

Cabinet

24th June 2013



Improving Economic Governance - Creation of a Combined Authority

Key Decision R&ED/16/13

Report of Corporate Management Team

George Garlick, Chief Executive

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Councillor Simon Henig, Leader

**Councillor Neil Foster, Cabinet Portfolio Holder for Economic
Regeneration**

Purpose of the Report

- 1 The purpose of this report is to inform Cabinet of the outcome of the extensive area-wide review of governance arrangements undertaken in relation to local authority functions concerning economic growth, skills and transport across the seven North East Local Authority areas comprising: Durham, Gateshead, Newcastle, North Tyneside, Northumberland, South Tyneside and Sunderland.
- 2 Cabinet is asked to consider and approve the submission to Government of a request to establish a Combined Authority covering the area of the seven local authorities.

Background

- 3 A Combined Authority is a legal structure to lead collaboration between local authorities and enable strategic decision-making on economic growth and transport. They were introduced in the Local Democracy, Economic Development and Construction Act 2009 and are designed to enable groups of local authorities to work closely together to deliver improvements in economic growth and transport across local authority boundaries.
- 4 In order to establish a Combined Authority, a review assessing existing governance arrangements for the delivery of economic growth and transport must be carried out. If the review concludes that establishing a Combined Authority would be beneficial, authorities may then draw up a scheme for the new body. Once the scheme is completed and published the Secretary of State will consider and consult with authorities concerned and any other appropriate persons. If approved, a draft order will be laid before Parliament and must be approved by a resolution in each House of Parliament.

- 5 There is one Combined Authority already in existence, namely, the Greater Manchester Combined Authority. Other regions have undertaken a Governance Review and have requested the Secretary of State to approve the making of Orders establishing combined authorities in these regions. These regions are the Sheffield City Region Combined Authority and the West Yorkshire Combined Authority.

Governance Review

- 6 The leaders of the seven North East local authorities (Durham, Gateshead, Newcastle, North Tyneside, Northumberland, South Tyneside and Sunderland) meet as the LA7 Leadership Board (LA7LB) to discuss key issues affecting the area. The LA7LB share an ambition to create the best possible conditions for growth in jobs, investment and living standards and to make the North East an excellent location for business, to prioritise and deliver high quality infrastructure, and to enable all the people of the area to raise their skill levels and to benefit from economic growth long into the future.
- 7 With this ambition in mind, the LA7LB tasked the Chief Executives of the 7 local authorities to lead a Governance Review to assess the existing governance arrangements across the LA7 local authorities' areas in relation to functions concerning economic growth, skills and transport. The review was undertaken to ascertain if the governance arrangements could be improved.
- 8 A Governance Review commenced in February 2013 and concluded in May 2013. The final Governance Review report is attached at Appendix A.
- 9 The remit of the Governance Review was to:-
- Evaluate the effectiveness and efficiency of existing governance arrangements for economic growth, skills and transport;
 - Consider the options available for making changes to the governance structures and arrangements, including leaving the existing governance arrangements in place or strengthening or restructuring such arrangements;
 - Consider the establishment of either an Economic Prosperity Board (EPB) that would make strategic decisions in relation to only economic growth and skills functions in the constituent authority areas, or a Combined Authority that would make strategic decisions not only in relation to economic growth functions but also transport in the area; and
 - Recommend which option is likely to be most beneficial to the constituent authority areas.
- 10 The Governance Review drew on expertise from across the constituent authorities and a Governance Review project team comprising officers of different disciplines were responsible for co-ordinating the Governance Review. The project team reported directly to the LA7LB consisting of the seven Leaders and Elected Mayor of the constituent authorities and the Chief Executives group. Ongoing support and guidance was provided throughout the review process by representatives from the Department for Communities and Local Government.

