

7 April 2014

Combined Authority – Update

**Joint Report of Lorraine O'Donnell, Assistant Chief Executive and
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Development**

Purpose of the Report

- 1 To inform Members of the Economy and Enterprise Overview and Scrutiny Committee of progress made to establish a combined authority for Durham, Northumberland and Tyne and Wear. This report covers feedback from the SoS consultation, an update on the order and next steps in regards to establishing the Combined Authority for the North East.

Background

- 2 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.
- 3 On 24 June 2013 Cabinet endorsed the findings of the Governance Review undertaken in April/May 2013, including specifically the finding that the creation of a Combined Authority covering the authority areas of Durham, Gateshead, Newcastle, North Tyneside, Northumberland, South Tyneside, Sunderland (the LA7) would improve the discharge of functions relating to transport, skills and economic development across the region. All of the LA7 Cabinets considered that a Combined Authority would strengthen collaboration between the seven local authorities and enable strategic decision-making on economic growth and transport to be taken. On 24 July 2013 Council endorsed the decision of Cabinet. The Councils of the other LA7 authorities in turn endorsed the decision of their respective Cabinets.
- 4 The Scheme and Governance Review documents were submitted to the Secretary of State in August 2013, after a period of consultation had been undertaken with regional and local stakeholders, inviting him to consider making an Order that would establish a Combined Authority across the LA7 area. There was support for the creation of a Combined Authority from all stakeholders.

- 5 Members will recall that the Economy and Enterprise Overview and Scrutiny Has received updates on the progress of the proposal for a Combined Authority at meetings of the Committee held on the 10 September, 21 October and the 9 December 2013. At the meeting held on the 9 December 2013 Members were informed that as part of the legislative process to establish the new body (Combined Authority) and gain parliamentary approval, the Government must run a consultation to seek the views on the proposed Combined Authority and that the consultation would run until the 2 January 2014.
- 6 Arrangements have been made for the Spatial Policy Team Leader to attend the meeting on the 7 April to deliver a presentation focusing on:
 - Results of the local consultation and the Secretary of State consultation on the proposal to establish a Combined Authority
 - The Combined Authority Order
 - The Combined Authority Constitution and Operating Agreement
 - The Combined Authority Structure
 - Next Steps

Consultation

- 7 As part of the legislative process to establish the new body and gain Parliamentary approval, the Government was obliged to run a consultation to seek views on the proposal. The Secretary of State consulted with the seven local authorities involved and the Tyne and Wear Integrated Transport Authority as statutory consultees and also invited the North East Local Enterprise Partnership (NELEP), the Northumberland National Park Authority and Local Authorities neighbouring the Combined Authority area to respond. The consultation involved the production of a Consultation Document and Draft Order which were appended to the report of Cabinet on 18 December 2013.
- 8 The consultation sought comments on the proposal to establish a Combined Authority, setting specific questions on:
 - local support establishing the Combined Authority (CA);
 - if the CA will improve the provision of transport, economic development, regeneration in the area and economic conditions of the area;
 - the impact of the CA on local communities;
 - the constitutional arrangements and functions to the CA; and
 - How the NELEP and the CA will work together.

