

# County Council

24 February 2016

## North East Combined Authority: Devolution Update and Poll Results



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**Councillor Simon Henig, Leader**

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### Purpose of the Report

- 1 This report provides an update on the proposed devolution agreement, including the results of the County Durham poll, in order to facilitate a Council debate to influence the required Cabinet decision on whether Durham County Council should agree any final devolution agreement.

### Executive Summary

- 2 Durham County Council is a constituent council of the North East Combined Authority (NECA) that was established in April 2014. Background information is provided on the constitution and function of the combined authority and the changes required if the devolution agreement is finalised.
- 3 Following the 2015 General Election, the Chancellor of the Exchequer announced the availability of devolved powers to combined authorities. The Leadership Board of NECA negotiated with Government and signed a proposed agreement on 23 October 2015, subject to a number of conditions which are described within this report, together with a summary of the extent to which these conditions have been met.
- 4 One of the important conditions required before making a decision on the deal was public consultation. This report summarises the consultation undertaken across the NECA area. Durham is unique in having conducted a poll of all electors, as agreed by Council on 9 December 2015. The poll closed on 8 February and the results are presented in the report together with a summary of the outcomes of consultation with local businesses and other stakeholders.
- 5 Legislation required to enable combined authorities to deliver devolution arrangements is contained within the *Cities and Local Government Devolution Act 2016*, which received Royal Assent on 28 January 2016. The Act has been subject to considerable amendment during its passage through the legislative process. A summary is provided of the key changes and the timetable for further detail to be developed through Orders and Regulations.
- 6 Previous reports on the Combined Authority and devolution have highlighted issues that are both significant for and unique to Durham, including transport arrangements, police and fire arrangements and patient flows for health services. A description of these issues and the provisions made for them are described in the report.

- 7 Finally, the next steps on decision making by each council's Cabinet and by the NECA Leadership Board are described.

### **Background – Creation of Combined Authorities, including NECA**

- 8 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 were designed to enable groups of local authorities to work closely together to deliver improvements in economic growth and transport across local authority boundaries.
- 9 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 and Sunderland would improve the discharge of functions relating to transport, skills, and economic development across the region. All seven cabinets considered that a combined authority (later named the North East Combined Authority) would strengthen collaboration between the constituent local authorities and enable strategic decision making on economic growth and transport. On 24 July 2013 Council endorsed the decision of Cabinet. The councils of the other constituent councils in turn endorsed the decision of their respective cabinets.
- 10 Subsequent Cabinet and Council decisions included appointing members of the council to the Leadership Board and Scrutiny Committee of NECA and agreeing specific arrangements for transport as described later in the report.
- 11 The NECA Leadership Board is supported by a part time interim Chief Executive, a part time interim Chief Finance Officer plus part time monitoring officer support provided by North Tyneside. A small support team of officers is also in place. The costs for these officers are being funded from equal contributions from the seven authorities plus the use of NECA reserves.
- 12 Combined authorities that agree to a devolution deal must become mayoral combined authorities. The legislation to enable this to happen has been under development and is described later in the report. For NECA, the election of a mayor would be expected to take place in May 2017.

### **Devolution and the Proposed North East Devolution Agreement**

- 13 The Chancellor of the Exchequer announced the availability of devolved powers to combined authorities following the General Election in May 2015. Thirty-eight cities and regions put forward bids by the Government's deadline of 4 September 2015. To date, devolution deals have been agreed for Greater Manchester, Sheffield, Leeds, Cornwall, the West Midlands, Liverpool and the Tees Valley. More deals, including the proposed North East devolution agreement are at different stages of development. Given the fact that devolution powers originated in the area of economic regeneration and transport, and linkages have been made to the Northern Powerhouse, it is

perhaps not surprising that the greatest initial interest and most advanced development of combined authorities and devolution deals have so far been in conurbations in Northern England.

