

North Tyneside Council Report to Council Date: 17 March 2016

ITEM 7

Title: Combined Authority –
Proposed Devolution
Agreement

Portfolio(s): Combined Authority

Cabinet Member(s): Mrs N Redfearn,
Elected Mayor

Report from Service
Area:

Combined Authority

Responsible Officer:

Patrick Melia
Chief Executive

(Tel: (0191) 643 2001)

Wards affected:

All

PART 1

1.1 Executive Summary:

On 23 October 2015 the North East Combined Authority (NECA) signed a proposed Devolution Agreement (the proposed Agreement) with Government setting out the proposed transfer of powers for employment and skills, transport, housing, planning, business support and investment from Government to NECA. In addition, an allocation of revenue funding for capital financing of £30 million a year planned to be over a period of 30 years would be given to NECA to help create an investment fund. This and other proposed additional funding that will be included in the Investment Fund has the potential to increase investment by in excess of £1.5 billion over the 30 year period. The proposed Agreement also paves the way for further devolution in the future and for the reform of public services including health and social care and the approach to support for employment and skills.

Included in the proposed Agreement is a proposal that NECA becomes a Mayoral Combined Authority. This proposal, as with all aspects of the proposed Agreement, is subject to the formal consent of NECA and its Constituent Authorities.

There has been extensive consultation with the public and business across the NECA area in relation to the proposed Agreement, including the provision of an Elected Mayor. The extent of the consultation with the public, business and others is set out in paragraph 2.3 of the Report and Appendix 2.

Although approval of the proposed Agreement is a Cabinet (Executive) responsibility, the Constituent Authorities of NECA are consulting with their respective Councils to elicit their views on the proposals prior to progressing with the decision making. The view of Council will be considered by Cabinet on 23 March 2016 when a formal decision is taken on whether to support the proposed agreement and to consent to the introduction of an elected Mayor for the NECA.

1.2 Recommendation(s):

It is recommended that Council:

- (1) Note the contents of the proposed Devolution Agreement at Appendix 1 including the proposal that the North East Combined Authority becomes a Mayoral Combined Authority; and
- (2) Support the proposed Devolution Agreement including the creation of a Mayoral Combined Authority for the North East Combined Authority area to enable Cabinet to have regard to the views of Council in future decision making in relation to the proposed Devolution Agreement including the provision of an Elected Mayor for the North East Combined Authority.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 22 February 2016.

1.4 Council Plan and Policy Framework

The report contributes towards the following priorities of the 2014-18 Our North Tyneside Plan:

Our People will be listened to by services that respond better and faster to their needs and our people will be supported to achieve their full potential, especially our children and young people.

Our places will be places that people like living in and will attract others to either visit or live, our places will have more quality affordable homes and our places will work with residents, communities and businesses to regenerate the borough.

Our economy will grow by building on our strengths, including existing world class companies in marine technology and engineering, our economy will have the right conditions to support investment and create new jobs, especially apprenticeships and our economy will have local people that have the skills that businesses need.

1.5 Information:

Introduction and Background

- 1.5.1 In April 2014 to promote the economic regeneration and prosperity of the area, seven local authorities of the North East formed the North East Combined Authority. The Members are County Durham, Gateshead, Newcastle, Northumberland, South Tyneside Sunderland and North Tyneside, working with the North East Local Enterprise Partnership, the Combined Authority establishes a statutory democratic framework for decision making across the region. It is not a new tier of government, but a basis for collaboration between authorities with a common purpose. The existence of the Combined Authority does enable the devolution of decision making powers to the North East region.

- 1.5.2 In January 2015, the North East Combined Authority Leadership Board agreed and consulted on a set of outline proposals to assess support for devolution of powers and resources from Government. The initial process of engagement with the public, local and regional stakeholders, generated significant interest and the principle of devolution to the North East attracted support.
- 1.5.3 Following consultation, the North East Combined Authority Leadership Board published a Statement of Intent and commenced a process of detailed negotiation with Treasury. A proposed agreement was signed by the Leadership Board, the Chancellor and Commercial Secretary to the Treasury on 23 October 2015. Similar Agreements have also been signed by Greater Manchester, Sheffield City Region, the Tees Valley and West Midlands Combined Authorities.