- 11 The key findings of the Governance Review were that:
- The evidence review of the economy sets out a rationale to work collaboratively across the LA7 area, recognising strong and increasing integration across labour markets, housing markets and key sectors.
 - There is scope for a joint approach to enable economic growth based on key sectors and place.
 - Real opportunities exist for policy coordination and integration across different policy themes.
 - There is a need for ‘institutional capacity’ across the area to:
 - take on devolved powers and responsibilities;
 - provide the governance framework for a single approach to investment across the area; and
 - raise the profile of the area.
 - There is a clear impetus to ensure the North East is maximising the use of new funds alongside local resources.
 - There is a need to simplify and strategically coordinate the skills system for employers, providers and learners.
 - The seven local authorities have been successful at attracting inward investment and there is further untapped potential, but the current approach lacks coordination.
 - There is a significant opportunity to take a joint and prioritised approach to transport investment within a coordinated strategic approach that is integrated with wider economic development objectives.
- 12 The review therefore concluded that the existing governance arrangements could be improved and after consideration of alternative options, concluded that the formation of a Combined Authority made up of the 7 constituent local authorities (the ‘constituent authorities’) would be most beneficial. As a result a Scheme detailing the operational arrangements and constitutional makeup of the proposed Combined Authority was drafted for consideration by the Secretary of State.
- 13 The Secretary of State will only place an Order before parliament if he considers that the Order is likely to improve:-
- The exercise of statutory functions relating to transport and economic growth in the area or areas to which the Order relates, and
 - The economic conditions in the area.
- 14 The LA7LB are confident that the findings of the Governance Review demonstrate that a Combined Authority will provide robust, joined-up decision making across the wider area that will in turn improve the economic wellbeing of the area and provide a stronger voice nationally and internationally.
- 15 The Combined Authority will, subject to the making of the appropriate Order by parliament, come into existence on 1 April 2014. The Combined Authority will put on a statutory footing the long history of collaboration that has existed between the constituent authorities.

- 16 The Scheme is included as **Appendix 1 of the Governance Review report (Appendix A)**. It sets out the functions that will be undertaken by the Combined Authority. Those functions relate to economic growth, skills and transport. At the conclusion of the Governance Review, the constituent authorities determined that some of the economic growth functions of each constituent authority will be shared with the Combined Authority. As those functions are to be exercised concurrently with the Combined Authority, the Council, along with the other constituent authorities, will not lose any of these powers. The transport functions unlike the economic growth functions are to be discharged solely by the Combined Authority.
- 17 The Governance Review and draft scheme at **Appendix A** were widely consulted on between 21 May 2013 and 11 June 2013.

Framework for Combined Authorities and key features

- 18 The Local Democracy, Economic Development and Construction Act 2009 (LDEDCA) creates the legal framework for the formation of a Combined Authority. A Combined Authority has powers and functions conferred on it by the Secretary of State by way of Order which establishes the Combined Authority. In addition, it can have delegated to it by its constituent local authorities other functions that relate to economic growth and transport if they consider it appropriate. Similarly, the Combined Authority can delegate to the constituent authorities responsibility for delivery of functions relating to economic growth and transport.
- 19 Functions can be operated concurrently between the Combined Authority and the constituent authorities or operated solely by the Combined Authority. The Governance Review has concluded that the constituent authority functions relating to economic growth and skills should be operated concurrently between the constituent authorities and the Combined Authority. Specific transport functions will however be discharged solely by the Combined Authority.
- 20 The Tyne and Wear Integrated Transport Authority (TWITA) will be dissolved when the Order creating the Combined Authority comes into force. The Tyne & Wear transport functions previously undertaken by TWITA will be undertaken by the Combined Authority and the Combined Authority will fulfil the role of a Transport Authority for each of the seven local authorities. Individual authorities will continue to exercise some delivery functions, for example in respect of highways management, but will operate within an agreed framework and plan established through the Combined Authority. The Passenger Transport Executive will continue during a transition phase, working on behalf of the Tyne & Wear authorities, but within the context of the Combined Authority. Following the conclusion of a transition phase, delivery arrangements will be established which operate across the geography of the Combined Authority as a whole, recognising the distinctive needs of urban, suburban and rural communities.
- 21 On the abolition of TWITA its property, rights and liabilities will be transferred to the Combined Authority. These would be ringfenced under the terms of the Combined Authority agreement to the Tyne and Wear area and will not be the responsibility of Durham and Northumberland.