- 9 The Consultation Document specifically requested the local authorities “to actively seek through such means as they consider appropriate the views of their residents, local businesses and the voluntary sector with a view to providing the necessary evidence for Government to be satisfied about the degree of local support there is for a Combined Authority”.
- 10 A letter was sent to regional stakeholders informing them of the consultation and seeking support. Online surveys were published on the website of each of the LA7 authorities with a common introduction and set of questions and in addition each of the authorities undertook consultation with their own areas as considered appropriate by them. The consultations included face to face discussions with residents and other key stakeholders within business as well as the public and community/voluntary sectors. Each local authority arranged focus group sessions to allow for a representative population and geographical coverage, three being held in County Durham, one in Durham City, one in Crook and one in Murton. A brief update was circulated to Durham County Council Members and employees to keep everyone informed about the process. At the Economy and Enterprise Overview and Scrutiny Committee on the 9 December 2013 Members provided comments which were then fed into the ongoing consultation process as the Overview and Scrutiny response.
- 11 The consultation exercise undertaken locally by the local authorities, resulted in total to responses from over 650 interested parties – including around 450 residents. An online survey received 444 responses, with 324 (75 per cent) from residents. 75 per cent of respondents to the online survey were supportive of the proposal to establish the Combined Authority for the area. A similar proportion considered that a more co-ordinated approach would help improve the effectiveness and efficiency of transport and provision of economic development and regeneration within the seven local authority areas. In addition to the survey local consultation took the form of 16 focus groups, a range of meetings with interested parties, direct correspondence and articles in the local press. The vast majority of responses were positive and they centred on efficiency of service delivery, the value of coordination across a larger area and the need for a single voice.
- 12 On 18 December 2013, Cabinet considered and approved the local authority response to the consultation and delegated to the Corporate Director, in consultation with the Cabinet Portfolio Holder the finalisation of the joint response and the submission to Government by 2 January 2014.
- 13 The Government’s consultation ran from 7 November 2013 to 2 January 2014. 73 representations were received and of these 47 (64 per cent) supported the proposal to establish the Combined Authority, 22 (30 per cent) opposed the proposal, and four (six per cent) made comments on the proposed constitutional arrangements or functions of the proposed Combined Authority, but did not express a view on whether they supported the proposals. The seven local authorities, the Tyne & Wear Integrated Transport Authority and the North East Local Enterprise Partnership responded to the consultation in support of the principle of a Combined Authority.

In regards to the other responses received, the ones in favour of the proposed Combined Authority cited the potential to maximised economic growth and improve transport provision through coordinated governance arrangements. Concerns were voiced about creating an additional layer of government with an increase in bureaucracy, effective scrutiny and the impact on rural areas. The Secretary of State has confirmed that the Order, appearing at Appendix 2, had been laid and the Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority.

The Order

- 14 The Order which was laid before Parliament in March 2013. In addition to establishing the Combined Authority, the Order dissolves the Tyne and Wear integrated transport area (TWITA). On its abolition, the TWITA functions, property, rights and liabilities are transferred to the Combined Authority.
- 15 Just as the Order transfers the TWITA functions to the Combined Authority, the Order transfers specific transport functions from the two County Councils to the Combined Authority. However, in terms of the County Councils, only specific transport functions are transferred to the Combined Authority. No property, rights or liabilities that the Counties may have in relation to transport are transferred to the Combined Authority.
- 16 Under the Order, the Constituent Councils meet the costs of the Combined Authority attributable to Economic Development and Regeneration in such proportions as the councils may agree or in default, in equal shares.
- 17 The costs relating to transport functions are more complex. Transport functions of the Integrated Transport Authority (ITA), Durham County Council and Northumberland County Council are transferred to the Combined Authority under Article 6 and 8. This Order and the newly amended Transport Levy Bodies Regulations 1992, involve the Constituent Authorities funding transport functions through a levy. The levies for each authority will be different and based upon what the Combined Authority estimates it will spend on the transport functions in the former TWITA area; Durham County Council and Northumberland County Council.
- 18 There was concern on the part of the County Councils that unless the Order ring fenced the liabilities of the ITA (which has been responsible for Tyne & Wear transport including the Tyne Tunnel and the Metro) to the Tyne & Wear authorities, the County Councils would assume joint responsibility with the other authorities for substantial liabilities. Clause 5(4) of the Order therefore states that when the levy is being determined for the County Council by the Combined Authority, no account may be taken of the costs of meeting any liabilities or expenses, including pension liabilities of the former ITA incurred or to be incurred as a result of the transfer of the transport functions.
- 19 The Order also provides that the Tyne & Wear Passenger Transport Executive (currently Nexus) is to be an Executive Body of the Combined Authority for the purpose of the Transport Act.

