

# LIVERPOOL CITY REGION COMBINED AUTHORITY SCRUTINY PANEL

To: Members of the Liverpool City Region Combined Authority Scrutiny Panel

Meeting: 25<sup>th</sup> January 2017

Authority/Authorities Affected: All

EXEMPT/CONFIDENTIAL ITEM: No

## REPORT OF THE LEAD OFFICER – SCRUTINY

### THE LIVERPOOL CITY REGION COMBINED AUTHORITY ORDER

#### **1.0 PURPOSE OF REPORT**

**1.1** The purpose of this report is to update Panel Members on the actions taken to implement the Liverpool City Region Devolution Agreement including the consent given by the Combined Authority and Constituent Authorities to the Liverpool City Region Order which sets out the proposed powers and functions being devolved to the Combined Authority and Mayor. The Order gives legal status to the devolution agreement made in November 2015.

#### **2.0 RECOMMENDATION**

**2.1** It is recommended that the Panel:

- a) Note the progress being made on the implementation of the Devolution Deal;
- b) Seeks clarification on any of the issues and implications;
- c) Receives further updates in relation to the development of the revised Combined Authority constitution currently being produced.

#### **3.0 BACKGROUND**

**3.1** Following the agreement to the Liverpool City Region Devolution Deal by all constituent 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 a Liverpool City Region Mayor in May 2017.

**3.2** The Cities and Local Government Devolution Act 2016 (the 2016 Act) is the enabling legislation providing the framework for devolution of powers and functions to take place. This legislation required the conferring of specific Combined Authority and Mayoral Powers through a Parliamentary Order which required the consent of all Liverpool City Region Local Authorities and the Combined Authority itself.

**3.3** Parliamentary Orders were required to ensure that the Liverpool City Region Devolution Agreement could be implemented in full, allowing the directly elected Mayor and the CA to have the powers agreed in the Devolution Agreement.

**3.4** The Liverpool City Region Order is now making its way through the Parliamentary processes. All constituent Local Authorities and the Combined Authority have now consented to the order.

#### **4.0 POWERS TO BE CONFERRED ON THE COMBINED AUTHORITY**

**4.1** The Legislation on Combined Authorities is detailed in sections 103-113 of the Local Democracy, Economic Development and Construction Act 2009. This 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.

**4.2** 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 Local Authorities agreed to transfer upwards to it. The 2016 Act removes these limitations and permit the Secretary of State to transfer statutory functions or the functions of public bodies to combined authorities. This is done via an Order specific to each individual Combined Authority.

**4.3** Before the enactment of the Cities and Local Government Devolution Act, the functions which 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 Local Authorities relating to economic development and regeneration. These could be exercised instead of, by or concurrently with the constituent Local Authorities.

**4.4** The amendments by the 2016 Act enabled an Order to confer on Liverpool City Region Combined Authority:-

- i) Any function of a constituent council (not limited to transport, economic development or regeneration);
- ii) 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; and
- iii) 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).

**4.5** In order for the Combined Authority to acquire additional functions to implement the devolution agreement, it was necessary to follow the statutory process as set out in legislation. These are a review of governance, publication of a draft Scheme setting out the powers requested and a public consultation exercise. All of these steps have been completed and were considered by the Combined Authority in June 2016 and August 2016.

**4.6** The final draft of the Liverpool City Region Order is now attached in Appendix 3. For clarity, the powers set out in the Order have been detailed in Appendix 4 alongside the Devolution Deal agreements which are relevant and also how those powers will be exercised.

- 4.7** The draft Order aligns with the Devolution Deal agreed by all Councils in November 2015 and contains all powers necessary to implement the deal with the exception of Employment and Skills. The report considered by the CA in November 2015, together with a copy of the Devolution Deal itself are appended at Appendix 1 and 1A attached.
- 4.8** In respect of those powers necessary to give effect to the Employment and Skills elements of the Devolution Deal, Government have indicated that these powers will be conferred in forthcoming legislation. Assurances have been given by Government to devolve these powers by Spring 2017, however, the Combined Authority made representations for a stronger, more robust commitment to be made, which was forthcoming.
- 4.9** When approving the Devolution Deal in November 2015, constituent Local Authorities and the Combined Authority agreed a number of Governance Principles. These Principles were contained within the report to the Combined Authority on 20 November 2015 (Appendix 1b) and remain unaltered. These Principles will form the basis of the Combined Authority Constitution that will apply post May 2017 and the Liverpool City Region Order is entirely consistent with those principles.