- 22 Local Transport Authority functions of Durham and Northumberland will be conferred on the Combined Authority upon its creation. However, to ensure continuity the existing delivery arrangements for operational transport functions will be delegated to Durham and Northumberland by the Combined Authority.
- 23 The Combined Authority will have its own legal identity and will be able to employ its own staff and control its own assets. The Combined Authority must have a constitution and there will also be an operational agreement entered into between the Combined Authority and the constituent authorities setting out the operational arrangements between the constituent authorities and the Combined Authority. Leadership of the combined authority will be provided by elected members appointed by each constituent authority to be a member of the Combined Authority. Those elected members will be the Leaders and Elected Mayor of each of the constituent authorities. It is possible for non-local authority representatives to be co-opted to the Combined Authority but such representatives must be in the minority and will have no voting rights.
- 24 The Combined Authority will have the ability to make strategic decisions in relation to economic growth and strategic transport issues across the area of the Combined Authority.
- 25 In addition to having specific functions delegated to it, the Combined Authority will also have general powers given to it by section 113A of LDEDCA to do whatever is considered appropriate to undertake its functions relating to economic growth or anything incidental to those functions. This is in addition to the well-being powers that the combined authority will have in relation to transport functions under sections 99 and 102A of the Local Transport Act 2008.

The Proposed Combined Authority

- 26 The Combined Authority will have seven local authority members, Durham, Gateshead, Newcastle, North Tyneside, Northumberland, South Tyneside and Sunderland.
- 27 The remit of the Combined Authority will be economic growth, skills and transport. The Combined Authority will be responsible for high level strategic issues where it is beneficial for the constituent authorities to work together.

Economic Growth Functions

- 28 The Combined Authority's economic responsibilities will include:
- Setting the growth plan and investment strategy for the North East.
 - Economic intelligence and analysis as a basis for strategic planning and coordination.
 - Acting as the accountable body for a range of devolved funding e.g. local major transport schemes, Single Local Growth fund, EU Structural & Investment funds, Skills Funding Agency funding.

- Strategy and decision-making on the skills agenda across the North East.
- Coordinating inward investment activity through an 'Investment Gateway' working with local authority economic development teams.

29 The economic growth functions that will be shared with the Combined Authority will be:

- Duties and powers related to the provision of education and training for persons over school compulsory age.
- Power to encourage visitors and provide conference and other facilities.
- Duty to prepare an assessment of the economic conditions of an area and to revise that assessment.

Transport Functions

30 The strategic transport functions currently undertaken across Tyne & Wear and Northumberland and Durham will be undertaken by the Combined Authority.

31 The transport functions undertaken by the Combined Authority in relation to Tyne & Wear will be those previously undertaken by TWITA in accordance with the general functions contained in the Transport Act 1968 and subsequent legislation, such as the formulation of policies relating to public transport services.

32 The Combined Authority will have responsibility for the following transport functions, previously undertaken by Durham and Northumberland, to enable these matters to be considered across the entire LA7 Area:

- a. Preparation of the Local Transport Plan
- b. Preparation of a Bus Strategy
- c. Powers to make a Quality Partnership Scheme or Quality Contract Scheme
- d. The making of joint and through Ticketing Schemes

33 The following operational transport functions (**see Appendix C for detailed powers and duties**) will be devolved to Northumberland and Durham to enable local delivery arrangements to continue during a period of transition:

- a. Information Provision
- b. Infrastructure Delivery
- c. Commissioning/procurement of subsidised bus services
- d. Concessionary Travel

- 34 The Combined Authority will have well-being powers in relation to its transport functions in addition to the general and ancillary powers given to it by LDEDCA. This means that the Combined Authority will have broad powers to address economic and transport issues.
- 35 On the creation of the Combined Authority it will become a levying authority for transport functions. A core principle in relation to transport costs of the Combined Authority is that the total contribution from each authority for the year does not exceed the equivalent cost as it would have been calculated under previous arrangements. The Combined Authority will be responsible for the overall transport strategy and setting the transport budget across the Combined Authority's area.
- 36 The Combined Authority will have a Constitution that will deal with amongst other issues the delegation of functions within the Combined Authority, rules of procedure, (including decision making), scrutiny arrangements and financial procedures.

