



North East Combined Authority, Overview and Scrutiny Committee

Tuesday 27 September 2016 at 2.00pm

Meeting to be held at Sunderland Civic Centre

www.northeastca.gov.uk

SUPPLEMENTAL 2

	Page No
8. North East Combined Authority - Devolution Update	1 - 28
Please find attached Appendix 1 to this item	

Contact Officer: Brenda Joyce Tel: 0191 2116144 E-mail: Brenda.joyce@newcastle.gov.uk

To All Members

This page is intentionally left blank

North East Combined Authority

Leadership Board

DATE: 6th September 2016
SUBJECT: Devolution Update
REPORT OF: Head of Paid Service

EXECUTIVE SUMMARY

The purpose of this report is to update the Leadership Board on the assurances sought from Government following the Leadership Board meeting on the 19th July 2016.

RECOMMENDATIONS

The Leadership Board is recommended to:

- (1) Note the contents of the report;
- (2) Publish and consult on the Governance Review and Scheme pursuant to section 112 of the Local Democracy, Economic Development and Construction Act 2009 in accordance with the previously agreed arrangements for consultation; and
- (3) Authorise the Head of Paid Service in consultation with the Chair of the Leadership Board, the Monitoring Officer and the Chief finance Officer to make minor amendments to the Scheme as a result of responses received to the consultation undertaken should such amendments be required and report such amendments to the Leadership Board at the next available opportunity.

North East Combined Authority

Leadership Board

1 Background information

- 1.1 On the 17th May the North East Combined Authority (NECA) Leadership Board endorsed the proposed Devolution Agreement and agreed to the establishment of the North East Combined Authority as a Mayoral Combined Authority.
- 1.2 On the 4th July the Leadership Board received a report summarising the review undertaken into the functions exercised by NECA and its governance arrangements and how additional powers and functions given to NECA would be likely to improve the exercise of statutory functions in the NECA area.
- 1.3 At the Leadership Board meeting on the 4th July it was agreed that NECA would seek assurances from Government that the terms of the Devolution Agreement of October 2015 would be fully committed to prior publication of the Scheme for consultation. Particular concerns have emerged regarding commitment to funding for the North East and any ongoing requirement for an elected Mayor for the Combined Authority. .
- 1.4 Since that time correspondence from Government has been received on 13 July, 22 July and 15 August and a meeting has been held with the Secretary of State for Communities and Local Government, the Rt. Hon. Sajid Javid MP on 23 August 2016.

2 Assurances sought and feedback from Government

- 2.1 NECA have continued to seek clarity that the value of resources identified for the area through the European Structural and Investment Funds (ESIF) programme 2014-2020 will be guaranteed for the programme period and that this level of investment will be sustained beyond 2020, for as long as needed. Following the appointment of a new Prime Minister and consequent changes to Cabinet portfolios, the Leadership Board also requested a clear position from senior politicians on devolution and further assurances that the terms of the North East Devolution Agreement are as previously agreed. Finally, the Leadership Board also sought confirmation that the adoption of a Directly Elected Mayoral style of Governance remained a prerequisite for implementation of the Devolution Agreement.
- 2.2 The letter received on the 15th August from the Secretary of State for Communities and Local Government confirms the requirement for an elected Mayor as a prerequisite for progression with the Devolution Deal. In addition it was confirmed that Government will ensure full funding is available for ESIF projects agreed before the Autumn Statement. In relation to projects signed after that time and while the UK remains a member of the EU the letter confirmed that further arrangements are to be put in place regarding funding and expressed a commitment to work with NECA on this moving forward. The letter appended a letter from HM Treasury (annexed) which addresses the need

North East Combined Authority

Leadership Board

to look at the future of all EU funded programmes once the UK has left the EU and how decisions will be taken to deliver the policy objectives previously targeted by EU funding and commits Government to consult closely with stakeholders on this matter.

- 2.3 Subsequently representative members of the Leadership Board met with the Secretary of State for Communities and Local Government on 23rd August in London to express ongoing concerns regarding Government commitment to future funding and the apparently conflicting reports regarding a requirement for an elected Mayor where Devolution of powers and responsibilities to Combined Authorities is proposed.
- 2.4 During the course of the meeting the Secretary of State confirmed the position in relation to future funding as set out in the letter of 15 August, that the Government supported devolution and devolution of powers to NECA, that implementation of the current Devolution Agreement was a stepping stone to the further devolution of powers and responsibilities and was unequivocal that an elected Mayor was required for the Devolution Agreement to progress.

3 Next Steps

- 3.1 Following the assurances received from Government the Leadership Board are recommended to publish the Governance Review and Scheme agreed on the 19th July and forward it to the Department for Communities and Local Government. The Scheme will also be subject to extensive public consultation for a period of 6 weeks. A summary of the consultation responses will be forwarded to the Department for Communities and Local Government at the conclusion of the consultation exercise.