The Proposed Agreement

- 1.5.4 The proposed Agreement is attached to this Report at Appendix 1. The proposed Agreement is conditional on the outcome of a number of matters including the legislative process, the Spending Review, further public consultation in addition to the agreement of the Constituent Authorities and NECA.
- 1.5.5 In summary the proposed agreement includes:
- Additional resources of £30 million a year revenue funding, committed for 30 years, to support the financing costs of a North East Investment Fund worth up to £1.5bn
 - An allocation from the Local Growth Fund, committed until 2020, replacing the current project-by-project bidding system.
 - The option to raise a further £25-30 million a year through a supplement on business rates to fund infrastructure, subject to support from business through the Local Enterprise Partnership.
 - An Employment and Skills Board (Chaired by a Government Minister at the invitation of NECA) to oversee creation of a devolved and integrated system to raise skills, help people into work, improve the life chances of young people, increase employment and overcome skills shortages experienced by North East employers.
 - A fully integrated transport system, bringing together responsibilities for rail, local highways, metro, buses and ferries. This would include a consolidated local transport budget, integration of the metro with rail services, long-term investment in the metro system, and the opportunity to deliver a new approach to bus services through powers in the forthcoming Buses Bill.
 - Greater local control over the management of around €500 million in European funding.
 - Devolution of business support, and greater responsibility for securing inward investment in the region.
 - Establishment of a North East Land Board to identify land for new homes and to improve the quality of existing housing in the North East.
 - A Commission for Health and Social Care Integration to consider

opportunities for devolution and integration to reduce inequalities and improve the health and wellbeing of residents across the region; reporting by Summer 2016.

- A review of regulatory and planning powers that could be deployed by councils to create safer, more attractive environments for all of the region's communities. For example, this could allow local bylaws to improve public health, which currently can only be delivered with the approval of Ministers.
- Identifying ways for the North East to play a major role in the UK's business, cultural and sporting events.
- A commitment from both Government and the Combined Authority to consider further opportunities for devolution over time.

1.5.6 Throughout the negotiation process, Ministers made clear that devolution was conditional on the creation of an elected Mayor for the Combined Authority's area. They argued that significant transfer of responsibilities would only be appropriate if the public could hold an individual elected person accountable for the exercise of those responsibilities. The Leaders have expressed opposition to this precondition, arguing that devolution should not depend on a particular model of governance imposed from the centre. Nevertheless, in the interests of securing the region's proposals for devolution, and as a basis for future devolution opportunities, the Leadership Board has kept an open position on this issue during the negotiations with Government and has sought to establish a model for an elected mayor that included appropriate checks and balances.

1.5.7 The proposed devolution agreement provides for a Mayor to work within the Combined Authority, which they would Chair, through a Cabinet made up of the Leaders of the local authorities, which includes the North Tyneside Elected Mayor. The Mayor would be subject to the Combined Authority's Constitution and they would only have the power to make decisions in relation to those matters specifically allocated to them by legislation. The Cabinet (and Overview and Scrutiny) will examine the Mayor's annual draft budget, plans and strategies and will be able to amend them if two-thirds of the local authority appointed Cabinet members agree to do so. In particular, any decision making powers which are not specifically allocated by legislation to the Mayor are vested in the Combined Authority.

1.5.8 Notwithstanding these important checks and balances, it is clear that the Mayor would be an influential and visible figure within and beyond the region.

1.5.9 Further information on the governance of the Mayoral Combined Authority is set out in Appendix 3, which reflects the current understanding of decision-making principles and arrangements as discussed with government officials. The final form of governance arrangements will be subject to Ministerial agreement and the outcome of a governance review and Scheme, which are yet to be created.

