all they do; collaborating, including with private sector partners across a functional economic area", including reviewing legislation regarding the forming and operation of CAs and EPBs.
- 6.3 The consultation paper (attached at Annex A) invites comment on proposed changes to the primary legislation regarding CAs and EPS, which the Government believes would fulfil its commitment to amend legislation as described above. The consultation also invites views as to whether any further changes in addition to those set out in the paper are necessary to deliver this aim.

The Current Consultation: Proposals relating to combined authority and economic prosperity board legislation

- 6.4 The Heseltine Review of economic growth in the UK ('No Stone Unturned in the Pursuit of Growth' (2012)) outlined a policy agenda that put increased emphasis on the role of Functional Economic Areas (FEAs) in securing increased economic productivity and prosperity. To strengthen FEAs, Lord Heseltine recommended that Government should 'remove all legislative barriers that are preventing local authorities from collaborating within FEAs' including legislation relating to CAs and EPBs, as part of a wider agenda on local growth and fiscal devolution.
- 6.5 This consultation outlines that the Government regard the amendment of legislation relating to CAs and EPBs as a key policy in enabling local authorities within FEAs to create 'opportunities for greater collaboration and increased economic development'. The proposals, which are outlined below, seek to increase the flexibility associated with the establishment of CAs and EPBs, removing restrictions preventing local authorities from joining CAs and EPBs within their FEA, amending how CAs exercise their functions, their administration and scrutiny.

Proposal 1 - To enable councils with non-contiguous boundaries to form or join combined authorities or economic prosperity boards

- 6.6 Under current legislation, local authorities that do not share a contiguous boundary are unable to form or join CAs or EPB. The Act currently requires that no part of the CA or EPB area is separated from the rest of it by one or more local government

boundary, requiring that the local authorities that make up the CA or EPB area have contiguous boundaries. For instance, current legislation restricts the City of York Council from being anything more than a non-voting member of the newly formed West Yorkshire CA (Bradford, Wakefield, Calderdale, Kirklees and Leeds).

- 6.7 The legislation also requires that there is no local government area that is surrounded by local government areas that are within the CA or EPBs, but the 'surrounded' local government area is not within the CA or EPB, preventing a 'doughnut shape' CA or EPB being formed. For example, this would prevent a CA or EPB covering North Yorkshire with the exception of the City of York Council.
- 6.8 The Government proposes to remove this restriction and allow local authorities that are in the **same** FEA without contiguous boundaries to form or join a CA or EPB. The Government believes the change would remove a significant barrier to collaboration across a FEA – the area over which the local economy and its key markets operate – and which will not necessarily align with administrative boundaries. They also highlight the need to ensure that no council is forced into joining a CA or EPB due to the change, and that significant safeguards are built into the proposals to prevent adverse effects from the establishment of the CA or EPB on those local authorities which choose not to be a member, either by choice or because they are not in the FEA.

Question 1: Do you agree with proposal 1?

a) What benefits, if any, do you see from making the change?

Proposed response

The benefits of this approach, in terms of sharing of resources, are significantly outweighed by the risks of this proposed approach.

b) What risks, if any, do you see from the change and how can these be mitigated?

Proposed response

Given the circumstances and the geography of the North Yorkshire and surrounding area, the local risks of this change are:

- This would not reflect the true nature of functional economic areas, where the housing market, transport links, travel to work areas, skills provision and other key aspects of economic activity occur across shared boundaries. In reflection of this, the planning for growth - and for improvement of infrastructure to accommodate development – should also occur across shared boundaries, as reflected in the duty to cooperate.*
- In North Yorkshire, this has the clear potential to introduce a new layer of complexity and hinder positive, collaborative and properly aligned planning for infrastructure delivery and growth.*
- This would not reflect local identities and would be counter to communities and businesses perceptions of civic identity and local infrastructure priorities.*
- Confusion between the roles and boundaries of LEPs and combined authorities, to the detriment of strategic planning and sharing of resources within some LEPs.*

Proposal 2 - To enable a county council to become a member of a combined authority or economic prosperity board with respect to a defined part of its area

- 6.9 In line with the non-contiguous restrictions, under section 103 (6) of the 2009 Act, it is not possible for only part of a county council area to become part of a combined authority. A county council cannot form a CA or EPB unless this includes all the district authorities within its boundaries.