4 Potential Impact on Objectives

- 4.1 If the Leadership Board endorses the findings of the Governance Review and approves the Scheme, the Leadership Board will have started the process of devolving powers from central government to the North East of England and for those powers to be exercised by those democratically elected by the people of the North East. This will have a positive impact on the objectives of NECA.

5 Finance and Other Resources

- 5.1 The financial implications of the devolution deal itself were set out in the previous report on the Devolution Agreement agreed by the Leadership Board at its meeting on 17th May 2016.
- 5.2 The estimated additional costs of the consultation process relate mainly to the cost of printed materials and is estimated to be up to £3,000. This and the cost of the use of existing officer time will be met from within the NECA Devolution budget.

North East Combined Authority

Leadership Board

6 Legal

- 6.1 As part of NECA's Devolution Agreement, additional powers and responsibilities are to be conferred on NECA by central government.

As part of that process, a Governance Review must be undertaken under Section 111 of the Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act") to review how NECA currently exercises its powers and to ascertain if there can be an improvement in this regard by having the further powers conferred on it as set out in the Devolution Agreement. The conclusion of the Governance Review is that the exercise of the power by the Secretary of State to make an Order conferring powers on NECA would indeed be likely to improve the exercise of the statutory functions in the combined area.

The 2009 Act is enabling legislation and any powers conferred on a Combined Authority under the Act can only be achieved by way of Order. Such Orders can only be made with the consent of the Constituent Authorities and the Leadership Board.

The Secretary of State may make Orders under section 105 (exercise of local authority functions) or section 105A (other public authority functions – "public authority" includes Minister of the Crown or government department) of the 2009 Act conferring those powers to NECA. It is proposed that any powers conferred on NECA under such Orders will be exercisable by NECA concurrently with the public authority or local authority as appropriate. Such Order could not be made unless the consent of the Leadership Board and each Constituent Authority is given to such an Order. In relation to an Order made under section 105A the Secretary of State has to inform Parliament in a report of the consultation that he has taken into account when considering the appropriateness of making the Order. It is therefore essential that public consultation take place and the Secretary of State is made fully aware of the process of consultation undertaken.

Sections 114 and 116 of the 2009 Act enable the Secretary of State when making the Order to make incidental or consequential amendments to legislation to give the Order full effect or to amend, repeal or revoke provisions contained in an enactment to ensure that an Order is effective.

There is a duty placed on the Secretary of State under section 106 of the 2009 Act to make an Order removing an authority that does not consent to the creation of a Mayoral Combined Authority from NECA where NECA and at least 2 Constituent Authorities do consent. In doing so, the Secretary of State must as part of that Order designate the non-consenting Authority a Local Transport Area for the purposes of the Transport Act 2000. Such legislative changes as are necessary will be included in the Order excluding the non-consenting Authority.

North East Combined Authority

Leadership Board

The Order establishing NECA in 2014 will be amended to reflect changes to the governance arrangements. The proposed changes are set out in the Scheme including the proposed change to the name of the Authority from the Durham, Gateshead, Newcastle-upon-Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority to the North East Combined Authority.

In terms of decision-making the express preference of the Leadership Board is to take decisions on a consensus basis. However in the absence of consensus a decision to approve the Governance Review and Scheme and to proceed with consultation requires the support of the voting Members of the Leadership Board on a simple majority basis.

7 Other Considerations

7.1 Consultation/Community Engagement

The details of the approach to consultation were agreed at the meeting of the Leadership Board on 21 June 2016.

7.2 Human Rights

There are no specific human rights implications arising from this report.

7.3 Equalities and Diversity

There are no equalities and diversity implications in relation to this report.

To ensure compliance with the public sector equality duty in the Equality Act 2010, the Governance Review and Scheme have identified a need for NECA to become a 'public body' for the purposes of the Equality Act 2010. This will place a duty on NECA and the Mayor when exercising the functions set out in the Scheme must do so having regard to the public sector equality duty.

7.4 Risk Management

There are no specific risk management implications arising from this report.

7.5 Crime and Disorder

There are no specific crime and disorder implications arising from this report.

7.6 Environment and Sustainability

North East Combined Authority

Leadership Board

There are no specific environment and sustainability implications arising from this report.

