



Leadership Board (Extraordinary Meeting)

Thursday 26 April 2018 at 3.00 pm

Meeting to be held: Committee Room, Gateshead Civic Centre, Regent Street,
Gateshead, NE8 1HH

www.northeastca.gov.uk

AGENDA

Page No

1. **Apologies for Absence (Members)**

2. **Declarations of Interest**

Please remember to declare any personal interest where appropriate both verbally and by recording it on the relevant form (to be handed to the Democratic Services Officer). Please also remember to leave the meeting where any personal interest requires this.

3. **North of Tyne Proposals - Consent to Secretary of State's Order** **1 - 20**

4. **Date and Time of Next Meeting**

Tuesday, 19 June 2018 at 2pm.

Contact Officer: Victoria Miller Tel: 0191 211 5118 E-mail: victoria.miller@northeastca.gov.uk

To All Members

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Leadership Board

Date: 26th April 2018

Subject: North of Tyne Proposals – Consent to Secretary of State’s Order

Report of: Monitoring Officer, Head of Paid Service and Chief Finance Officer

Executive Summary

The purpose of this report is to provide an update on the recent consultation on North of Tyne proposals, including the creation of a new Mayoral Combined Authority following the amendment of the current North East Combined Authority (NECA) boundaries. In addition, the report discusses a draft Order received from the Secretary of State giving effect to the amendment of NECA boundaries, the creation of the new Mayoral Combined Authority, the creation of Joint Transport governance arrangements and similar matters and invites the Leadership Board to consent to the making of an Order in principle and to give certain other authorities to progress the matter.

Recommendations

The paper invites the Leadership Board to:

- (i) Consent in principle to the making of an Order by the Secretary of State which has the following effects:
 - a. amends the boundaries of NECA to remove the North of Tyne local authority areas (Newcastle upon Tyne, North Tyneside and Northumberland);
 - b. creates and give powers to a new Mayoral Combined Authority;
 - c. provides for a Joint Transport Committee and a Proper Officer for Transport;
 - d. transfers transport related assets into the joint ownership of the two Combined Authorities;
 - e. makes the Tyne and Wear Passenger Transport Executive (NEXUS) an executive body of each of the Combined Authorities and to amend legislation to extend its duties to both Combined Authorities; and
 - f. makes consequential amendments including amendments to the NECA Order and relevant legislation to give effect to the above.
- (ii) Agree that NECA will enter into a Deed of Co-operation with each of the Councils for the Local Government areas of Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland reflecting the terms set out in the Heads of Terms attached in the Schedule to this report and to delegate to the Head of Paid Service, on the advice of the

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Monitoring Officer, to approve and authorise execution of the said Deed of Co-operation.

(iii) Subject to:

- a. all seven current constituent authorities of NECA and NECA entering into the Deed of Co-operation referred to in resolution (ii) above; and
- b. the final Secretary of State's Order reflecting all principles agreed upon between the Ministry of Housing, Communities and Local Government and all constituent Authorities;

to delegate to the Head of Paid Service, on the advice of the Monitoring Officer and with the agreement of the two Vice-Chairs of NECA Leadership Board, authority to formally consent to the final Secretary of State's Order, when such consent is requested by the Ministry of Housing, Communities and Local Government.