Alternative Options Considered

- 37 The LA7LB of the constituent authorities considered the options available at the conclusion of the Governance Review and formed the view that the creation of a Combined Authority was appropriate because it would improve the economic conditions of the Combined Authority area.
- 38 Alternative options were considered as part of the Governance Review. Those options included doing nothing, undertaking an informal restructure, strengthening existing arrangements for example by establishing a joint committee and establishing an Economic Prosperity Board (EPB) rather than a combined authority.
- 39 Doing nothing will be a missed opportunity in terms of improving the economic growth and transport functions across the area. If the opportunity is not taken now to improve the governance arrangements the area would not be able to access significant devolved funding which would significantly compromise the ambitions of the area.
- 40 An informal restructure was not considered sufficient because the constituent authorities and TWITA are already stretching the boundaries as to what can be done on an informal non-statutory partnership basis. An independent corporate body such as a Combined Authority or EPB would enable a decision to be taken which is binding on the constituent authorities and which saves the need for individual decisions to be taken in each of the constituent authorities.
- 41 An EPB would offer a short term solution but misses the opportunity to fully achieve real and transformative economic benefits as transport linkages are essential for the proper functioning of the economic area.
- 42 Having considered the options available, it is apparent from the evidence gathered that establishing a Combined Authority would be likely to improve the exercise of statutory functions in relation to economic growth, skills and transport that would in turn improve the economic conditions of the LA7 area.

The key finding of the Governance Review is that the best way of achieving sustained economic growth in the region is to establish a Combined Authority.

Recommendations and reasons

- 43 It is recommended that Cabinet:
- a. Endorse the findings of the Governance Review document at **Appendix A**, and specifically that establishing a Combined Authority will improve the exercise of statutory functions in relation to economic growth, skills and transport in the Combined Authority's area, leading to an enhancement of the economic conditions and performance in the area.
 - b. Agree the submission to Government of the Scheme for the establishment of a Combined Authority on the basis of the Scheme at **Appendix 1 of the Governance Review report**, and note the proposed transfer and sharing of the functions contained within the Scheme as detailed in paragraphs 28 to 34 of this report.
 - c. Agree to submit this report and appendices to Council for endorsement of Cabinet's decisions upon the recommendations in this report.
 - d. Agree to transfer Local Transport Powers and Duties to the Combined Authority as detailed in **Appendix C**.
 - e. Authorise the Chief Executive in consultation with the Leader to agree the terms of any documentation required to enable the Authority to become a constituent authority of the Combined Authority including the constitutional arrangements and operating agreement in so far that this does not place additional financial commitments on the Council, and to authorise the Corporate Director of Regeneration and Economic Development, the Head of Legal and Democratic Services and the Corporate Director of Resources, to complete the relevant documentation and take all steps necessary to give effect to the above recommendations.
 - f. Agree to receive further reports, as and when necessary, once the full financial and governance arrangements have been finalised.

Reasons for recommendations:

- 44 It is recommended that Cabinet take the steps set out above to endorse the findings of the Governance Review and the submission of the scheme to Government for the establishment of a Combined Authority. The detailed Governance Review concluded that a Combined Authority would improve the exercise of statutory functions in relation to economic growth, skills and transport across the North East. The proposal by the LA7LB to establish a Combined Authority was also endorsed in the findings of the North East Independent Economic Review led by Lord Adonis. If a Combined Authority is not established and joint working between the seven authorities continues on an informal and non-statutory basis, this will potentially have a detrimental impact on the future economic performance of the North East region.
- 45 A Combined Authority as a corporate body will ensure more efficient strategic decision-making, enabling a decision to be taken at the LA7 Area level that will bind the 7 local authorities without the need for the 7 authorities to have to each make a decision in their own right.

- 46 The Governance Review and the Combined Authority proposals emphasise the role that local authorities collectively play in promoting economic growth across the area. The “*Altogether Wealthier*” theme in the County Durham Sustainable Community Strategy sets out an approach, within the framework of the County Durham Partnership, which places great emphasis on creating a vibrant economy, highlighting the crucial role of transport, skills and inward investment as well as quality of place in enabling economic growth. The Combined Authority proposals support County Durham’s already established approach, opening up further opportunities to capitalise on assets and strengths in County Durham to boost both local and regional economic growth.