8 Background Documents

- The NECA Devolution Agreement
- Letter received from Secretary of State for Communities and Local government, dated 13th July 2016

9 Links to the Local Transport Plans

9.1 There are no immediate implications in relation to the Local Transport Plans.

10 Appendices

Appendix 1 - Report for Leadership Board dated 4th July 2016

Appendix 2 – Report for Leadership Board dated 19th July 2016

Appendix 3 – HMT Treasury Letter to Department for Exiting the European Union dated 12th August 2016

11 Contact Officers

11.1 Patrick Melia, Head of Paid Service

E-mail: patrick.melia@northtyneside.gov.uk

12 Sign off

- Head of Paid Service ✓
- Monitoring Officer ✓
- Chief Finance Officer ✓

Leadership Board

DATE: 4 July 2016

SUBJECT: North East Combined Authority Governance Review and Scheme

REPORT OF: Head of Paid Service

EXECUTIVE SUMMARY

The purpose of this report is to summarise the review undertaken into the functions exercised by the North East Combined Authority (NECA) and its governance arrangements and how additional powers and functions given to NECA would be likely to improve the exercise of statutory functions in the NECA area.

A draft Scheme that contains the additional powers and functions that it is proposed be conferred on NECA is attached to this report at Appendix 2 for consideration and endorsement by the Leadership Board. The full Governance Review that resulted in the draft Scheme is attached to this report at Appendix 1.

RECOMMENDATIONS

It is recommended that:

- i. The Leadership Board consider the outcome of the Governance Review (Appendix 1) and the draft Scheme (Appendix 2);
- ii. Endorse the conclusion of the Governance Review that the making of an Order conferring on the North East Combined Authority the additional powers and functions in the Scheme and the associated revisions to the governance arrangements would be likely to improve the exercise of statutory functions in the North East Combined Authority area;
- iii. Approve and publish the Scheme pursuant to section 112 of the Local Democracy, Economic Development and Construction Act 2009; and
- iv. Note the arrangements for public consultation on the Scheme as set out in the report to the Leadership Board on 21 June attached to this report (Appendix 3) and authorise the Head of Paid Service in consultation with the Chair of the Leadership Board, the Monitoring Officer and Chief Finance Officer to provide the Secretary of State with a summary of the consultation responses received,
- v. Authorise the Head of Paid Service in consultation with the Chair of the Leadership Board, the Monitoring Officer and Chief Finance Officer to make minor amendments to the Scheme as a result of responses received to the consultation undertaken should such amendments be required and report such

Leadership Board

amendments to the Leadership Board at the next available opportunity.

Leadership Board

1 Background Information

- 1.1 Section 113 of the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”) as amended by the Cities and Local Government Devolution Act 2016 (“the 2016 Act”) enables the Secretary of State by Order to make changes in relation to the functions exercised by an existing Combined Authority. Such changes can be made where the Combined Authority has prepared and published a Scheme following a Governance Review and that review concludes that the conferring of the additional functions set out in the Scheme would be likely to improve the exercise of the statutory functions in NECA’s area.
- 1.2 The report summarises the powers and functions that it is proposed be conferred on NECA and sets out how those powers will improve the ability of NECA to exercise its statutory functions.
- 1.3 It is a requirement that a public consultation be undertaken where additional functions are to be conferred on NECA. The arrangements for consultation were agreed by the Leadership Board on 21 June and are set out in the report to the Leadership Board attached at Appendix 3.
- 1.4 An Order to make provision for the election of a Mayor for the NECA area is currently proceeding through the appropriate Parliamentary processes. The Order provides for the election of the Mayor in May 2017 and the initial term of office.
- 1.5 Generic Orders applicable to all Mayoral Combined Authorities are also being progressed and, in particular provide for appropriate arrangements to be in place in relation to Overview and Scrutiny and Audit.
- 1.6 Other emerging legislation applicable to the Devolution Agreement includes the Bus Services Bill now before Parliament, which provides for decisions on bus franchising schemes to be the responsibility of the Mayor of a Mayoral Combined Authority. This legislation also provides for Smart and Integrated ticketing.
- 1.7 The Order conferring the new powers and functions on NECA as set out in the draft Scheme attached at Appendix 2 can only be made by the Secretary of State provided NECA and each Constituent Authority consent to the making of the Order.
- 1.8 The Order that confers the powers and functions on NECA can relate to:-
 - (a) any function of a Constituent Authority (not now limited to only transport and economic development and regeneration functions);
 - (b) any function of a public authority (including a Minister of the Crown or Government department) which is exercisable in the NECA area; and

Leadership Board

(c) any function corresponding to a function that a public authority has in relation to another area.

The Order may provide that the functions in (b) above may be exercised instead of by, or concurrently or jointly with the public authority or jointly with the public authority but with the function being exercised by the public authority alone.