- 6.10 The proposed change would enable a county council, such as North Yorkshire, to become a member of a CA or EPB in relation to a defined part of its area. The defined part of the county council would be the same area as that of the district councils that also wish to be members of the CA or EPB. This would allow a county council to become a member of a CA or EPB with respect to part of its administrative area, without requiring that all of the district authorities within the county are included as members of the CA or EPB. The county council would retain its statutory duties in relation to growth and transport for the remaining district authority areas.
- 6.11 The Government states that councils that come forward with a proposal for a CA or EPB for only part of a county council's administrative area must demonstrate how this will impact upon the remaining area of the county council, and how the remaining area would operate the functions efficiently and effectively. This would inform the Secretary of State's consideration of the extent to which effective and convenient government is secured, as required by the Act (para 23).

Question 2: Do you agree with proposal 2?

a) What benefits, if any, do you see from making the change?

Proposed response

The benefits of this approach, in terms of sharing of resources, are significantly outweighed by the risks of this proposed approach.

b) What risks, if any, do you see from the change and how can these be mitigated?

Proposed response

Given the circumstances and the geography of the North Yorkshire and surrounding area, the local risks of this change are:

- The danger of an unequal provision of resources across the County would be particularly high, with a well-catered for urban hinterland profiting to the disadvantage of more remote rural areas.*
- This would be a disruptive and complicating form of governance in two-tier areas with established roles and joint working.*

Proposal 3 - To enable a combined authority or economic prosperity board to deliver different services in different parts of its area

- 6.12 Under current legislation, a CA must deliver the same economic development, regeneration and transport functions across the authorities that are members of the CA. Similarly, an EPB must exercise economic development and regeneration functions across the whole of its area. This has particular implications in two-tier areas, where responsibilities for transport, economic development and regeneration are split between county and district authorities. Under current legislation, a combined authority must hold the same responsibilities relating to transport, regeneration and economic development across the whole of its area, and cannot provide transport services for one district area, and not another.
- 6.13 The proposed changes would allow a CA or EPB to deliver its functions on a 'patchwork basis'. In a two-tier area if a district council joined the CA or EPB and the county council did not, the county council could retain control of transport and other county level functions and the CA would only take over functions relating to economic development and regeneration that are held at district level. Similarly, where a county council wishes to join a CA or EPB, but one or more of the district councils do not, the CA would only assume responsibility for those transport, economic development and regeneration functions that are held at county level in relation to those districts that do not wish to join.

Question 3: Do you agree with proposal 3?

a) What benefits, if any, do you see from making the change?

Proposed response

This approach may suit the politics of individual authorities; however, any localised advantage is significantly outweighed by the risks identified below.

b) What risks, if any, do you see from the change and how can these be mitigated?

Proposed response

The major risks are:

- This is fragmented approach is contrary to the aim of coordination and planning for growth across functional economic areas.*
- This would lead to a confusing patchwork of arrangements that is likely to be detrimental to democratic participation and understanding and to the involvement of the private sector at a strategic level. Given the further complication of LEP boundaries that did not reflect these arrangements, and concern in certain areas regarding the accountability of LEPs themselves, it would be increasingly difficult to engage with businesses and plan between local authorities, particularly adjoining authorities in two-tier areas.*

Proposal 4 - To simplify the administrative processes involved in making changes to an existing combined authority or economic prosperity board