Appendices:

Appendix A – Governance Review and Scheme (at Appendix 1)

Appendix B – Consultation Report

Appendix C – Transport Powers and Duties to be transferred to the Combined Authority and the powers and duties to be devolved back to Durham County Council

Background papers:

- The Local Democracy, Economic Development and Construction Act 2009, available at <http://www.legislation.gov.uk/ukpga/2009/20/contents>
- Transport Act 1968, available at <http://www.legislation.gov.uk/ukpga/1968/73/contents>
- Local Transport Act 2008, available at <http://www.legislation.gov.uk/ukpga/2008/26/contents>
- The Greater Manchester Combined Authority Order 2011, available at http://www.agma.gov.uk/cms_media/files/gmca_order_1_4_11_updated_july_2012.pdf?static=1
- Economic Prosperity Boards and Combined Authorities – Consultation on Draft Statutory Guidance (Never finalised) – Issued by Department for Communities and Local Government, available at <http://webarchive.nationalarchives.gov.uk/20100208033334/http://communities.gov.uk/documents/citiesandregions/pdf/1457197.pdf>
- Creating the right governance for growth in the North East – LA7 Leadership Board, available at <http://www.gateshead.gov.uk/DocumentLibrary/council/LA7/LA7-proposition-FINAL2.pdf>
- North East Independent Economic Review Report, available at http://www.nelep.co.uk/media/2935/nelep_ipad-version_hires.pdf
- North East Independent Economic Review Findings and Review of Governance Arrangements, Durham County Council Cabinet Report 5th June, available at <http://democracy.durham.gov.uk/documents/s30446/NEIRReportFINAL.pdf>

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Appendix 1: Implications

1. Finance

1.1 The establishment of a Combined Authority will have financial implications for each council.

1.2 The core principles are:

- for transport costs, the total contribution from each authority for the year does not exceed the equivalent cost as it would have been calculated under previous arrangements.
- any other costs incurred in establishing new arrangements would be offset by efficiency gains achieved through the new body and met through existing resources and utilising the skills and capacity that already exist within the constituent local authorities. Staffing requirements will be fulfilled by existing staff across the 7 local authorities wherever possible.

Transport funding

1.3 As the Combined Authority will become the Local Transport Authority for the LA7 area, it will become a levying body with respect to Transport. The significant differences in the transport responsibilities and the cost of transport services between Tyne and Wear, Durham and Northumberland mean that a single transport levy would not be appropriate. The solution proposed following discussion with DCLG and DfT, is that the Combined Authority would issue a levy on a differential basis that will accommodate the differentials in the cost of delivering transport services in County Durham, Northumberland and Tyne and Wear.

1.4 On the abolition of TWITA its property, rights and liabilities will be transferred to the Combined Authority. These would be ringfenced under the terms of the Combined Authority agreement to the Tyne and Wear area and will not be the responsibility of Durham and Northumberland.

Combined Authority costs

1.5 The costs of the Combined Authority that are reasonably attributable to the exercise of its functions (including start-up costs) will be met by its constituent authorities. Such costs shall be apportioned between the constituent authorities in equal shares. The Combined Authority will agree an annual budget for the purpose of expenditure.

1.6 Any change in the contributions would need to be agreed by the new Combined Authority in consultation with its member authorities and in time for the contribution to be built into Council Budgets in future years.

2. Staffing

2.1 It may be that there are employees of the local authorities and TWITA who would have the right to transfer their employment to the Combined Authority under the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). This can be addressed in detail if the recommendations of this report are agreed.

3. Risk

- 3.1 There has been engagement with representatives from the Department for Communities and Local Government at an early stage and the timescales for the creation of a North East combined authority discussed in detail. The timescales are challenging if a combined authority is to be in place by 1 April 2014. The Leadership board of the 7 local authorities are aware of the timescales and the project board met on a weekly basis to ensure so far as possible that the review process is driven forward.

4. Equality and Diversity / Public Sector Equality Duty

- 4.1 There are no equality and diversity issues arising directly from this report. The equality and diversity implications will be kept under review as further work is undertaken to develop more detail in relation to the outline proposals.