- 1.9 The Governance Review was undertaken on the clear understanding that it was not intended to take any powers or functions away from the Constituent Authorities but about drawing down powers from central government or its agencies. Where it is proposed in the Scheme that a function of a Constituent Authority (in the area of education and skills) should be conferred on NECA these will only be exercisable concurrently with the Constituent Authorities and will be subject to agreed Protocols.
- 1.10 The powers and functions to be conferred on NECA are summarised in the table below which sets out in summary how the powers will improve the ability of NECA to exercise its statutory functions. The draft Scheme containing all of the proposed powers and functions is attached to the report at Appendix 2.
- 1.11 It should be noted that not all aspects of the NECA Devolution Agreement require legislative change to be implemented. So for instance the creation of a NECA Investment Fund and the North East Land Board can be achieved without any legislative change. The powers and functions contained in the table below where indicated do require some change in legislation before they can be exercised by NECA (as Cabinet) or the Mayor.

Power	Rationale
<p>Strategic Funding NECA be given the discretionary power to introduce business rate supplement with the agreement of local businesses.</p> <p>This will be a Mayoral function</p>	<p>This discretionary power can fund infrastructure projects when conditions set out in legislation are met.</p>
<p>Transport The Bus Services Bill introduces bus franchising schemes and specifies that a decision on whether or not to implement such a scheme is a Mayoral function.</p>	<p>The conferring of powers to NECA/Mayor will provide NECA with an early opportunity to engage on a formal basis with bus operators.</p>
<p>NECA seeks bus service registration powers and traffic regulation powers</p>	<p>Such powers would enable NECA to engage with bus operators and other</p>

Leadership Board

<p>including the licensing of local lorries, coaches, buses and Goods Vehicles.</p> <p>NECA seeks the power to enter into agreements with Highways England as if it were a Local Highway Authority for the construction or improvements of roads with the agreement of the Local</p> <p>Human Capital NECA will have the powers exercised concurrently with the constituent authorities and Secretary of State to promote education, training and apprenticeships across the NECA area and to make arrangements to assist in persons being able to select appropriate training and to obtain and retain suitable employment.</p> <p>Supporting and Attracting Business Innovation NECA has provided an 'Investment Gateway' which handles and brokers incoming enquiries.</p> <p>Further work will be undertaken by the Government and NECA to devolve further responsibility for UK Trade and Investment (UKTI) Export Advice services to NECA.</p> <p>There are no specific powers required in relation to this area of the Devolution Agreement.</p> <p>More and Better Homes NECA will have the responsibilities and functions of the Homes and Communities Agency (HCA) to be exercised concurrently with the HCA including a power of compulsory purchase.</p> <p>NECA will be able to exercise</p>	<p>operators prior to the introduction of the Bus Services Bill.</p> <p>This would enable more efficient coordination of transport responsibilities on major road works.</p> <p>These powers will enable NECA to play a part in creating an integrated employment and skills system tailored to the specific needs of the area, and thereby raise labour market participation and skills at all levels.</p> <p>These additional powers will enable NECA to drive development and regeneration across the combined area.</p>
--	---

Leadership Board

<p>concurrently the functions of the constituent authorities to compulsorily acquire land for development or in the interests of proper planning of an area.</p> <p>NECA will have the power to acquire land by agreement for planning purposes and the development, appropriation and disposal of such land.</p> <p>NECA will have the power to develop the NEPDF (not a regional spatial strategy) that local planning authorities within the combined area should have regard to when preparing their development plan documents or any other local development documents.</p> <p>A North East Land Board will be established between the Secretary of State and NECA to investigate the best use of publicly owned land in NECA area.</p> <p>These are to be Cabinet functions save for Compulsory Purchase Orders that would be confirmed by the Mayor.</p> <p>Rural Growth and Stewardship There is a commitment to work towards the devolution of rural growth programmes to the North East, including closer coordination of future stewardship and environmental programmes.</p> <p>There are no specific powers required in relation to this area of the Devolution Agreement.</p> <p>Tourism and Culture NECA will have the power under, to be exercised concurrently with the</p>	<p>This will enable NECA to oversee the public sector estate and to support growth in the combined area.</p> <p>These additional powers will enable</p>
---	---

Leadership Board

<p>Constituent Authorities to provide and support cultural activities and entertainments in the combined area.</p> <p>Regulatory Powers NECA will be given the power to administer a regional flexible warranting scheme to enable enforcement officers appointed within the Constituent Authorities and /or other enforcement agencies to enforce legislation outside their own local authority area.</p> <p>NECA seeks the power to be able to confirm or revoke Byelaws made by the Constituent Authorities. The Mayor would be the confirming authority.</p> <p>NECA seeks the power to confirm, or refuse the designation of an area within a Constituent Authority as an area subject to additional licensing requirements in relation to houses in multiple occupation and selective licensing within the private rented sector, respectively.</p> <p>NECA seeks the power to relax restrictions on the Sunday trading hours.</p> <p>Information Sharing NECA seeks amendment to legislation so that NECA is classed as a local authority to permit Government departments to share information with it.</p> <p>Constitutional and Governance Issues</p>	<p>NECA to play a role in promoting business, cultural and sporting events across the combined area.</p> <p>The confirmation of Byelaws is currently the responsibility of the Secretary of State. Permitting confirmation or revocation of Byelaws by the Mayor will make the process far more efficient.</p> <p>Confirmation of the designation of such areas is currently the responsibility of the Secretary of State. Whilst NECA becoming a confirming authority would streamline and speed up the existing approval mechanisms it will also significantly contribute to the development of strategic regulation of the private rented sector within the NECA area.</p> <p>Such powers will give NECA the ability to reflect the needs of local residents and the local business community in relation to Sunday trading.</p> <p>The need to share information/data across public bodies is essential to integrate public services.</p>
--	---