1.5.10 For each of the Combined Authority areas entering into a proposed Devolution Agreement with the Government the decision making responsibilities and powers of their Elected Mayor are set out. In relation to NECA it is proposed that the Mayor will have decision making responsibilities and personal accountability in relation to:

- Integrated transport including rail, Metro, bus and ferry services as described above,
- Strategic planning through the creation of a Planning Development Framework which will provide an overarching framework for development in the North East reflecting the specific needs of local communities, supporting local development frameworks, and incorporating the duty cooperate between the Constituent Authorities. This is not a Regional Spatial Strategy and does not convey any powers to grant or refuse planning consent and the decision making powers in relation to planning applications will remain with the Constituent Authorities.
- The power to apply a supplement on business rates up to a cap to fund infrastructure projects with the agreement of the local business community. Such agreement is currently provided through a ballot of affected businesses.
- The Mayor will Chair the North East Land Board which will identify land in public ownership (such as health bodies or government departments), suitable for housing or other use to support economic development

1.5.11 It is currently envisaged that should the Local Authorities and the Leadership Board consent to the creation of the Mayoral Combined Authority an election for a Mayor would take place in May 2017.

1.5.12 The proposed Agreement was conditional on the completion of the legislative processes, the Spending Review, further public consultation, agreement of the Constituent Authorities of NECA and formal endorsement of the Leadership Board of NECA.

1.5.13 The primary legislation in the form of the Cities and Local Government Devolution Act 2016 is now in place and secondary legislation will be required to enable the creation of a Mayoral Combined Authority and the devolution of powers and responsibilities. If the devolution proposals are supported the secondary legislation would be brought forward later this year.

Finance and Funding

1.5.14 The negotiations on devolution have taken place against the background of austerity. Devolution cannot reverse the cuts. But it can create more freedom for the region to set its own priorities, and greater financial flexibility to invest for the longer-term. The Devolution Agreement sets out a principle of fair funding, which Leaders have discussed directly with the Commercial Secretary to the Treasury. The Spending Review has now been completed, and discussions are underway to deliver on the agreed principle of fair funding, and to ensure newly devolved responsibilities are fairly resourced.

1.5.15 The proposed agreement would enable NECA to create an Investment Fund worth up to £1.5 billion, to facilitate a programme of capital investment across the region, with an initial allocation of revenue funding for capital financing of at least £30 million a year potentially for 30 years subject to satisfactory compliance with a 5 yearly gateway process currently being developed with Government. The fund would also include the region's share of Local Growth Funding and other devolved funding streams.

Certain decisions on European regional funding would also be made in the region allowing the North East to influence the integration and alignment of investments with other aspects of the devolution deal.

1.5.16 Further public consultation has taken place across the region since the proposed agreement was signed to capture the views of partners, stakeholders and residents on

the agreement. These events were well attended and details of the outcome of that engagement are contained in Appendix 2. The consultation has demonstrated material support for the principle of devolution, and for using the current agreement as a platform for further opportunities. There are different views on whether the mayoral model is appropriate to the North East, but recognition that this is a strict condition set by government in order to secure devolved responsibilities.

1.6 Decision options:

Council is being consulted on the proposed Devolution Agreement to enable the views of Council to be taken into account by Cabinet when considering whether to consent to the creation of a Mayoral Combined Authority. Council is not being asked to make a decision in relation to the proposed Devolution Agreement.

1.7 Reasons for recommended option:

The views of Council are sought by Cabinet. As a result of the operation of the Local Government (Functions and Responsibilities) Order 2000, matters concerning the creation of a Mayoral Combined Authority, the transfer of new powers and responsibilities to the NECA and allocation of specific decision making powers to an Elected Mayor are Executive decisions and Council cannot therefore make a decision in relation to this matter on behalf of the Authority.

1.8 Appendices:

Appendix 1: Proposed Devolution Agreement for the North East Combined Authority.
Appendix 2: Devolution to the North East Consultation and Engagement Report – February 2016
Appendix 3: Proposed Governance Arrangements

1.9 Contact officers:

Vivienne Geary – Head of Law and Governance and Monitoring Officer (Tel: (0191) 643 5339)
John Barton – Lawyer (Tel: (0191) 643 5354)
Janice Gillespie- Head of Finance (Tel: (0191) 643 5701)

1.10 Background information:

The following background papers/information have/has been used in the compilation of this report and are available at the office of the author:

- Spending Review and Autumn Statement 2015 presented to Parliament November 2015.
- The Cities and Local Government Devolution Act 2016.