- 14 The NECA Leadership Board negotiated with Government and signed a proposed North East devolution agreement on 23 October 2015, subject to the following conditions:
  - The outcome of the spending review on 25 November 2015;
  - The legislative process
  - Further public consultations (which for Durham includes the results of the poll of all electors)
  - Agreement by constituent councils
  - Formal endorsement by the Leadership Board and Ministers.
- 15 The proposed agreement was circulated to members at the full council meeting on 28 October and is reproduced as **Appendix 2**.
- 16 The main points of the proposed agreement are:
  - to give the North East new opportunities to support businesses and create more jobs. That includes giving the North East an extra £30 million a year to set up an Investment Fund to help business growth.
  - To let the North East develop its own plans to improve post 16 education and training so that people have better skills and better prospects.
  - To let the North East take more decisions about transport investment, particularly public transport.
  - To enable the North East to do more to identify opportunities for investment in new housing.
  - To give the North East more say over how money from European Union is spent in the North East.
  - To enable the North East to review health and social care provision and develop plans to improve and integrate services so that people receive better care.
- 17 As explained above, agreement to a devolution deal would require the election of a mayor for the combined authority area. It is proposed that the mayor would have personal accountability for the following:
  - Responsibility for a devolved and consolidated transport budget, with a multi-year settlement to be agreed at the Spending Review.

- Responsibility for franchised bus services and, through Rail North, franchised rail services, contributing to the delivery of smart and integrated ticketing across the North East.
- Powers over strategic planning, including the responsibility to create a North East Planning Development Framework and to chair a new North East Land Commission to release land for development.
- Powers to place a supplement on business rates to fund infrastructure, with the agreement of the local business community through the local enterprise partnership, up to a cap.

18 The Leadership Board, made up of the Leaders and Elected Mayor of the constituent authorities would be renamed as the ‘Cabinet’ of NECA and working with the Mayor would have the following powers:

- To create a North East Combined Authority Investment Fund, bringing together funding for devolved powers and used to deliver a 15 year programme of transformational investment in the region.
- Control of a new £30 million a year funding allocation over 30 years, to be included in the NECA Investment Fund and invested to boost growth.
- Joint responsibility for an Employment and Skills Board, that will undertake a comprehensive review and redesign of the post-16 education, skills and employment support system in the North East, delivered through the area-based review of post 16 provision, devolution of adult skills funding by 2018/19 and co-design by Government and NECA of employment support for harder-to-help claimants.
- Responsibility for a devolved approach to business support from 2017, including further responsibility for UKTI export advice services, to be developed in partnership with Government.
- Joint responsibility for the rollout of broadband across the North East.
- Increased devolved responsibility for rural growth.

19 The Elected Mayor would be the Chair and a member of NECA. All members of NECA, including the Elected Mayor would have one vote and any proposal requiring a decision of NECA could be put forward by either the Mayor or a Cabinet Member.

### **Extent to which conditions have been met**

20 An update is provided below on the conditions set out in the proposed devolution agreement.

### **The outcome of the spending review**

21 The devolution agreement made reference to seeking a fair funding settlement for the North East: ‘ensuring that the North East does not suffer disproportionately from future reductions in funding through a fair funding settlement’. The spending review of 25 November 2015 made clear that

austerity will continue for local government until at least 2020. The final financial settlement for 16/17 received on 8 February 2016 is summarised in the financial implications section at **Appendix 1**. Of the additional £150m of Government Transitional Grant funding for the next two years and the additional £61m Rural Services Delivery Grant included in the final settlement, only Northumberland benefited.

- 22 In finalising the proposed devolution agreement, further discussions are being held with DCLG and Treasury.