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1. Background Information

- 1.1 The North of Tyne Authorities (Newcastle upon Tyne, North Tyneside and Northumberland) agreed to a “minded to” Devolution Deal with Government in November 2017. In order to implement this deal there is a requirement to establish a new Mayoral Combined Authority, which in itself requires these Councils to withdraw from the existing North East Combined Authority (**‘NECA’**). NECA currently covers the seven local authority areas of Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland. The three North of Tyne Authorities undertook a governance review in accordance with the Local Democracy, Economic Development and Construction Act 2009 (**‘2009 Act’**) and concluded that the creation of a new combined authority “would be likely to improve the exercise of statutory functions in relation to the area”. This conclusion related both to the area of the seven constituent authorities and the three that would form the new Mayoral Combined Authority (**‘MCA’**).
- 1.2 A public consultation was undertaken between 14 December 2017 and 5 February 2018, which included public events across the NECA area. In total around 1,400 people or organisations took part in the consultation process and/or responded to four questions via a survey. A majority of respondents to each question agreed with the proposals to develop a Mayoral Combined Authority.
- 1.3 The North of Tyne Authorities’ Cabinets each approved the submission of a report to the Secretary of State seeking the making of an Order to implement a proposal by them (as detailed in a Scheme published and consulted upon) to create a Mayoral Combined Authority for the North of Tyne area, to amend the existing North East Combined Authority boundary to allow this to happen and to create joint arrangements for the governance of transport across the area of the seven local authorities.
- 1.4 The Ministry of Housing, Communities and Local Government (**‘MHCLG’**) are developing a draft Order and the first draft was circulated for comment on 6 March 2018. A meeting with Departmental officials has also taken place. A further draft Order was received from MHCLG on 4 April. The further draft Order addresses a number of drafting and policy points and there are now only a small number of matters that remain to be documented in the Order.
- 1.5 Once the final Order is prepared by the Department, there may be further amendments and refinements as part of the Parliamentary process including scrutiny of the drafting. Accordingly, on behalf of the Secretary of State, MHCLG will not be in a position to request formal consent to the making of the Order for a few weeks. However, by exchange of correspondence between NECA and MHCLG all the principles of the Order have been agreed and

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accordingly, it is appropriate to put it to members for decision.

2. The draft order

2.1 The current draft Order comprises eight parts and four schedules addressing the following issues:

Part 1 (Articles 1 and 2)

2.1.1 Contains the short title of the Order (currently “the Newcastle upon Tyne, North Tyneside and Northumberland (Establishment and Functions) and Durham, Gateshead, South Tyneside and Sunderland Combined Authority (Amendment) Order 2018” and makes provision for commencement on 1 July 2018, if made before that date or, if later, the day after it is made. Commencement is the date that the Order will come into force.

2.1.2 Part 1 also addresses various defined terms. It has been agreed with the Department that the names of the local government areas will make up the name of the Combined Authorities, with acronyms used where necessary.

Part 2 (Articles 3 and 4)

2.1.3 Deals with the boundary changes to NECA. Article 3 removes Local Government areas of Newcastle upon Tyne, North Tyneside and Northumberland. It also makes various amendments to change the legal name of the Combined Authority from the “Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority” to the “Durham, Gateshead, South Tyneside and Sunderland Combined Authority” (**CA**).

2.1.4 This Part also permits CA to raise two different transport levies (in relation to the constituent authorities in Tyne and Wear and in relation to County Durham). There are similar powers later in the Order by which the Newcastle upon Tyne, North Tyneside and Northumberland Mayoral Combined Authority (**MCA**) may raise different levies in relation to its area. This reflects the current arrangements within NECA where there are different levies for County Durham, Northumberland and Tyne and Wear.

Part 3 (Articles 5 to 8)

2.1.5 Establishes the MCA and makes provision for the first election of a Mayor on 2 May 2019. It also makes various provisions for the appointment of a political adviser to the Mayor.

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Part 4 (Articles 9 to 14)

- 2.1.6 Makes provisions relating to transport. It provides the MCA with the same transport functions over its area as NECA currently has in respect of its area. It transfers the transport assets which are currently owned by NECA (which essentially are the Tyne Tunnels and associated land) into the joint ownership of both Combined Authorities.
- 2.1.7 A Joint Transport Committee is established under Article 10 to discharge the transport functions of both Combined Authorities and to determine anything to be done in relation to property, rights and liabilities held in relation to transport. The Joint Committee also expressly sets the transport levies. In short, the Joint Committee is intended to replicate the existing approach to transport governance across the NECA area. The functions which may only be exercised by the Joint Transport Committee are listed in Article 10(1).
- 2.1.8 By Article 10(2) the Joint Transport Committee may delegate those functions to an officer of either Combined Authority or sub-committee or to a constituent council for the area in relation to which the function is to be exercised. Article 10(4) makes provision for the Joint Transport Committee to appoint a Proper Officer for transport, being the principle officer to assist the committee in the exercise of its transport functions.
- 2.1.9 MHCLG have agreed that the provisions in the current draft can be extended so that any sub-committee of the Joint Transport Committee (including the Tyne and Wear Transport Committee) may include members of the constituent authorities of the two Combined Authorities (and not only the Leaders that currently make up the Leadership Board). It will be a matter for the two Combined Authorities to agree how the Committee and sub-committees are constituted.
- 2.1.10 In accordance with Article 12 the Tyne and Wear Passenger Transport Executive (NEXUS) becomes an executive body of the MCA. NEXUS will also remain as an executive body of the CA. MHCLG have been asked to consider whether this point can be acknowledged explicitly in the Order. It is noted that this is the effect of the modifications to the Transport Act 1968 made by the draft Order.
- 2.1.11 The Part goes on to make various amendments to the Transport Act 1968 and the Transport Act 2000 to give effect to the above changes, giving responsibilities to NEXUS for both Combined Authorities in relation to activities in each of their areas.