Leadership Board

<p>The Mayor will have a functional power of competence to enable him/her to carry out matters incidental to their role as Mayor.</p> <p>The Mayor will be able to exercise functions jointly with other authorities by way of a joint committee.</p> <p>Provisions will be made for voting arrangements other than simple majorities to be included. This specifically relates to Transport Levies, confirmation of CPOs, Key Strategic Decisions, any proposed changes to indicative allocations of Highways Maintenance incentive funding, and powers to change the Mayoral Budget and Mayoral Plans.</p>	<p>Such arrangements need to be clear to ensure the effective operation of NECA governance arrangements and must ensure transparency and accountability.</p>
--	--

2 Proposals

- 2.1 The Leadership Board is invited to agree the recommendations set out above to enable the Authority to operate effectively, and in accordance with the Order and the Authority’s Constitution.

3 Next Steps

- 3.1 If the Leadership Board endorses the conclusion of the Governance Review and approves the Scheme, the Scheme will be published and forwarded to the Department for Communities and Local Government (DCLG). The Scheme will also be subject to extensive public consultation for a period of 6 weeks. A summary of the consultation responses will be forwarded to DCLG at the conclusion of the consultation exercise.
- 3.2 NECA is also seeking assurance from Government that the provisions of the Devolution including the EU commitments deal still stand following the result of the EU Referendum.
- 3.3 If the Secretary of State considers that making an Order conferring the powers on NECA set out in the Scheme is likely to improve the exercise of the statutory

Leadership Board

functions in the area, and having regard to securing effective and convenient local government then provided the consent of the Leadership Board and each of the Constituent Authorities is forthcoming then an Order can be made.

- 3.4 Provided the appropriate consents to the making of the Order is forthcoming, it is anticipated that the Order will be laid before Parliament in the Autumn with a view to the Order being made by the end 2016 or early 2017. Confirmation is being sought on the impact the EU referendum result will have on the parliamentary timetable and the timeline for establishing the Mayoral Combined Authority.
- 3.5 At present Gateshead has not consented to the making of an Order providing for the election of a Mayor for the NECA area. In these circumstances the Secretary of State has a duty to make an Order removing Gateshead from NECA. In doing so, the Order must designate Gateshead as a Local Transport Authority and may transfer appropriate transport related functions to Gateshead from NECA as a result.

4 Potential Impact on Objectives

- 4.1 If the Leadership Board endorses the findings of the Governance Review and approves the Scheme, the Leadership Board will have started the process of devolving powers from central government to the North East of England and for those powers to be exercised by those democratically elected by the people of the North East. This will have a positive impact on the objectives of NECA.

5 Finance and Other Resources

- 5.1 The financial implications of the devolution deal itself were set out in the previous report on the Devolution Agreement agreed by the Leadership Board at its meeting on 17th May 2016.
- 5.2 The estimated additional costs of the consultation process relate mainly to the cost of printed materials and is estimated to be up to £3,000. This and the cost of the use of existing officer time will be met from within the NECA Devolution budget.

6 Legal

- 6.1 As part of NECA's Devolution Agreement, additional powers and responsibilities are to be conferred on NECA by central government.

As part of that process, a Governance Review must be undertaken under Section 111 of the Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act") to review how NECA currently exercises its powers and to ascertain if there can be an improvement in this regard by having the

Leadership Board

further powers conferred on it as set out in the Devolution Agreement. The conclusion of the Governance Review is that the exercise of the power by the Secretary of State to make an Order conferring powers on NECA would indeed be likely to improve the exercise of the statutory functions in the combined area.

The 2009 Act is enabling legislation and any powers conferred on a Combined Authority under the Act can only be achieved by way of Order. Such Orders can only be made with the consent of the Constituent Authorities and the Leadership Board.