### **Consultation including the Durham Poll**

- 23 Previous paragraphs highlighted the consultation that was undertaken and which influenced the decision to form NECA. At each stage of the process there was consultation throughout the NECA area in each of the constituent local authority areas and further consultation bespoke to each area. At each stage, Durham has had the highest turnout within the NECA area, and in conducting the poll, has carried out the largest consultation in England on a policy issue.
- 24 The consultation events and the issues emerging from them are summarised in **Appendix 3**. The main points are:
- There was general support voiced for the concept of devolution amongst partners, businesses, the general public and the voluntary sector
  - The issues covered by the proposed agreement were thought to be appropriate
  - Suggestions of areas for future devolution included culture, tourism, housing and the environment
  - There were concerns expressed as to how issues such as the rural nature of County Durham, and the non-co-terminous boundaries of Durham's police and fire services would be accommodated within the proposed devolution arrangements
  - There was interest expressed as to how Durham could continue to work with areas beyond the combined authority area, particularly for businesses and regarding health and social care services.
- 25 The decision to conduct a poll of all electors was made by full council on 9 December 2015. The methodology for conducting the poll was also agreed at that meeting and included a postal survey, background information and questions developed by the University of Durham, and the commissioning of the poll and its analysis by a third party organisation with the infrastructure to carry out such a high volume poll (377,110 electors) within a short period. Electoral Reform Services was appointed in mid-December and the poll was conducted from 11 January to 8 February 2016.
- 26 The results of the poll are presented in **Appendix 4**. The total number of responses received was 81,964 from an electorate of 377,110 representing a

21.7% turnout. This is evidence of a significant amount of interest in what is essentially a policy issue. Advertisements informing residents of the poll were placed in the local press and ran on local radio. There were articles and editorials on the issue in the regional press and interviews/coverage on regional TV. In the absence of significant national coverage of this issue and campaigning, such a turnout is very encouraging.

27 Analysis of the poll results shows that:

- A clear majority (59.5%) of electors responding thought that devolving some power and resources to the North East would be a step in the right direction. A minority (14.9%) thought that it would be the wrong thing to do. A quarter of respondents thought that devolving some power and resources would make little difference or didn't know (19.9% and 5.7% respectively).
- Respondents' views on the powers of an elected mayor were more mixed. 47.8% thought that the mayor should have limited power and influence i.e. someone who chairs the combined authority but does not have a major role representing the area. 40.3% of respondents took the view that the mayor should have quite a lot of power and influence – perhaps coming to be seen as someone who represents the voice of the North East area. 11.9% of respondents were unsure of their views on this topic. At 1,088 this issue had the most invalid responses of the four questions.
- The most popular response to the question as to whether if the agreement goes ahead, people would like to try to get additional powers and resources devolved to the north east was “not sure – it depends, let's wait and see” (42.9%). Clear views of “no, I wouldn't want to see more devolution” were expressed by 22.4% and “yes, I would like to see more devolution” by 28.3% on this issue; 6.4% were unsure of their views.
- On being asked their views as to whether if the agreement goes ahead, it would bring more prosperity and jobs to County Durham, 40.5% thought it would, 9.1% thought it would not, and 36.2% thought it would make little or no impact to jobs and prosperity. More people (14.2%) answered “I don't know” to this question than any of the others

## Legislation

28 Legislation required to enable combined authorities to assume devolved powers is largely contained within the *Cities and Local Government Devolution Act 2016*.

29 The Act received Royal Assent on 28 January 2016 and will be in force before the end of March. The Act provides a framework for:

- Devolution of powers and responsibilities to combined authorities from Government
- Introduction of new mayoral combined authorities

- Transfer or sharing of powers and responsibilities from other public bodies
- 30 A key principle underpinning these opportunities for change is consent and the Act envisages that any material change in power or the introduction of a combined authority mayor will be with the consent of the combined authority and constituent authorities. A decision to provide such consent is a matter for the NECA Leadership Board and the cabinets of the constituent authorities.
- 31 The act envisages costs incurred in, or in connection with, the Mayoral office could be met through a Mayoral Precept with effect from 2018/19, subject to enabling orders that are yet to be agreed. The Mayoral responsibilities include a devolved and consolidated transport budget and so the current transport levy arrangement is expected to change from the current arrangements where the council tax payers in the five Tyne and Wear authorities currently pay a levy for the transport services provided by the former Integrated Transport Authority and Durham and Northumberland have separate levies for passenger transport services and concessionary fares costs in their areas.
- 32 It is not yet confirmed when an order permitting a mayoral precept will be made. More detail about the process for agreeing and funding the Mayoral budget will emerge in secondary legislation but the Act envisages scrutiny of the draft budget and the power to change it.
- 33 Details of the operation of some aspects of the new legislation, such as scrutiny and budget setting will be set out in orders and regulations following consultation by DCLG, which is expected over the next few months.
- 34 The Government is therefore enacting legislation to enable devolution powers to be assumed by mayoral combined authorities. At this stage, much of the detail has yet to be developed.

