

REPORT TO: Council

DATE: 12 October 2016

REPORTING OFFICER: Chief Executive

SUBJECT: Devolution - Liverpool City Region

WARDS: All

1. PURPOSE OF REPORT

1.1. This report outlines the final legal and governance requirements to establish the Liverpool City Region Combined Authority (LCRCA) Mayoral Model with the devolved powers and functions agreed as part of the Devolution Deal in November 2015.

2. RECOMMENDATION: That this Council

- (a) Note the next steps required for the implementation of the LCR Devolution Agreement;**
- (b) Delegate authority to the Chief Executive, in consultation with the Leader, to agree the detailed terms of the Orders, and take all necessary steps required, to implement the LCR Devolution Agreement (attached at Appendix 2);**
- (c) In the event of any material changes being proposed in the Orders from what was agreed in the LCR Devolution Agreement (attached at Appendix 2) these matters shall be referred back to Council for further consideration by Council before any final Orders are agreed;**
- (d) Note and reaffirm the governance principles, previously agreed by the Council and the Liverpool City Region Combined Authority in November 2015 (attached at appendix 5), that will form the basis of the revised LCRCA constitution; and**
- (e) Agree the scrutiny principles (as attached at appendix 4) and note that these will be incorporated into the revised LCRCA constitution.**

3. Executive Summary

3.1 At its meeting on the 19th November 2015 Council (attached as Appendix 5) resolved as follows:-

- A. *Approves the Liverpool City Region Devolution Agreement as outlined in Appendix 1 and agrees to adopt a Directly Elected Mayor with effect from May 2017 based on the Governance Principles outlined in Appendix 2;*
- B. *Notes that the Governance Principles will be incorporated into a formal constitution and will be the subject of a further report in due course;*
- C. *Agrees to explore with Government further opportunities for devolution, noting that any proposals will be presented to future meetings of the Council for consideration and approval before being agreed and implemented; and*
- D. *Reserves the right to withdraw from the Devolution Agreement if Government fail to deliver on the proposals as outlined in the Devolution Agreement attached in Appendix 1.*

3.2 This report outlines the final legal and governance requirements to establish the Liverpool City Region CA Mayoral Model with the devolved powers and functions agreed as part of the Devolution Deal in November 2015

3.3 These powers and functions were set out in the devolution agreement reached between Government and the LCR in November 2015 (as set out at Appendix 2 attached) that gives the LCR greater control over transport, skills, business support and other areas. The Chancellor announced the devolution of further powers and responsibilities to the LCR in the March 2016 Budget.

3.4 Legislation requires that the LCR undertake a Governance Review and consult on a Draft Scheme in order for the Secretary of State to make the required legislative changes and confer additional functions and powers on the LCRCA and directly elected mayor that will be required to implement the devolution agreement. The Scheme is a companion to the Review and sets out the statutory powers that will be transferred.

3.5 The Scheme and Review were approved by the LCRCA in June 2016. The consultation took place between 24 June 2016 and 5 August 2016 and the CA considered the outcome at its meeting in August 2016. As required by the

legislation a summary of the responses to the Consultation was submitted to the Secretary of State for consideration.

- 3.6 The Secretary of State must now make an Order(s) in respect of the governance of the LCRCA from May 2017 when the LCR Mayor is to be elected.
- 3.7 The LCRCA and the six constituent councils are required to consent to any Proposed Order(s) before it is laid before Parliament. This report sets out the final legislative steps required for the implementation of the devolution deal and seeks delegated authority to the Chief Executive, in consultation with the Leader, to agree the detailed terms of the Orders, and take all necessary steps required, to implement the LCR Devolution Agreement.

4. Background

- 4.1 Following the agreement to the LCR Devolution Deal by all Councils in November 2015, an initial Order was passed through parliament in July 2016 to establish the office of Mayor and make arrangements for the election of an LCR Mayor in May 2017.
- 4.2 The Cities and Local Government Act 2016 (the 2016 Act) is the enabling legislation providing the framework for devolution of powers and functions to take place. This legislation requires the conferring of specific CA and Mayoral Powers through a Parliamentary Order(s) that requires the consent of all LCR local authorities and the LCRCA itself.
- 4.3 Further steps are now required to progress the Parliamentary processes and put in place the Parliamentary Orders to ensure that the LCR Devolution Agreement can be implemented in full.
- 4.4 The LCR Order will need to be laid before Parliament in November in order for it to have sufficient time to be in place for May 2017 and the election of the LCR Mayor. All constituent authorities and the LCRCA need to consent to the order before it is laid in November 2016