Parts 5 to 7 (Articles 15 to 23)

- 2.1.12 These parts deal with the functions which the Mayoral Combined Authority will

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have. These include:

- certain housing functions which the Mayoral Combined Authority will be able to exercise concurrently with the constituent councils and with the Homes and Communities Agency;
- the power to establish mayoral development corporations;
- functions relating to education, skills and training and certain other functions in relation to economic development and visitor attractions which are exercisable concurrently with the constituent authorities.

2.1.13 The draft Order also makes incidental provisions in relation to the Local Government Pension Scheme and other regulations. MHCLG have agreed that both Combined Authorities will be scheme employers for the purposes of the Local Government Pension Scheme Regulations 2013 and South Tyneside Council will be the administering authority.

2.1.14 Article 22(6) of the draft Order amends the Transport Levying Bodies Regulations 1992 and makes specific provisions in relation to levies issued by the North East Combined Authority and Mayoral Combined Authority. These provisions permit the application of different levies across Tyne and Wear, Durham and Northumberland and the mechanics for that process.

Part 8 (Articles 24 and 25)

2.1.15 Deals with the Mayoral functions and funding arrangements applicable to the Mayoral Combined Authority.

Schedule 1

2.1.16 Sets out the constitution for MCA, including arrangements in relation to the interim Mayor and the eligibility for funding to that office.

Schedule 2

2.1.17 Addresses the constitution of the Joint Transport Committee. Article 1 of that Schedule addresses membership, confirming that the Mayoral Combined Authority may appoint three members (and three substitute members), one of the members being the Mayor, unless the Mayor agrees otherwise. CA may appoint four members (and four substitutes).

2.1.18 Article 2 makes procedural provisions and creates a quorum of two members from each Combined Authority. There will be no casting vote and a tied vote results in the matter not being carried.

2.1.19 The draft Order also sets out those matters which require a unanimous vote in favour by all seven constituent authority members. It has been agreed with MHCLG that these will be as follows:

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- a) the adoption of any transport plan under section 108(3) of the Transport Act 2000 and the alteration or replacement of that plan under section 109(1) and (2) of that Act;
- b) approval of, or any amendment to, or withdrawal of, spending plans related to the functions conferred on the Joint Transport Committee under article 10(1);
- c) setting of any transport levy under section 74 of the Local Government Finance Act 1988 and in accordance with regulations made thereunder;
- d) allocation of local transport plan funding to the individual constituent councils and the Tyne and Wear Passenger Transport Executive; and
- e) the delegation of the functions referred to in Article 10(2) (being the Joint Transport Committee's authority to discharge its functions through a constituent council, an officer of either Combined Authority or a sub-committee of members or substitute members of either Combined Authority).

2.1.20 Article 3 of the Schedule provides for a Joint Overview and Scrutiny Committee of the Joint Transport Committee. MHCLG have confirmed that the current arrangements within NECA including an independent Chair and Vice-Chair of each of the Overview and Scrutiny and Audit Committees will be provided for in the Order and the current Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order will be extended to cover the Joint Transport Committee in the same manner as it applies to Combined Authorities. MHCLG has also confirmed that the Joint Transport Committee will be able to determine its own rules and procedures in agreement with the two Combined Authorities in accordance with Section 106 of the Local Government Act 1972.

Schedule 3

2.1.21 Modifies the Housing and Regeneration Act 2008 to empower the Mayoral Combined Authority in place of the Home and Communities Agency in relation to powers falling within Chapters 1 and 2 of Part 1 of that Act, including for example the rights of compulsory purchase.