- 20 There are continuity provisions of the Order ensuring that the transfer of functions do not affect the validity of anything done by or in relation to the ITA or the County Councils before the commencement date of the Combined Authority and actions of the Constituent Authorities prior to transfer of the transport functions are effective as if made or done by the Combined Authority.
- 21 Very shortly before the commencement date, the Government laid an additional order which amended the Transport Act 1968 and changed the general powers and functions of Nexus and potentially its geographical area of operation. The Integrated Transport Area, which was previously the Tyne and Wear Authority areas only, was amended to include the Combined Authority area as a whole. This would enable an integrated transport system to be set up across the area as a whole without a requirement for a further Order. The delegation of key transport functions back to the County Councils are, however, part of the Constitution, changes to which require a unanimous vote and so any significant change in transport arrangements between the two County Councils and the Tyne and Wear Authorities would require unanimity.
- 22 In part 4, Economic Development and Regeneration functions are stated to be exercised concurrently between the Constituent Councils and the Combined Authority.
- 23 In Schedule 1, the requirements of the Constitution are set out. These requirements include:
- Each constituent Council shall appoint one of its elected members to be a member of the Combined Authority and a member to be a substitute;
 - The NELEP shall nominate one of its members to be a member (“local Enterprise Partnership Member”) and another to be substitute member of the Combined Authority appointing to each of those roles;
 - A Chairman and Vice-Chairman to be appointed at the first meeting of the Combined Authority and in subsequent years at its annual meeting;
 - A quorum of at least two members or substitute members;
 - Normally questions to be decided by majority with each member or substitute member having one vote;
 - No Chairman’s casting vote in Combined Authority meetings;
 - Certain matters require a unanimous vote. These are listed in 3(5) of the Schedule to the Order and the Constitution has included additional items such as unanimous vote required to change the Constitution.

- A requirement for Overview and Scrutiny with the Combined Authority appointing members of each of the Constituent Councils to the relevant committee(s). No such committee should include a member of the Combined Authority.
- An Overview and Scrutiny Committee will have the power to invite members to attend before it to answer questions, other persons including members of the public to attend meetings and the power to review or scrutinised decisions and make reports.

The Constitution

- 24 A Constitution compliant with the Order has prepared for the Combined Authority and approved for submission by the Leaders and Elected Mayor of the Constituent Authorities. The Constituent Authorities, under Delegated Authority will enter into an Operating Agreement which includes identifying the transport functions that will be delegated back to the County Councils and indemnities between the Constituent Councils and the Combined Authority.
- 25 The Constitution contains the usual components for Local Authority Constitution including Chief Officer Delegations, Rules of Procedure, Financial Procedure Rules, Members Code of Conduct, Officers Codes of Conduct and a Confidential Reporting Code. It specifically includes those transport functions transferred to the Combined Authority under the Order which have been delegated back to the County Councils.

The Structure of the Combined Authority

- 26 **North East Leadership Board (NELB)** will hold all the functions transferred to the Combined Authority. It will comprise a member from each of the Constituent Authorities and a representative of the NELEP. It will retain a strategic role and retain those matters which require unanimity under the Order and which the authorities have agreed will require a unanimous decision. In the draft scheme appended to the approved governance review document, it was stated that the member for each of the constituent authorities would be the leader or Mayor. The leader of this authority has been elected as shadow chair. Council is asked to formally appoint the Leader as the Council Representative of the NELB.
- 27 The draft scheme also stated the executive of each constituent authority would appoint another of its members as a substitute member to act as a member of the combined authority in the absence of the appointed member. Council is therefore asked to appoint a substitute member, being a member of the executive.
- 28 In relation to transport, there are three delivery agencies:
- Durham County Council will discharge Delegated Transport Functions within its own boundary;
 - Northumberland County Council will discharge Delegated Transport Functions within its own boundary;