5. Powers to be conferred on LCRCA

- 5.1 The Legislation on combined authorities is detailed in sections 103-113 of the Local Democracy, Economic Development and Construction Act 2009 and was amended by the Cities and Local Government Devolution Act 2016 (2016 Act) so that an existing combined authority may be changed into a Mayoral Combined Authority through a further Order from the Secretary of State.
- 5.2 The 2009 Act originally provided that a combined authority could only undertake functions related to economic development, regeneration, or transport, or other functions that its member authorities agreed to transfer upwards to it. The 2016 Act removes these limitations, and will permit the Secretary of State to transfer statutory functions or the functions of public bodies to combined authorities. As detailed above, this is to be done via an Order for each individual combined authority.
- 5.3 Before the enactment of the Cities and Local Government Devolution Act, the functions that could be conferred on the Liverpool City Region Combined Authority by order were limited to transport functions mainly inherited from the former Integrated Transport Authority and functions of the constituent councils relating to economic development and regeneration. These could be exercised instead of, by or concurrently with the constituent councils.

- 5.4 The amendments by the 2016 Act now enable an order to confer on Liverpool City Region Combined Authority:
- 5.4.1 Any function of a constituent council (not limited to transport, economic development or regeneration);
 - 5.4.2 Any function of a public authority (including that of a Minister of the crown or government department) which is exercisable in relation to Liverpool City Region;
 - 5.4.3 Any functions corresponding to a function that a public authority has in relation to another area (e.g. functions of the Mayor of London or GLA).
- 5.5 In order for the CA to acquire additional functions and functions to implement the devolution agreement, it must go through the statutory process as set out in legislation. These are a review of its governance, publication of a draft Scheme setting out the powers requested and a public consultation exercise.
- 5.6 These steps are all complete and have been considered by the LCR CA in June 2016 and August 2016.
- 5.7 The powers to be conferred on the LCRCA/Mayor were set out in the Governance Review and Draft Scheme on which the LCR CA consulted with stakeholders and the public. It should be noted that not all aspects of the LCRCA devolution agreement require legislative changes to implement.
- 5.8 The Table (attached at Appendix 3) reflects the proposed powers as set out in scheme and delegated authority is sought to the Chief Executive, in consultation with the Leader, to agree the Proposed Order(s) in a form that ensures it/they include(s) all of the powers and functions required to implement the November 2015 Devolution Agreement, and take all necessary steps required, to implement the LCR Devolution Agreement

6. Overview and Scrutiny of the LCRCA

- 6.1 The Cities and Local Government Devolution Act 2016 contains provisions specific to scrutiny. The general provisions in the Act are standard ones in relation to scrutiny activities and which are familiar to all Councils.

The two major differences are:

- 6.1.1 the arrangements have to include provisions to hold the Elected Mayor to account for executive decisions they take; and

6.1.2 the act contains provision for further direction by the Secretary of State to be made by Order which, amongst other things, could provide directions about:

6.1.2.1 the membership of an overview and scrutiny committee;

6.1.2.2 the person who is to be the Chair of such a committee;

6.1.2.3 how and by whom matters may be referred to an overview and scrutiny committee.

6.2 The principles by which the LCRCA will operate scrutiny are set out in Appendix 4 and these will be incorporated into the constitution of the LCRCA, consistent with the provisions set out in the LCRCA Order.

7. Next Steps

7.1 When approving the Devolution Deal in November 2015 the Local Authorities and LCRCA agreed a number of Governance Principles (see Appendix 5) These Principles were also contained at Appendix 2 of the report to Council on the 19 November 2015 and remain unaltered. These Principles will form the basis of the LCRCA Constitution that will apply post May 2017.

7.2 The CA has already amended its constituent to establish an appointments panel to enable it to recruit and employ staff directly and also to establish an investment committee to consider project investment decisions for the Single Investment Fund.

7.3 A review of the constitution will be undertaken and a revised constitution drafted in order to fully reflect the powers and functions contained within the LCR order and how they will be implemented.