### **Agreement by Constituent Councils**

#### **Formal endorsement by the Leadership Board and Ministers**

- 35 The proposed devolution agreement must be considered by each constituent council's Cabinet in advance of a final decision to be taken by the NECA Leadership Board.
- 36 Each constituent council is planning to debate the issue at a council meeting in advance of the Cabinet decision on the issue. The current timetable is that Council meetings and Cabinet meetings will take place prior to a NECA Leadership Board meeting on 24 March 2016.
- 37 This report, updated with any further emerging information will form the background information to a report to Cabinet.
- 38 Any constituent council that decides not to agree the proposed devolution agreement would be required to leave the combined authority. The proposed devolution agreement could still be agreed provided that there are two or more constituent councils in the combined authority. However the final decision on whether to agree the proposed agreement lies with the NECA

Leadership Board once all constituent councils have made clear their positions.

## **County Durham Issues**

- 39 Previous reports on the combined authority and devolution have highlighted that Durham has significant issues, some of which are unique within the combined authority area. These are:
- Transport: Durham and Northumberland were never part of the Tyne and Wear Integrated Transport Authority (ITA) and have rural transport issues that are unique to largely rural counties;
  - Health: the footprint for health services for County Durham residents involves significant patient flows to Tees Valley. The council is part of an NHS unit of planning which comprises Durham, Darlington and Tees and has been involved for some time in an NHS sub-regional project to consider hospital and out of hospital care from the Tees Valley and County Durham known as the 'Better Health Programme'.
  - Police and fire: whilst police arrangements for six of the seven constituent councils are shared, Durham's police authority is separate and covers both County Durham and Darlington. Darlington is part of the Tees Valley combined authority. Durham's fire authority covers the same footprint as the police and therefore again straddles two combined authority areas.
- 40 Durham's position on transport is very clear and has been provided for in the constitution and Order of NECA.
- 41 There are some significant differences in the way in which transport is delivered and the cost of transport services between Tyne and Wear, Durham and Northumberland. There is a commitment to consider transport integration across the NECA area, with the potential for an elected mayor to take direct responsibility for all transport matters across NECA. This could extend to franchising of all bus services under the proposed Buses Bill. The authority will need to ensure that this will only be progressed where it can be shown to be more effective and efficient, whilst maintaining or improving the quality of service across the County.
- 42 The Order transferred the responsibility for passenger transport and concessionary fares from the Council to the combined authority. However, in order to protect the Council's position set out above, the Constitution of the Combined Authority, and the Operating Agreement between the constituent authorities delegated these functions back to the County Council.
- 43 The Order also made provision for three separate levies to be issued, to the Tyne and Wear districts, Durham and Northumberland; and protected the two county councils from any costs or liabilities in relation to the functions, property and rights transferred to the Combined Authority from the former Tyne and Wear ITA.

