

## Cabinet

23 March 2016

### North East Combined Authority: Devolution Decision



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### Report of the Corporate Management Team Councillor Simon Henig, Leader Terry Collins, Chief Executive

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#### Purpose of the Report

- 1 This report updates Cabinet on the proposed devolution agreement and invites Cabinet to consider next steps.

#### Background

- 2 A report to County Council on 24 February 2016 provided an update on the proposed devolution agreement, including the results of the County Durham poll. It also provided an update on the legislative position, financial issues and highlighted the continuing key issues for County Durham. The Council agreed to:
  - a) note the information on the proposed deal provided in the report (attached as **Appendix 2**)
  - b) note the conditions on which the proposed deal is to be decided namely:
    - i. The outcome of the spending review on 25 November 2015;
    - ii. The legislative process;
    - iii. Further public consultations (which for Durham includes the results of the poll of all electors);
    - iv. Agreement by constituent Councils; and
    - v. Formal endorsement by the Leadership Board and Ministers.
  - c) note the update on the degree to which these have been met, namely:
    - i. That negotiations on funding to the North East are continuing following the outcome of the settlement of 16/17;
    - ii. 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 deal and would wish to see a mayor with more limited powers;

- iii. That the legislation to enable devolution through mayoral combined authorities has received Royal Assent and that further detail is under development;
  - iv. That each constituent Council will consider the proposed deal, making decisions through Cabinets; and
  - v. The North East Combined Authority (NECA) Leadership Board will make a final decision when the position of all constituent councils is known.
- d) Note and confirm that the following Durham specific conditions have been accommodated within the Combined Authority development and proposed devolution deal to date and must continue to be so in the final decision making:-
- i. There will be no change to the transport levy in a way as to disadvantage Durham;
  - ii. Integrated transport arrangements will not mean more cost or disadvantage to Durham;
  - iii. That absorption of the role of the Durham PCC is currently not part of the devolution deal and that any future devolution will not be to the detriment of Durham's Police and Fire Services; and
  - iv. 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 services.

- 3 The report to Council described the negotiations with Government that were continuing at that time and are still continuing. The remainder of this report summarises the progress made to date and the issues that are still outstanding.

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

- 4 Of the conditions listed in paragraph 2(b), only the outcome of public consultation remains at the same position as described in the February Council report which presented detailed findings of the poll and the other consultations undertaken in County Durham and across the NECA area. No further consultations were planned given the comprehensive nature of that conducted to date.

- 5 Progress has been made on the legislative process with more detailed understanding emerging of the decision-making process including the timetable for the development of orders required to enable a Mayoral Combined Authority to function, although there are a number of issues that remain to be resolved. There has also been greater assurance provided of the legislative issues affecting County Durham, which are described in the next section.
- 6 Whilst progress has been made to clarify aspects of the financial benefits of the proposed agreement, negotiations are still continuing to clarify the issue of 'fair funding'. These include issues such as: the principle of a single five year programme of allocation of local growth funding to form part of the North East Investment Fund; more detail on the Government's five year gateway tests on the £30 million a year investment fund which as things stand could put the commitment to ongoing funding at risk; the devolution of sustainable travel funding; comparison with the fiscal freedoms granted to Scotland and consideration of protecting Newcastle Airport from the impacts of the proposed reduction in Air Passenger Duty to Scotland in 2018. Clarity is still required at this stage on the power for the elected mayor to levy a council tax precept for the running of the mayor's office and support functions plus the election costs for the mayor which will be incurred every four years from 2017.
- 7 The Council report made clear that a decision to agree to the proposed devolution agreement is an executive function. Cabinet meetings have been scheduled by the seven NECA constituent authorities for the period 21-24 March. At the time of writing it is understood that two authorities (Newcastle and North Tyneside) have agreed to the proposed agreement.
- 8 A meeting of the NECA Leadership Board has been scheduled for 24 March, after all seven cabinets have considered their position.

### County Durham Issues

- 9 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:
  - a) **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;
  - b) **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'.

- c) **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.
- 10 In the weeks since the council report, there has been significant progress in addressing the issues that are specific to County Durham, with an acceleration of pace in the last week or so.
- 11 On transport, there has been written assurance that solutions will be found to avoid any material redistribution of costs between the three areas by any new council tax precepting arrangements. A commitment has been given by Government to retain the current three council tax levy arrangement for County Durham, Northumberland and the five authorities in Tyne & Wear to fund transport costs in these three areas.
- 12 On health, police and fire arrangements, there is recognition, and the proposed legislation reflects this, that any further devolution proposals in any of these areas, or indeed any other, will require the explicit agreement of Durham County Council. In other words, such future devolution proposals would be supported by the inclusion of appropriate safeguards in decision-making to protect the interests of DCC or other constituent authorities in a minority voting position.

## **Conclusion**

- 13 The Council supports the principle of devolution, noting that almost 60% of respondents to the recent consultation agreed that the region could benefit from devolved powers. It is clear that progress has been made on the issues identified in the County Council report of 24 February, including on the conditions attached to consideration of the proposed agreement and those specific to County Durham.
- 14 However, there remain outstanding issues to be addressed, particularly on fair funding and governance. At the time of writing, more information is required on the mayoral precept.

## **Recommendation**

- 15 It is recommended that Cabinet:
  - a) note the progress made since the Council report on 24 February 2016;
  - b) note the conditions that were set out in the proposed agreement and described in the Council report;

- c) note in particular that the condition regarding fair funding has not been fully met;
- d) note that further clarification and commitment from Government on outstanding issues (including governance) is being requested through NECA;
- e) defer making a final decision on the proposed devolution agreement until the outstanding issues are resolved.

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**Contact: Lorraine O'Donnell, Assistant Chief Executive**

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## **Appendix 1: Implications**

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**Financial** – the main potential financial benefits of NECA are set out in the report and include an additional £30 million of funding per year from Government for 30 years to set up an Investment Fund for the NECA region.

The pre-conditions for County Durham of the current transport levy arrangements for NECA to be retained have been met by the government.

**Staffing** there will be additional staffing costs in the setting up of the Mayor's Office that will have to be met from either a council tax precept on all local authorities within NECA or from the £30 million a year revenue funding from government.

**Risk** – the pre-condition of 'fair funding' arrangements to be met prior to the proposed deal being agreed is subject to further negotiations between NECA and government.

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

**Accommodation** - none

**Crime and Disorder** - none

**Human Rights** - none

**Consultation** - Within the body of the report

**Procurement** - none

**Disability Issues** - none

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