8. FINANCIAL IMPLICATIONS

8.1 The Devolution arrangements propose the devolution of resources from central government to the City Region.

8.2 The Devolution Agreement includes the following headline financial implications:

8.2.1 An additional £30m of investment for economic growth for 30 years, equating to £900m total additional investment. This is subject to 5 yearly gateway assessments.

8.2.2 A devolved and consolidated transport budget (subject to the Government's Spending Review);

8.2.3 A commitment, for Government to establish a single pot of government funding to invest in economic growth;

8.2.4 Greater influence and decision making over a range of national programmes including the Work Programme, Adult Skills budgets and potentially housing funds. Although such budgets will still sit formally with Government Departments in the immediate future, the City Region can direct and influence how these will be spent;

8.2.5 On-going consultation on the Government's proposed business rates reforms.

8.3 All additional and directly devolved funding streams, will be managed by the Combined Authority and the newly elected Mayor for the City Region.

8.4 It will be for the City Region itself to agree the arrangements for how these resources will be managed and allocated as part of the implementation plans

8.5 The Agreement also commits the Combined Authority to:

- Continue to set out proposals for how local resources and funding will be pooled;
- Agree overall borrowing limits with HM Government;
- Agree a process to manage local financial risk relevant to the proposals in the draft Agreement;
- Continue to progress service transformation amongst local authorities including streamlining back office functions and sharing data and services.

8.6. Officers will continue to engage with Government officials to set out how these commitments will be implemented on an individual basis. At that point the detailed financial implications on any individual proposal will be set out for the Combined Authority to consider and agree.

9. LEGAL IMPLICATIONS

9.1 The implementation of the Devolution Agreement is subject to the provisions of the Cities and Devolution Act and to the parliamentary approval of subsequent secondary legislation. Government are working to a legislative timetable for elections for a directly elected City Region Mayor to take place in May 2017.

- 9.2 Each constituent council of an existing Combined Authority is required to consent to any orders establishing a directly elected Mayor.
- 9.3 All LCR Councils are considering the proposals in this report. They also require the consent of the Liverpool City Region Combined Authority.
- 9.4 The Constitution of the Combined Authority will require amendment to reflect the new governance arrangements. Amendments to the Combined Authority constitution need the unanimous agreement of the Combined Authority Constituent Members.

10. ALTERNATIVE LCR OPTIONS CONSIDERED

- 10.1 Option 1: Not agree the devolution deal on offer from Government. This would place the City Region at a real disadvantage compared to those areas that have secured a devolution agreement that includes greater funding and powers from Government. The City Region would be left to compete for funding from a much smaller pot that has had resources top sliced for those areas that have successfully negotiated devolution deals. The City Region would have no ability to agree its own spending priorities. It would be faced with the reality of continuing to do “more with less”; and having to weather further future spending cuts which face the public sector without any flexibility or additional resources which the devolution deal offers to the City Region. Government have also indicated that there is a small window of opportunity for devolution agreements in line with their Spending Review timetable. Therefore there would be no possibility for the City Region to negotiate a similar deal at a later date should it not reach agreement with Government at this time.
- 10.2 Option 2: To negotiate a significantly reduced devolution deal without a Directly Elected Mayor arrangement. Government require strong governance proposals in place for those areas that are seeking the maximum level of devolution. Without a directly elected Mayor, Government has been clear that the level of resources and powers on offer would be substantially less and as with (10.1) above would place the City Region at a distinct disadvantage with other comparable areas. The Cornwall devolution deal is an example of how the Government has devolved comparatively fewer powers to areas that do not pursue a directly elected Mayor.

11. EQUALITY IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

- 11.1 There are no direct equality implications associated with this report as it deals with the issue of devolution at a strategic level. Equality analysis will be undertaken in future as appropriate and in relation to specific elements or activities.
- 11.2 Paragraph 67 of the proposed Devolution Agreement sets out that the LCR

Combined Authority will continue to adhere to its public sector equality duties, for both existing and newly devolved responsibilities.

12. BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

None under the meaning of the Act.

Appendices

- 1. Report to Council – 19th November 2015**
- 2. Devolution Agreement – Nov 15**
- 3. Powers to be conferred on the Liverpool City Region Combined Authority and Liverpool City Region Mayor**
- 4. Scrutiny Principles**
- 5. Governance Principles**