- 44 The constitutional changes required to change from a combined authority to a mayoral combined authority bring similar risks to those managed so far on the creation of the combined authority. Care must therefore be taken to delineate our arrangements in a similar fashion, in the creation of a mayoral combined authority if the proposed devolution agreement is agreed.
- 45 Whilst we should consider the opportunities presented by any new legislation, full harmonisation of passenger transport could reduce flexibility for Durham in dealing with our own budget pressures.
- 46 The existing alignment of transport functions with other place shaping functions within Regeneration and Economic Development is also considered to be more effective in delivering against Durham's strategic and economic agenda.
- 47 The current integration across home to school, public transport, health transport and adult social care transport delivery areas is considered to offer greater efficiency for meeting transport needs in rural areas. Any further integration within NECA would need to demonstrate that it would be more efficient and provide greater value for money than the present arrangements.
- 48 The devolution agreement contains the proposal to establish a Commission for Health and Social Care to establish the scope and basis for integration, deeper collaboration and devolution across the combined authority's area. In contributing fully to the evidence base and sharing with partners the development of the commission's findings, it will be important to continue to ensure that there is widespread understanding of and account taken of Durham's significantly different patient flows and health service planning footprint, if the proposed devolution agreement is finalised.
- 49 Some devolution deals, including that for Greater Manchester include provision for the Mayor to assume the responsibility of the Police and Crime Commission for that area. This is not a part of the proposed North East devolution agreement.

## **Financial implications**

- 50 The financial benefits of the devolution agreement have been described above and in the financial implications section of **Appendix 1**. Negotiations are still ongoing as to how the overall funding package for the North East could be improved. Costs would be incurred to hold mayoral elections and run the mayoral office. Legislation, subject to enabling orders that are yet to be agreed, gives the mayor power to raise a council tax precept to pay for these costs but this power will not be able to be put in place until at least 2018/19 i.e. the first financial year after the mayor is elected. The costs for NECA and the mayoral office for at least the first two years would therefore have to be met from the £30m a year grant funding.

## Next steps

- 51 As outlined above the next step in decision making is consideration of the proposed agreement by each constituent council through a series of council and cabinet meetings. The NECA Leadership Board will then take a final decision once the position of each constituent council is known.
- 52 Following Royal Assent of the Act, a series of Orders necessary for implementation of the act will be required. These include:
- An Order allowing for the creation of mayors to allow elections in 2017.
  - An Order modifying the existing Combined Authority Order;
  - Further Orders to convey specific information regarding for example the budget process, precept etc.

## Conclusion

- 53 Local Government in England has long asked for greater powers to be devolved from Westminster. The devolution deal on offer is a complex one. At its heart is collaboration on economic regeneration, transport and skills beyond local authority boundaries. A review of this area was conducted before the establishment of NECA which found that there would be economic benefit from collaborating over this geography.
- 54 The Government has committed to the investment of £30m revenue funding over the next 30 years from 2016 and the devolution of powers in relation to regeneration, transport and skills. A condition of this deal is the election of a mayor with effect from May 2017 and the transition of NECA to a mayoral combined authority.
- 55 Much is still uncertain about the details of the new legislation enabling mayoral combined authorities to assume devolved powers. Negotiations are still continuing as to how the financial offer can be strengthened. It is also unclear as to how Government will work with combined authorities in comparison to those areas that have not agreed to work in this way. In an ideal world, we would have complete visibility on these issues and how they would develop.
- 56 Durham has sought the views of stakeholders and the public to a much greater extent than any other authority through the poll of all electors. There is clear support for devolving some power and resources to the North East and a view that we should “wait and see” how further devolution could be achieved in the future. General support for devolution was also apparent in the consultation held with partners, businesses and the voluntary sector.
- 57 Consultation responses in general highlighted concerns and suggested that care would be needed to deal appropriately with Durham specific issues such as rurality, transport, health and social care patient flows and the police and fire boundaries. Throughout the negotiations and development of the combined authority and the proposed devolution agreement, care has been

taken to stress the issues that are specific to Durham. These have been accommodated to date and it is important that they continue to be so.

## **Recommendation**

58 It is recommended that Council:

- a) notes the information on the proposed agreement provided in the report
- b) notes the conditions on which the proposed agreement is to be decided namely:

The outcome of the spending review on 25 November 2015;

The legislative process;

Further public consultations (which for Durham includes the results of the poll of all electors);

Agreement by constituent councils;

Formal endorsement by the Leadership Board and Ministers.