The Secretary of State may make Orders under section 105 (exercise of local authority functions) or section 105A (other public authority functions – “public authority” includes Minister of the Crown or government department) of the 2009 Act conferring those powers to NECA. It is proposed that any powers conferred on NECA under such Orders will be exercisable by NECA concurrently with the public authority or local authority as appropriate. Such Order could not be made unless the consent of the Leadership Board and each Constituent Authority is given to such an Order. In relation to an Order made under section 105A the Secretary of State has to inform Parliament in a report of the consultation that he has taken into account when considering the appropriateness of making the Order. It is therefore essential that public consultation take place and the Secretary of State is made fully aware of the process of consultation undertaken.

Sections 114 and 116 of the 2009 Act enable the Secretary of State when making the Order to make incidental or consequential amendments to legislation to give the Order full effect or to amend, repeal or revoke provisions contained in an enactment to ensure that an Order is effective.

There is a duty placed on the Secretary of State under section 106 of the 2009 Act to make an Order removing an authority that does not consent to the creation of a Mayoral Combined Authority from NECA where NECA and at least 2 Constituent Authorities do consent. In doing so, the Secretary of State must as part of that Order designate the non-consenting Authority a Local Transport Area for the purposes of the Transport Act 2000. Such legislative changes as are necessary will be included in the Order excluding the non-consenting Authority.

The Order establishing NECA in 2014 will be amended to reflect changes to the governance arrangements. The proposed changes are set out in the Scheme including the proposed change to the name of the Authority from the Durham, Gateshead, Newcastle-upon-Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority to the North East Combined Authority.

In terms of decision-making the express preference of the Leadership Board is to take decisions on a consensus basis. However in the absence of consensus

Leadership Board

a decision to approve the Governance Review and Scheme and to proceed with consultation requires the support of the voting Members of the Leadership Board on a simple majority basis.

7 Other Considerations**7.1 Consultation/Community Engagement**

The details of the approach to consultation agreed at the meeting of the Leadership Board on 21 June 2016 are contained in the report attached at Appendix 3.

7.2 Human Rights

There are no specific human rights implications arising from this report.

7.3 Equalities and Diversity

There are no equalities and diversity implications in relation to this report.

To ensure compliance with the public sector equality duty in the Equality Act 2010, the Governance Review and Scheme have identified a need for NECA to become a 'public body' for the purposes of the Equality Act 2010. This will place a duty on NECA and the Mayor when exercising the functions set out in the Scheme must do so having regard to the public sector equality duty.

7.4 Risk Management

There are no specific risk management implications arising from this report.

7.5 Crime and Disorder

There are no specific crime and disorder implications arising from this report.

7.6 Environment and Sustainability

There are no specific environment and sustainability implications arising from this report.

8 Background Documents**8.1 The NECA Devolution Agreement****9 Links to the Local Transport Plans****9.1 There are no immediate implications in relation to the Local Transport Plans.**

Leadership Board

10 Appendices

Appendix 1 – Governance Review

Appendix 2 – Draft Scheme

Appendix 3 – Report for Leadership Board dated 21 June 2016

11 Contact Officers

11.1 Adam Wilkinson, Head of Paid Service

E-mail: adam.wilkinson@northeastca.gov.uk Tel: 0191 643 5689

12 Sign off

- Head of Paid Service
- Monitoring Officer
- Chief Finance Officer

✓

Leadership Board

DATE: 19 July 2016
SUBJECT: Devolution Update
REPORT OF: Head of Paid Service

EXECUTIVE SUMMARY

The purpose of this report is to update the Leadership Board on the assurances sought from Government following the result of the EU Referendum on the provisions of the Devolution Agreement for the North East.

RECOMMENDATIONS

The Leadership Board is recommended to:

- (4) Note the content of the report and consider next steps to be taken in relation to the North East Devolution Agreement.

Leadership Board

2 Background Information

- 1.1 On the 17th May the North East Combined Authority (NECA) Leadership Board endorsed the proposed Devolution Agreement and agreed to the establishment of the North East Combined Authority as a Mayoral Combined Authority.
- 1.2 On the 4th July the Leadership Board received a report summarising the review undertaken into the functions exercised by NECA and its governance arrangements and how additional powers and functions given to NECA would be likely to improve the exercise of statutory functions in the NECA area.
- 1.3 At the Leadership Board meeting on the 4th July it was agreed that NECA would write to Government and request assurances that the terms of the Devolution Agreement of October 2015 would be fully committed to; and that upon the receipt and consideration of those assurances the Leadership Board would further consider approving the scheme prior to agreeing its publication. A letter was sent to Government on the 7th July and a response was received on the 13th July.

