

Cabinet

1 November 2023

North East Devolution

Key Decision No: CORP/R/23/07



Report of Corporate Management Team

John Hewitt, Chief Executive

Councillor Amanda Hopgood, Leader of the Council

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 To seek consent to the making of the statutory order to abolish the existing combined authorities in the region (i.e. NECA and NTCA) and replace them with a single mayoral combined authority which encompasses the areas of the seven councils, which is to be known legally as the North East Mayoral Combined Authority (NEMCA).

Executive summary

- 2 On 28 December 2022 HM Government announced a “minded to” devolution deal with the seven councils across the North East (i.e. Durham, Gateshead, Newcastle, North Tyneside, Northumberland, South Tyneside and Sunderland).
- 3 To implement the deal, it will be necessary to establish a new mayoral combined authority which covers the area of the seven councils and replaces the two existing combined authorities in the region, i.e. NECA (which includes the areas of Durham, Gateshead, South Tyneside and Sunderland) and NTCA (which includes the areas of Newcastle, North Tyneside and Northumberland).
- 4 The councils have consulted on these changes and the Secretary of State has prepared a draft of the statutory order which is required to implement these proposals. This report requests authority to provide the Council’s consent to the making of that statutory order.

Recommendation(s)

5 Cabinet is recommended to:

- (a) consider the content of this report;
- (b) agree in principle that the Council should consent to the making of the order;
- (c) authorise the Chief Executive, in consultation with the Leader of the Council, to issue the Council's formal consent when requested by the Secretary of State;
- (d) authorise the Chief Executive, in consultation with the Leader of the Council, to finalise the terms of the side agreement regarding the support arrangements associated with these proposals; and
- (e) authorise the Chief Executive to take all other steps necessary to implement these proposals.

Background

- 6 The “minded to” devolution deal would see a significant shift of powers, funding and responsibility which would enable the Councils to pursue their ambitions for inclusive growth. In total, it is expected to provide £4.2 billion of additional investment to the region over 30 years, including a £1.4bn investment fund alongside significant funding for transport, education and skills, housing and regeneration. This would enable investment into projects which reflect local needs and opportunities, making a real difference for our residents, communities, and the local economy. It would support every aspect of the delivery of the Council’s priorities through the devolution of increased funding and powers.
- 7 The deal requires the councils to establish a new mayoral combined authority. This will be dependent on the Secretary of State making a statutory order under the Local Democracy, Economic Development and Construction Act 2009 to deliver the following proposals:
 - (a) the abolition of the two existing combined authorities, i.e. NTCA and NECA;
 - (b) the creation of a new mayoral combined authority which covers the area of all 7 councils, which will be called the North East Mayoral Combined Authority (NEMCA); and
 - (c) the changes above would also entail the abolition of the Joint Transport Committee as NEMCA would be responsible for the exercise of transport functions across the regions in the future.
- 8 As the first stage of the statutory process, the Councils undertook a governance review regarding the proposals set out in para 1.2 above. The results of the governance review were reported to Cabinet on 18 January 2023. On the basis of the governance review, Cabinet concluded that the proposals were likely to improve the exercise of statutory functions in accordance with sections 108 and 111 of the 2009 Act. Cabinet therefore agreed that the Councils should progress to the next stage of the statutory process by publishing a scheme relating to the proposals and then carrying out a public consultation exercise.
- 9 The public consultation began on 26 January 2023 and closed on 23 March 2023. A report on the consultation process was considered by Cabinet at its meeting on 31 May 2023. As set out in that report, the public consultation was considered to be extensive, and overall the responses to the consultation were supportive. On this basis, Cabinet was satisfied that the consultation had been sufficient for the purposes of the legislation and that the statutory criteria above had been met. Cabinet therefore agreed to submit to the Secretary of State a summary

of consultation responses together with a formal request that the Secretary of State make the necessary statutory order to abolish NECA and NTCA and establish the new mayoral combined authority, NEMCA.

- 10 Similar decisions were made by the other councils in the area and so on 23 June 2023 all 7 councils jointly submitted the consultation summary and formal request to the Secretary of State to make the order.