5. Accommodation

- 5.1 There are no accommodation implications directly arising from this report

6. Crime and Disorder

- 6.1 There are no crime and disorder implications directly arising from this report.

7. Human Rights

- 7.1 There are no human rights implications directly arising from this report.

8. Consultation

- 8.1.1 A formal consultation exercise was carried out over a 3-week period between 22 May and 11 June 2013. A copy of the draft governance review report and draft scheme was sent to key stakeholders and published on all 7 local authorities' websites. Views of key stakeholders were obtained through a series of meetings and 121 discussions as well as two stakeholder events hosted by the Leaders and Elected Mayor. In addition, each constituent authority engaged with the stakeholders in their local area.
- 8.1.2 The results of the consultation were considered in agreeing the final governance review and scheme and are detailed in the report attached at Appendix B.

Summary of Responses

- 8.1.3 There is overwhelming support from stakeholders in favour of creating a Combined Authority for the North East. Stakeholders are welcoming the agreement by the seven local authorities to strengthen collaborative arrangements and set up a stable and long term governance structure for the wider area which is democratically accountable and has a clear focus on enabling economic growth. Stakeholders have noted that the turmoil of economic governance at the sub-national scale in England has put the North East at a disadvantage and that the Combined Authority in conjunction with the North East LEP and a number of key partners can create the right framework to harness the energy of all involved to take advantage of opportunities in the area. Stakeholders feel that the case for the Combined

Authority being established focusing on skills, transport and economic growth is clearly set out and these are the right priorities in the current climate.

- 8.1.4 The LA7LB has discussed the emerging proposals with stakeholders and has asked for partners to consider the correct framework that needs to be put in place for the combined authority in the areas of strategic funding, inward investment, skills and transport whilst also recognising that further work with key stakeholders will be needed over the coming months to transform this framework into the detailed working arrangements that need to be put in place.
- 8.1.5 Specific points that have been raised in regards to funding, inward investment, skills and transport are summarised in Appendix B.

Ongoing engagement

- 8.1.6 Stakeholder engagement will be an ongoing process as the LA7LB works through the detail behind the proposals in the governance review and scheme. The issues raised by stakeholders can be addressed as part of this process through regular and effective communication and continued dialogue.
- 8.1.7 In addition to the ongoing local dialogue with stakeholders, the Secretary of State must formally consult the authorities concerned and any other appropriate persons before deciding whether or not it is appropriate to recommend the making of an Order creating a Combined Authority. It is anticipated as part of the proposed timetable that this statutory consultation will take place from mid-September to mid-November.

9. Procurement

- 9.1 There are no procurement implications directly arising from this report.

10. Disability Issues

- 10.1 There are no disability issue implications directly arising from this report.

11. Legal Implications

- 11.1 The Council's Head of Legal and Democratic Services and the legal representatives of each authority have been consulted on this report. A Combined Authority for the North East of England can only be established following a thorough review of the governance arrangements in relation to the economic growth and transport functions undertaken by the 7 North East local authorities. This is required by virtue of section 108 of the Local Democracy, Economic Development and Construction Act 2009 and section 82 of the Local Transport Act 2008. This review is now complete. It concludes that those functions would be improved by the creation of a Combined Authority. The Governance Review document and the Scheme have been approved by the Leadership Board of the 7 constituent authorities. It is now for the constituent authorities to consider and approve the Governance Review document and Scheme including the discharge of the relevant functions by the Combined Authority and determine whether the Governance Review document and the Scheme can be submitted to the Secretary of State. If the Secretary of State is satisfied that a Combined Authority would be likely to

improve the exercise of such functions and improve the economic conditions of the region, the Secretary of State can make an Order under section 103 of the 2009 Act creating a Combined Authority.

- 11.2 The executive of each constituent authority will receive this report on 24 June 2013. A report will be taken to the Council of each constituent authority on various dates during July 2013. Only when the constituent authorities are all satisfied that it is appropriate to submit the Governance Review and Scheme to the Secretary of State will the documents be submitted with a request that a Combined Authority is established.