2 Feedback from Government

- 2.1 The letter received on the 13th July from the Secretary of State confirms Government's commitment to the North East Devolution Agreement. The letter emphasises the point that devolution is more important than ever considering recent events and sets out a radically expanded role for Local Government moving forward.
- 2.2 The letter sets out the progress on implementing the deal including the Order establishing the position of a Mayor for the North East and the importance of the local consultation on the draft scheme commencing as soon as possible.
- 2.3 In addition to the benefits of the deal, the Secretary of State emphasises the benefits afforded to Mayoral Combined Authority in regards to Local Growth Fund, the submission for which is due the end of July.
- 2.4 The Secretary of State has committed to allowing councils to retain 100% of the taxes raised locally to support economic growth and refers to the consultation document published recently on the matter in addition to the call for evidence for the Fair Funding Review.
- 2.4 In regards to the potential impact on EU funds, the Secretary of State recognises the concerns of the North East and states that work is ongoing to ensure that the implication for local economies and the role of EU funds is fully considered and that an update on future funding will be provided shortly.

Leadership Board

3 Next Steps

- 3.1 Following the assurances received from Government if the Leadership Board endorses the conclusion of the Governance Review and approves the Scheme, the Scheme will be published and forwarded to the Department for Communities and Local Government (DCLG). The Scheme will also be subject to extensive public consultation for a period of 6 weeks. A summary of the consultation responses will be forwarded to DCLG at the conclusion of the consultation exercise.

4 Potential Impact on Objectives

- 4.1 If the Leadership Board endorses the findings of the Governance Review and approves the Scheme, the Leadership Board will have started the process of devolving powers from central government to the North East of England and for those powers to be exercised by those democratically elected by the people of the North East. This will have a positive impact on the objectives of NECA.

5 Finance and Other Resources

- 5.1 The financial implications of the devolution deal itself were set out in the previous report on the Devolution Agreement agreed by the Leadership Board at its meeting on 17th May 2016.
- 5.2 The estimated additional costs of the consultation process relate mainly to the cost of printed materials and is estimated to be up to £3,000. This and the cost of the use of existing officer time will be met from within the NECA Devolution budget.

6 Legal

- 6.1 As part of NECA's Devolution Agreement, additional powers and responsibilities are to be conferred on NECA by central government.

As part of that process, a Governance Review must be undertaken under Section 111 of the Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act") to review how NECA currently exercises its powers and to ascertain if there can be an improvement in this regard by having the further powers conferred on it as set out in the Devolution Agreement. The conclusion of the Governance Review is that the exercise of the power by the Secretary of State to make an Order conferring powers on NECA would indeed be likely to improve the exercise of the statutory functions in the combined area.

The 2009 Act is enabling legislation and any powers conferred on a Combined Authority under the Act can only be achieved by way of Order. Such Orders can

Leadership Board

only be made with the consent of the Constituent Authorities and the Leadership Board.

The Secretary of State may make Orders under section 105 (exercise of local authority functions) or section 105A (other public authority functions – “public authority” includes Minister of the Crown or government department) of the 2009 Act conferring those powers to NECA. It is proposed that any powers conferred on NECA under such Orders will be exercisable by NECA concurrently with the public authority or local authority as appropriate. Such Order could not be made unless the consent of the Leadership Board and each Constituent Authority is given to such an Order. In relation to an Order made under section 105A the Secretary of State has to inform Parliament in a report of the consultation that he has taken into account when considering the appropriateness of making the Order. It is therefore essential that public consultation take place and the Secretary of State is made fully aware of the process of consultation undertaken.

Sections 114 and 116 of the 2009 Act enable the Secretary of State when making the Order to make incidental or consequential amendments to legislation to give the Order full effect or to amend, repeal or revoke provisions contained in an enactment to ensure that an Order is effective.

There is a duty placed on the Secretary of State under section 106 of the 2009 Act to make an Order removing an authority that does not consent to the creation of a Mayoral Combined Authority from NECA where NECA and at least 2 Constituent Authorities do consent. In doing so, the Secretary of State must as part of that Order designate the non-consenting Authority a Local Transport Area for the purposes of the Transport Act 2000. Such legislative changes as are necessary will be included in the Order excluding the non-consenting Authority.

The Order establishing NECA in 2014 will be amended to reflect changes to the governance arrangements. The proposed changes are set out in the Scheme including the proposed change to the name of the Authority from the Durham, Gateshead, Newcastle-upon-Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority to the North East Combined Authority.

In terms of decision-making the express preference of the Leadership Board is to take decisions on a consensus basis. However in the absence of consensus a decision to approve the Governance Review and Scheme and to proceed with consultation requires the support of the voting Members of the Leadership Board on a simple majority basis.

Leadership Board

7 Other Considerations

7.1 Consultation/Community Engagement

The details of the approach to consultation were agreed at the meeting of the Leadership Board on 21 June 2016.

7.2 Human Rights

There are no specific human rights implications arising from this report.

7.3 Equalities and Diversity

There are no equalities and diversity implications in relation to this report.