- 6.14 Currently, the process for establishing a combined authority requires a local authority or authorities to carry out a review which may recommend the establishment of a CA for their area, or including their area. They must publish a “scheme” to this end. Publication of the scheme requires the consent of the local authority areas covered by it.
- 6.15 The Secretary of State must consult the authorities that would be covered by the combined authority, and must be satisfied that the establishment of a CA will contribute to economic development and transport policy: The Secretary of State may make an order establishing a CA for an area only if, having regard to a scheme prepared and published under section 109, the Secretary of State considers that to do so is likely to improve—
- (a) the exercise of statutory functions relating to transport in the area
 - (b) the effectiveness and efficiency of transport in the area
 - (c) the exercise of statutory functions relating to economic development and regeneration in the area, and
 - (d) economic conditions in the area.
- There is also a requirement that in making the order, the Secretary of State must have regard to the need:
- (a) to reflect the identities and interests of local communities, and
 - (b) to secure effective and convenient local government.
- 6.16 A Draft Order is then laid and Parliamentary approval is required before the Order can be made, establishing the CA or EPB. The same process is required before changes can be made to CA or EPB, for example, in order to amend the functions, change the boundaries of, or dissolve a CA or EPB board.
- 6.17 The Government is seeking views on the above process for establishing and making changes to an existing CA or EPB. The consultation argues that simplifying or reducing these processes could decrease the administrative inconvenience of some of the procedural requirements, bringing forward more rapid change, more effective and convenient government, greater efficiency and economic growth. The consultation does not provide specifics on how they intend to amend processes or procedures, and seeks suggestions from authorities.

Question 4: Do you agree with proposal 4, and if so what procedural simplifications and changes would you wish to see?

a) What benefits do you see arising from such changes?

Proposed response

Given concerns raised in response to the proposals within this consultation this Authority considers there to be very limited benefits to the introduction of such procedural changes.

b) What risks, if any, do you see from such changes and how can these be mitigated?

Proposed response

The major risk is that changes would be introduced, without due consideration and input from affected authorities and partners, that would be counter to joint working to improve infrastructure and facilitate growth, particularly with two-tier areas.

Proposal 5 – clarify scrutiny arrangements in combined authorities and economic prosperity boards

- 6.18 Existing CAs and EPBs have one or more overview and scrutiny committees which hold members of a CA or EPB to account. Brandon Lewis MP stated during a recent Parliamentary debate that “Good governance practice will mean that such committees will be politically balanced, enabling appropriate representation of councils’ minority parties”; however, there is no legal requirement for minority party representation in the orders.
- 6.19 Following this statement and the establishment of four CAs in April 2014, the Government wrote to the CAs setting out guidance on good practice with regards to overview and scrutiny committees. The orders provide that each CA must set up at least one overview and scrutiny committee, made up of at least one councillor from each member authority. No councillor who is a member of the CA itself may sit on the overview and scrutiny committee.
- 6.20 The Government acknowledges that current evidence suggests that existing CAs are following good practice, but proposes to place guidance on a statutory footing “to reinforce the confidence all have in the effectiveness and accountability of CAs and EPBs”. Accordingly, the Government believes that legislation for CAs and ESP should be amended to mandate that every CA or EPB has one or more overview and scrutiny committee(s), which would be constituted and operate in accordance with the good practice issued in April 2014. The Government is proposing to change legislation to ensure this requirement will in future apply to every CA and EPB, including those already established.

Question 5: Do you agree with this proposal to change legislation?

Proposed response

Support in principle, although it is not clear how such arrangements would work in two-tier areas.

Question 6: Do you have any further changes that you would like to see made to combined authority and economic prosperity board legislation, in particular to ensure that current policy as described in this document can be given full effect? If yes, please explain what these are and why you think they are necessary.

Proposed response

It is vital that any changes introduced regarding CAs and EPB require due consideration to be given to the impact of any proposed changes on all of the areas affected, including the remaining parts of counties not included within the new body.

7.0 IMPLICATIONS

7.1 The following implications have been identified:

- a) Financial
No current financial implications given that these proposals are at consultation stage.
- b) Legal
No current legal implications given that these proposals are at consultation stage.

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