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

- 2.1.1 If approved, the Devolution agreement will bring considerable additional resources from 2016/17 onwards to the NECA area. These additional resources will be administered by the NECA rather than the individual local authorities. The use of these resources will be determined by the Elected Mayor or Leadership Board following consultation.
- 2.1.2 The Devolution agreement includes the provision of a revenue grant of £30million a year potentially for 30 years to create a North East Investment Fund. This grant is subject to a gateway test every 5 years and NECA is working with the Government to ensure that the gateway test is reasonable to enable the maximum grant to be released over the period and to give the funding certainty needed to support prudential borrowing for capital investment purposes. A pipeline of potential capital projects and opportunities for Investment and Business Finance are currently being developed for consideration by the NECA Leadership Board later this year, with decisions for investment in future years being taken by the NECA Cabinet, which will include the Mayor.
- 2.1.3 This grant is also intended to fully cover the costs of the devolution agreement, including the cost of the capacity needed to achieve the devolution objectives; the cost of mayoral elections and the costs of the mayoral combined authority in the next two years. The legislation enables the Mayor to raise a council tax precept in the following years to fund the cost of the Mayor's budget. The earliest that this could occur is likely to be 2018/19.
- 2.1.4 The agreement enables NECA to submit a proposal for a 5 year Local Growth Fund grant. The multi year nature of the grant would provide greater funding certainty and flexibility and greater local control over how the money is to be invested, which should help accelerate the delivery of high priority capital investment programmes. The national level of available funding is expected to be confirmed after the March Budget
- 2.1.5 Work is underway to secure a substantial place based delegated Transport Budget for 2016/17 onwards, including highway and transport capital and revenue grants. The scale of this budget is expected to be announced shortly and this resource would also be included in the Investment Fund.

A Fair Funding Settlement

- 2.1.6 The proposed Devolution agreement referred to a "fair funding settlement" to mitigate against the risk of the North East suffering disproportionately from future reductions in funding. The Spending Review made clear that austerity will continue for local government until at least 2020. The results of the Local Government Revenue Grant Settlement for 2016/17 did not change the fact that the North East has been the hardest hit by the withdrawal of Government funding since 2010 and has had the largest cut in spending power, while facing above average cost pressures.
- 2.1.7 The provisional grant settlement for 2016/17 published in December 2015 was "fairer" than in previous years, in that the average percentage cut in total Grant and Business Rate income funding for Councils in the NECA area was below the national average. However the cut in "core spending power" which includes the ability of councils to raise income from council tax is still showing a slightly higher cut than other regions, although the difference is less than in previous years. In addition the impact of the transitional grant and extra rural grant funding awarded to some authorities has acted against the fair

funding principle. However this may be expected as the new funding processes recently introduced will take some time to embed. These are important issues and work is ongoing with Government to further improve the fairness of the funding settlement and is part of the consideration and consultation on changes to the local government funding arrangements.