The draft Statutory Order

- 11 Discussions have taken place with DLUHC officials over a number of months regarding the content of the statutory order. The order will provide for the election of a mayor for the new combined authority in May 2024 and for the new combined authority to come into existence when the mayor is due to take office on 7 May 2024 (with the existing combined authorities being abolished at that point). The statutory order will also identify the powers and duties that the new mayoral combined authority will have. It will set out how the new combined authority will operate and make decisions, including where decisions are to be made by the Cabinet or the Mayor. It also deals with the transitional arrangements which are required to ensure continuity when the existing combined authorities are abolished and the new combined authority comes into being. This will include the transfer of existing staff from the affected organisations to the new combined authority, so protecting their employment rights.
- 12 Whilst the order is still a draft at present and subject to some finalisation, the content of the order reflects what was agreed in the “minded to” devolution deal and the scheme which was agreed by the seven councils and included as part of the public consultation documents. A brief overview of the content of the order is attached as Appendix 2 and the scheme is listed as a background paper to this report.
- 13 As set out in previous reports to Cabinet, the Secretary of State must be satisfied that the relevant statutory criteria in the Local Democracy Economic Development and Construction Act 2009 are met before making the statutory order. Furthermore, the Secretary of State can only make the order if the seven councils (as well as NECA and NTCA, including its Mayor) consent to the order. This report seeks Cabinet’s approval to confirm that the Council consents to the making of the order and authorises the Chief Executive to issue the Council’s formal consent to the final order when requested to do by the Secretary of State.
- 14 As was the case in 2018 when NTCA was created, it is also proposed that a side agreement is put in place between the seven councils to address certain operational arrangements. It is therefore recommended

that the Chief Executive, in consultation with the Leader of Council, is authorised to finalise these operational arrangements and the terms of the side agreement.

- 15 It is anticipated that the Secretary of State will issue his request for the councils and combined authorities to consent to the making of the order in December or January. This will allow the Secretary of State to lay the order before Parliament and for it be made (i.e. take effect) by March 2024. This will then allow for the mayoral election to be held in May 2024 and NEMCA to come into existence on 7 May 2024.
- 16 If the recommendations in this report are accepted, then success will be measured in terms of the willingness of the Secretary of State to make the necessary order to establish the new mayoral combined authority. Subsequently, success will be measured through the evaluation and appraisal frameworks to be agreed by NEMCA before new powers or funding are used.

Conclusion

- 17 It is considered that the creation of a new mayoral combined authority for the North East would unlock the benefits of the minded to devolution deal and improve the exercise of statutory functions across the region.
- 18 The provision of the necessary consents to the making of the order will enable it to be laid before Parliament so that it can be made and thereby establish the mayoral combined authority for the region, which will in turn provide access to the benefits of devolution across the region.

Background papers

- Scheme setting out proposals for the creation of a new mayoral combined authority for the North East area

Other useful documents

- None

Author(s)

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Appendix 1: Implications

Legal Implications

The establishment of a combined authority is governed by the Local Democracy Economic Development and Construction Act 2009. The minded to deal, consultation and process followed to date is consistent with the provisions of the Act.

Finance

Implementing the devolution deal would enable the region to access over £4bn of funding over a 30 year deal cycle, together with new powers to better shape local skills provisions to ensure these meet the needs of the local economy. This would include devolution of adult education functions and the core adult education budget, as well as input into the new local skills improvement plans. Over time the region would also expect to benefit from access to additional funding streams reserved for mayoral combined authorities. Detailed discussions will be progressed with the existing combined authorities and the other councils regarding the financial arrangements associated with the transition to the new arrangements.

Consultation

As set out at paragraph 9 to the report, the Council consulted on the draft scheme between 26 January and 23 March 2023. The Cabinet considered the outcome of that consultation at its meeting on 31 May 2023.

Equality and Diversity / Public Sector Equality Duty

In developing these proposals, the councils have taken account of their obligations under section 149 of the Equality Act 2010 (i.e. the public sector equality duty). It is not expected that the proposals described in this report will have any adverse impacts on people with protected characteristics. Indeed, the aim of promoting inclusive growth within the region is expected to boost the efforts of the councils to advance equality of opportunity and foster good relations between different groups. Throughout the public consultation referred to in paragraph 9 above the councils collected data on those who responded including those who identified as having a protected characteristic and an Equality Impact Assessment was undertaken.

Climate Change

The green agenda is a critical element of the minded to devolution deal and therefore the governance changes proposed in this report, if implemented, would help to deliver those initiatives identified in the minded to deal

Human Rights

None

Crime and Disorder

None

Staffing

There are no staffing implications impacting on Durham County Council arising out of this report. However, a new Mayoral Combined Authority would require some staffing resource to deliver on the functions devolved to it, but all such costs would be borne by the MCA.

Accommodation

There are no implications impacting on Durham County Council arising from this report.

Risk

As reported to Cabinet in January, it is considered that failure to establish the mayoral combined authority would risk the region falling behind other major city regions such as Greater Manchester, Liverpool City Region and Tees Valley, which have received new powers and funding.

It is a matter for the Secretary of State to decide whether to make the necessary statutory order but, for the reasons set out above, it is considered that the evidence demonstrates that the relevant statutory criteria have been met.

Procurement

None