- Nexus will discharge the functions which were previously discharged within the Tyne & Wear area.
- 29 The Combined Authority delegates the relevant functions directly to the Executives of Durham and Northumberland who will in turn authorise Officers within the Authority to carry out those functions in consultation with the relevant Cabinet Portfolio Holder.
- 30 A significant body within the Combined Authority is the **Transport North East Committee** (TNEC). This is a Joint Committee of the Combined Authority and Constituent Authorities. Its membership will comprise two members of the Executive of each Constituent Authority of which one is the Portfolio Holder for transport. The Chair will be the Transport Thematic Lead from the NELB. There will be three vice chairs, one for Tyne & Wear authority, a Northumberland member and a Durham member. The Committee will oversee the performance of the three delivery agencies. Council is asked to appoint two Cabinet members (one of whom should be the one holding the portfolio the transport)
- 31 The TNEC will have a sub-committee, **The Tyne and Wear Transport Subcommittee** (TWSC) comprising solely Tyne and Wear Constituent Authority members. The Chair of this Committee will be the Vice Chair of the TNEC, representing the Tyne and Wear Authority areas. The appointment of Chair and Vice Chair of this sub-committee will be by the NELB. Its role will involve decision-making in relation to and oversight of Nexus.
- 32 The constitution of The Combined Authority also provides, as required by the order for **Overview and Scrutiny arrangements**. This involves a committee of two members from each constituent authority reflecting the political balance as applied each constituent authority. Council will be asked to appoint two members to be representatives on the overview and scrutiny committee of the combined authority.
- 33 Also included in the constitution is a provision for **An Audit and Standards Committee**. This will be made up of one member from each of the constituent authorities with that member being from either the respective Authorities' Standards or Audit Committees. The committee will also comprise two non-voting co-opted members and one independent person. Council will be asked to appoint one member to the Audit and Standards Committee who should be from either the Standards or Audit committee

Next Steps

- 34 As mentioned above the order has been laid before parliament. The next steps are as follows
- a. Parliamentary debate April 2014
 - b. Each Local Authority to appoint Leader/Elected/Mayor as the Council Representative of the NELB and a substitute
 - c. Each Local Authority to appoint members to the Combined Authority /Committees
 - d. Combined Authority Vesting Day April 2014

Recommendations

- 35 Members of the Economy and Enterprise Overview and Scrutiny Committee are asked to note and comment upon the information provided in this report.
- 36 That the Economy and Enterprise Overview and Scrutiny Committee receive further updates on the development of the Combined Authority at future meetings of the committee.

Appendices

- i. Appendix 1: Implications
- ii. Appendix 2: The Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority Order 2014

Background Paper(s)

- Improving Economic Governance - Creation of a Combined Authority, Durham County Council Cabinet Report 24 June
<http://democracy.durham.gov.uk/ieListDocuments.aspx?CIId=154&MIId=7193&Ver=4>
- Improving Economic Governance in the North East LEP Area and the North East Independent Economic Review Findings - Economy and Enterprise Overview and Scrutiny Committee Report – 24 June 2013.
- Improving Economic Governance in the North East Local Enterprise Area – Presentation – 24 June 2013.
- Improving Economic Governance in the North East Local Enterprise Partnership Area – 10 September 2013.
- Improving Economic Governance in the North East Local Enterprise Area – Presentation – 10 September 2013.
- Government Consultation Document on the proposal to establish a Combined Authority. 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>
- The Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority
- Summary of responses to consultation on proposal to establish the Combined Authority, available at
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/286409/140228_Final_summary_of_responses.pdf

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Appendix 1: Implications

Finance: The principles upon which the authority is funded are described within the body of the report.

Staffing: The Combined Authority as a local authority will require statutory officers (Head of Paid Service; an Officer responsible for Financial Administration and Monitoring Officer). Officers within the Council who worked on the transport functions transferred to the Combined Authority will work on those key functions for the foreseeable future within this authority, as the functions are delegated back to the County Council.

Risk: There are a number of risks in relation to the Combined Authority:-

- That County Council could assume responsibility for sharing the cost of the Tyne Wear Integrated Transport Authority functions and pension liabilities from that authority. This has been addressed by article 5(4). Indemnities are also included within the Operating Agreement.
- The late amendments to the Transport Act 1968, which redrew the boundary of the Integrated Transport Authority to extend to the Combined Authority area, present a risk that the two County Councils could become part of an Integrated Transport Authority before they were willing and ready to do so. The functions delegated to the County Councils are part of the Constitution which would require unanimous agreement before it can be altered.
- Risks that have been identified throughout the process are to be mitigated by various clauses in the Operating Agreement.

Equality and Diversity/Public Sector Equality Duty: None specific with this report

Accommodation: None specific in this report

Crime and Disorder: None specific in this report

Human Rights: None specific in this report

Consultation: The process of establishing a Combined Authority was subject to extensive consultation by the Constituent Authorities and by the Secretary of State.

Procurement: None specific in this report.

Disability Issues: None specific in this report.

Legal Implications: Within the body of the report

Appendix 2: The Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority Order 2014