## **5.0 OVERVIEW AND SCRUTINY OF THE COMBINED AUTHORITY**

- 5.1** Alongside the Liverpool City Region Order, Government produced a generic Overview and Scrutiny Order which will apply to all Mayoral Combined Authorities. The draft of that is attached at Appendix 5.
- 5.2** As anticipated the Order requires the Overview & Scrutiny Panel to be politically balanced. The majority of Members of the Combined Authority Overview & Scrutiny Panel must be Members of the Combined Authority's constituent Councils.
- 5.3** The Combined Authority must ensure that:-
- a) any Member of an overview and scrutiny committee;
  - b) any Member of a sub-committee of an overview and scrutiny committee;
  - c) any Member of the Combined Authority; and
  - d) any Member of a constituent council or non-constituent council(s) of the Liverpool City Region Combined Authority

can refer matters to Overview & Scrutiny and their representations must be considered.

(note the non-constituent council referred to in d) above does not relate to the Liverpool City Region arrangements)

- 5.4.** The Order allows for a referral process for such matters as above to be considered by Overview and Scrutiny and the detailed process for this will be outlined within the revised Combined Authority Constitution.
- 5.5** As anticipated the Chair of the Overview and Scrutiny Committee must be an "opposition Member" or an "independent person". A definition of an "independent person" is also provided. The Combined Authority Audit Committee must also be politically balanced and must have at least one independent person on it.
- 5.6** The principles by which the Combined Authority will operate scrutiny are set out in Appendix 2 and these are entirely consistent with the draft order. These will now be incorporated into the Constitution of the Combined Authority, alongside the requirements in the generic Overview and Scrutiny Order.

## **6.0 NEXT STEPS**

**6.1** A review of the Liverpool City Region Combined Authority constitution will be undertaken and a revised Constitution drafted in order to fully reflect the powers and functions contained within the Liverpool City Region Order and other generic Orders applicable to the Combined Authority, together with how they will be implemented.

## **7.0 LEGAL IMPLICATIONS**

**7.1** The implementation of the Devolution Agreement is subject to the enactment of the necessary legislation, the Cities and Local Government Devolution Act 2016 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.

**7.2** The Constitution of the Combined Authority will require amendment to reflect the new governance arrangements and the powers and functions set out in the Liverpool City Region Order. Amendments to the Combined Authority Constitution need the unanimous agreement of the Combined Authority Constituent Members.

## **8.0 RESOURCE IMPLICATIONS**

**8.1** The Devolution arrangements allow for the devolution of resources from central Government to the Liverpool City Region.

**8.2** The Devolution Agreement includes the following headline financial implications. All additional and directly devolved funding streams will be managed by the Combined Authority and the newly elected Mayor for the City Region:

- i) an additional £30m of investment for economic growth for 30 years, equating to £900m total additional investment. This is subject to five yearly gateway assessments;
- ii) a devolved and consolidated transport budget;
- iii) a single pot of Government funding to invest in economic growth;
- iv) greater influence and decision making over a range of national programmes including the Work and Health Programme, 16+ skills funding, Adult Education 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; and
- v) ongoing consultation on the Government's proposed business rates reforms of which the LCR is a pilot area.

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

**8.4** 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; and
- continue to progress service transformation amongst Local Authorities including streamlining back office functions and sharing data and services.

**8.5** 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 implication on any individual proposal will be set out for the Combined Authority to consider and agree.

## **9.0 RISKS AND MITIGATION**

**9.1** The governance and legal processes required to establish the Combined Authority with the required powers and functions are being monitored and managed through a detailed implementation plan. This plan has been developed with Government and is managed by the Combined Authority Monitoring Officer and Lead Officer: Governance. This mechanism provides the risk management to ensure the required process is followed and the timetable met.

## **10.0 EQUALITY AND DIVERSITY IMPLICATIONS**

**10.1** 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.

**10.2** Paragraph 67 of the proposed Devolution Agreement sets out that the Liverpool City Region Combined Authority will continue to adhere to its Public Sector Equality Duties, for both existing and newly devolved responsibilities.

## **11.0 COMMUNICATION ISSUES**

**11.1** There are no communication issues associated with this report.

## **12.0 CONCLUSION**

**12.1** Members of the Panel are asked to note the progress being made in relation to the implementation of the Liverpool City Region Devolution Deal and seek clarification on any matters they wish.

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