2.2 Legal

- 2.2.1 Decisions relating to the implementation of the proposed Devolution Agreement are executive decisions and therefore the responsibility of Cabinet.
- 2.2.2 The Cities and Local Government Devolution Act 2016, enables the creation of Mayoral Combined Authorities. A key principle of the legislation is that changes to the powers and responsibilities of the NECA and the introduction of an elected Mayor can only proceed with the agreement of the Constituent Authorities of which North Tyneside Council is one, and with NECA. Ministerial consent is also required.
- 2.2.3 The creation of a Mayoral Combined Authority and devolution of new powers and responsibilities requires new secondary legislation in the form of Orders. Two Orders are currently envisaged, one to provide for an elected Mayor for NECA and their initial term of office, the initial Order, and a further Order devolving new responsibilities to NECA, and the allocating specific decision making responsibilities to the Mayor. Any responsibility which is not specifically allocated to the Mayor remains the responsibility of the Leadership Board which will be renamed the "Cabinet".
- 2.2.4 The Department of Communities and Local Government (DCLG) have advised that the legislation is proposed to be created in two phases, the initial Order must be in place by 4 November 2016 at the latest and that the Parliamentary processes would be commenced with a view to the first Order being laid before Parliament prior to the summer recess. Subsequent Order(s), that require additional public consultation before being made must be in place early in 2017.
- 2.2.5 The proposed devolution Agreement provides that the Mayor will be the Chair of the Cabinet but the Mayor will not have a casting vote. Decisions taken by the new Cabinet and decisions that are the responsibility of the Mayor are to be subject to "Call in" by the Overview and Scrutiny Committee, which would be a new power for that Committee. Where a Mayor is not supportive of decision taken by Cabinet they will also have the power to ask for such a decision to be reconsidered but, if reconfirmed, the matter will proceed without Mayoral support.
- 2.2.6 Decisions in relation to the responsibilities of the NECA (Cabinet) may, like now, be taken by Committees, sub Committees and Officers if delegated. A Mayor would also have the option to delegate their decision making responsibilities.
- 2.2.7 The responsibilities of the Mayor not otherwise funded through government grants will be funded through a precept. The budget proposed by the Mayor for their responsibilities may be changed with the agreement of 2/3 of the Constituent Authorities' Leaders/Elected Mayor on the Cabinet. The budget for the remaining responsibilities of the NECA will be funded in accordance with the current arrangements through by government grants, Constituent Authority contributions and appropriate levies.
- 2.2.8 Not only does the Cabinet have the power to change the Mayor's budget proposals where 2/3 of the Constituent Authorities' Cabinet representatives agree to do so but the

Mayor's plans and strategies are also subject to change if the requisite majority is achieved.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

The proposed Devolution Agreement was discussed at the Leadership Forum. The Elected Mayor together with two Leaders of Constituent Authorities attended before the Overview and Scrutiny Committee of NECA to answer questions on the proposed Devolution Agreement.

2.3.2 External Consultation/Engagement

The North East Combined Authority has undertaken a wide range of consultation and engagement activity over the last year to obtain views on the devolution proposals. This has generated over 750 responses using a variety of consultation methods across a wide range of public and private sector stakeholders, the voluntary and community sector and members of the public, in addition to consultation activity undertaken at local level.

Consultation on the devolution proposals took place in two phases – in March 2015 on the initial proposals, then between November 2015 and January 2016 on the proposed devolution agreement. A range of methods was used to gather views, including:

- A series of local facilitated events across the NECA area
- A regional stakeholders event
- A trade union event
- A Voluntary, Community and Social Enterprise Sector event
- Meetings of the NECA Overview and Scrutiny Committee
- A meeting of North East MPs and Lords at Westminster
- The opportunity to submit comments via the NECA website through an online questionnaire

As well as the public meetings coordinated centrally by NECA, the constituent authorities are continuing to gather views locally from residents and stakeholders in their area.

Responses across the full range of stakeholders have been positive overall, welcoming the opportunities offered by the devolution agenda and the progress made on key areas of priority. Support has been expressed for the issues identified as areas of priority in the outline proposals as they have been translated into the specific proposals in the proposed devolution agreement, with clear views expressed around extending the scope to consider culture, tourism and the environment in any future discussions with Government. Respondents have been keen to obtain more detailed information on the individual proposals as they develop and are particularly interested in how the new governance arrangements will operate in practice following the introduction of an elected Mayor.

The consultation process generated a high level of interest across the North East and a clear message across all stakeholders that they want to remain involved as further progress is made. The detailed comments, suggestions and concerns raised in responses will be noted as activity moves towards implementation should the proposed agreement be formally agreed. The full range of activity enabled engagement with over 750 stakeholders including residents, political representatives, business representatives and members of the voluntary and community sector.

The results of the consultation exercise are detailed in the report attached at **Appendix 2**.

2.4 Human rights

There are no specific human rights implications arising from this report.

2.5 Equalities and diversity

There are no specific equalities and diversity implications arising from this report.

2.6 Risk management

There are no specific risks arising from this report.

2.7 Crime and disorder

There are no specific crime and disorder implications arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications directly arising from this report.

PART 3 - SIGN OFF

- Deputy Chief Executive
- Head(s) of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Head of Corporate Strategy