- c) notes the update on the degree to which these have been met, namely
  - That negotiations on funding to the North East are continuing following the outcome of the financial settlement for 16/17
  - Consultation outcomes, including those of the poll support the devolution of funding and resources to the North East but are cautious as to the degree to which devolution should go beyond the current proposed agreement and would wish to see a mayor with more limited powers;
  - That the legislation to enable devolution through mayoral combined authorities has received Royal Assent and that further detail is under development;
  - That each constituent council will consider the proposed agreement, making decisions through cabinets;
  - The Leadership Board will make a final decision when the position of all constituent councils is known.
- d) Notes and confirms that the following Durham specific conditions have been accommodated within the combined authority development and proposed devolution agreement to date, and must continue to be so in the final decision making:
  - There will be no change to the transport levy in a way as to disadvantage Durham;

- Integrated transport arrangements will not mean more cost or disadvantage to Durham;
- That absorption of the role of the Durham PCC is currently not part of the devolution agreement and that any future devolution will not be to the detriment of Durham's police and fire services;
- That any future interpretation of health and social care takes account of the significantly different patient flows in County Durham and is not to the detriment of health and social care services.

### **Reason**

- 59 To take account of all of the issues associated with the proposed devolution agreement, including the results of the Durham poll, prior to consideration of the proposed devolution agreement by Cabinet.

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## **Appendix 1: Implications**

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**Finance** - In finalising the proposed devolution agreement, negotiations are currently taking place on how the concept of 'fair funding' for NECA can be satisfied with Communities and Local Government (CLG).

The provisional grant settlement for 2016/17 in December 2015 was a less bad settlement when compared to previous years due to the formula taking into account council tax raising levels of each local authority in the context of 'core spending power'.

The final settlement included £150m of Transitional Grant funding for 2016/17 and 2017/18 plus £61m Rural Services Delivery Grant where the biggest beneficiary authorities were the southern upper tier county councils. Durham did not receive any funding from these two additional grants.

### **2016/17 Actual Position**

The average 'core spending power' across the whole of England in 2016/17 is a cut of 2.3%.

The cut for Durham is 4.1% and the NECA average is a cut of 3.7%

### **2016/17 to 2019/20 Actual Position**

The average 'core spending power' across the whole of England across the 4 years is a cut of 0.4%.

The cut for Durham is 2.4% and the NECA average is a cut of 1.8%

### **Impact on Core Spending Power (Excluding Council Tax Income)**

#### **2016/17**

The average 'core spending power' across the whole of England in 2016/17 is a cut of 9.6%.

The cut for Durham in 2016/17 is 10.5% and the NECA average is a cut of 9.8%

The reason why the cut for Durham and NECA average is higher than the England average in this first year is due to the impact of the additional £150m of Transitional Grant funding which is a Government commitment for two years only in 2016/17 and 2017/18 plus the £61m Rural Services Delivery Grant included in the final grant settlement.

Along with all the other north east authorities (apart from Northumberland), Durham did not receive any of this additional funding and this has caused our cut in core spending power to be higher than the England average in 2016/17.

### **Impact on Core Spending Power (Excluding Council Tax Income)**

#### **2016/17 to 2019/20**

The average 'core spending power' across the whole of England across the next four years - 2016/17 to 2019/20 is a cut of 24.5%.

The cut for Durham across the four years is 19.6% and the NECA average is a cut of 19.8%

The reason why the cut for Durham and NECA average is lower than the England average across the four year period is due to the £150m of Transitional Grant funding and the £61m Rural Services Delivery Grant including only being paid in the

first two years. This therefore has a beneficial impact in average comparison terms for Durham and the north east from 2018/19 onwards.

**Staffing - None**

**Risk – within the body of the report**

**Equality and Diversity / Public Sector Equality Duty - None**

**Accommodation - None**

**Crime and Disorder - None**

**Human Rights - None**

**Consultation - None**

**Procurement - None**

**Disability Issues - None**

**Legal Implications - within the body of the report**