To ensure compliance with the public sector equality duty in the Equality Act 2010, the Governance Review and Scheme have identified a need for NECA to become a 'public body' for the purposes of the Equality Act 2010. This will place a duty on NECA and the Mayor when exercising the functions set out in the Scheme must do so having regard to the public sector equality duty.

7.4 Risk Management

There are no specific risk management implications arising from this report.

7.5 Crime and Disorder

There are no specific crime and disorder implications arising from this report.

7.6 Environment and Sustainability

There are no specific environment and sustainability implications arising from this report.

8 Background Documents

- The NECA Devolution Agreement
- Letter received from Secretary of State for Communities and Local government, dated 13th July 2016

9 Links to the Local Transport Plans

9.1 There are no immediate implications in relation to the Local Transport Plans.

10 Appendices

Leadership Board

Appendix 1 - Report for Leadership Board dated 4th July 2016

11 Contact Officers

11.1 Adam Wilkinson, Head of Paid Service

E-mail: adam.wilkinson@northeastca.gov.uk Tel: 0191 643 5689

12 Sign off

- Head of Paid Service
- Monitoring Officer
- Chief Finance Officer

✓



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Rt Hon David Davis MP
Secretary of State for Exiting the European Union
Department for Exiting the European Union
London
SW1A 2AG

12 August 2016

Dear David

EU FUNDING

1. The result of the referendum has caused uncertainty for a number of sectors and organisations which currently receive a range of different EU funding streams. I want to update you on the steps Treasury will be taking now to address this uncertainty for recipients of all these funding streams.

2. First, many individuals and organisations bid for and carry out multi-year projects funded by European Structural and Investment Funds (ESIFs) and administered by government. ESIFs include agri-environment, employment, and regional development schemes. These individuals and organisations face immediate decisions about starting, or progressing, such multi-year projects, and some are nervous about proceeding given concerns about what will happen when we leave the EU.

3. In the short term, I can confirm that the Treasury will give an assurance that all multi-year projects administered by government with signed contracts or funding agreements in place, and projects to be signed in the ordinary course of business before the Autumn Statement, will be fully funded, even when these projects continue beyond the UK's departure from the EU. In the medium term, the Treasury will work with departments, Local Enterprise Partnerships and other



relevant stakeholders to put in place arrangements for considering those ESIF projects that might be signed after the Autumn Statement but while we still remain a member of the EU. Further detail will be set out ahead of the Autumn Statement and we will ensure these spending commitments remain consistent with value for money and our own domestic priorities.

4. Second, a number of UK organisations bid directly to the European Commission on a competitive basis for EU funded multi-year projects. Partner institutions in other EU countries have raised concerns about whether to collaborate with UK institutions on EU funding projects, such as universities and businesses participating in Horizon 2020, and some UK participants are concerned about longer-term participation.

5. The Commission have made it clear that the referendum result changes nothing about eligibility for these funds. UK businesses and universities should continue to bid for competitive EU funds while we remain a member of the EU and we will work with the Commission to ensure payment when funds are awarded. The Treasury will underwrite the payment of such awards, even when specific projects continue beyond the UK's departure from the EU. The UK will continue to be a world leader in international research and innovation collaboration, and we expect to ensure that close collaboration between the UK and the EU in science continues.

6. Third, the UK agricultural sector receives annual direct payments through Pillar 1 of the Common Agricultural Policy (CAP). The Treasury will therefore reassure the agricultural sector that it will receive the same level of funding that it would have received under Pillar 1 of CAP until end of the Multiannual Financial Framework in 2020, alongside considering the options for long-term reform beyond that point. The government will work closely with stakeholders to ensure that funding in the period immediately after exit is used to help the agricultural



sector transition effectively to a new domestic policy framework. These funds will be allocated using the principles of CAP Pillar 1, and we will of course consider the opportunities post exit for making any short-term improvements to the way the system operates once we cease to be bound by EU rules.

7. Naturally, we will need to address the future of all programmes that are currently EU-funded, once we have left the EU. Leaving the EU means we will want to take our own decisions about how to deliver the policy objectives previously targeted by EU funding. Over the coming months, we will consult closely with stakeholders to review all EU funding schemes in the round, to ensure that any ongoing funding commitments best serve the UK's national interest, while ensuring appropriate investor certainty.

8. The administration of EU funding is largely devolved. We are offering the devolved administrations the same level of reassurance as we are offering to UK government departments in relation to programmes they administer but for which they expected to rely on EU funding. We will also work with the devolved administrations on subsequent funding arrangements to allow them to prioritise projects within their devolved responsibilities.

9. I am copying this letter to Cabinet colleagues.

A handwritten signature in black ink, appearing to read 'David Gauke'.

DAVID GAUKE

This page is intentionally left blank