Schedule 4

2.1.22 Modifies part 8 of the Localism Act 2011 to give certain mayoral development corporation powers to the Mayor and the Mayoral Combined Authority in relation to their area.

3. Joint Working Arrangements – Deed of Co-operation

3.1 The seven constituent authorities prepared a joint policy note regarding these

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working arrangements in relation to transport and other matters and, at its meeting of 20 March 2018, the Leadership Board instructed the Monitoring Officer to develop a legally binding agreement reflecting the principles in this policy note. Heads of Terms for that agreement have been developed and agreed and are now attached at Schedule 1 of this paper. A full Deed of Co-operation is in the process of being finalised with all seven constituent authorities.

- 3.2 The Leadership Board is invited to approve the Heads of Terms as set out in Schedule 1 and to authorise NECA to enter into the agreement reflecting those terms. It is anticipated that the agreement will be entered into by NECA and all seven constituent authorities before consent is formally communicated to the Secretary of State and therefore before the Order can be made. The Agreement will come into force the day the Order is made. The new MCA will become party to the Deed within 90 days of it coming into effect. Accordingly, if for any reason the Order is not made, the Deed will not be affected or bind any party to it.

4. Authority to Consent to the Order

- 4.1 NECA and the three North of Tyne Authorities must each consent to the making of the final Order. Although agreement has now been reached between the seven constituent authorities, NECA and MHCLG on the principles which would be set out in any Order, the Order is currently in draft form and is not yet finalised. However, MHCLG has confirmed its agreement to all the principles in writing. A further draft Order will accordingly be prepared and it will then need to pass into the Parliamentary process which includes formal scrutiny of the draft Order. This is likely to result in on-going further refinement of the drafting. It is only once this process is complete, that MHCLG can formally seek NECA's final approval to the making of the Order.
- 4.2 To allow this final step to be completed, the Leadership Board is invited to delegate to the Head of Paid Service, on the advice of the Monitoring Officer, authority to consent to the making of the Order and communicate that consent to MHCLG. However, such authority may only be exercised if all seven constituent authorities have reached agreement and executed a Deed of Co-operation addressing the points set out in the Heads of Terms (Schedule 1) and both Vice-Chairs of the NECA Leadership Board agree. By this mechanism an Order can only be consented to if it reflects the agreement reached by the Leadership Board at the meeting. If this delegated authority cannot be exercised then any draft Order would need to be brought back to a full meeting of the Leadership Board.

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5. Reasons for the Proposals

- 5.1 The consent of the North East Combined Authority is a statutory obligation contained in Section 106(3A)(b) of the Local Democracy, Economic Development and Construction Act 2009.
- 5.2 This condition must be satisfied before the Secretary of State may make an Order under Section 106.
- 5.3 The Deed of Co-operation will set out important principles for joint working in relation to transport matters and the North East Local Enterprise Partnership as a framework for future joint working and co-operation.

6. Alternative Options Available

- 6.1 Consent to the making of an Order addressing the points set out in this paper or indicate an intention to consent in principle.
- 6.2 Not to consent to the making of any Order or indicating an intention not to consent.

7. Next Steps and Timetable for Implementation

- 7.1 If the Leadership Board's decision is to agree the recommendations, NECA Officers will communicate this to MHCLG. In due course, MHCLG will formally seek NECA's consent to the making of the Order, it having completed all internal processes. Provided the preconditions described above have been satisfied and consent can be given, the Head of Paid Service can exercise delegation to consent to the final Order and communicate that to the Department. The usual procedure will require the delegated decision item to be placed on the Forward Plan 28 days before it is decided; however, in cases of urgency this process may be shortened.
- 7.2 If the decision is not to consent, the conditions required by Section 106 of the 2009 Act have not been met and the Secretary of State cannot proceed to make the Order.
- 7.3 If the decision is to grant consent, the Secretary of State will review all the relevant material to determine if an Order should be made

8. Potential Impact on Objectives

- 8.1 The functional operations in relation to the North East Local Enterprise

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Partnership (for which NECA is the accountable body) and transport should continue with little disruption. The new transport governance arrangements are designed to replicate the existing transport arrangements and the proposal to work to a specified commencement date should provide the opportunity for the management of any operational changes as a result of the new governance arrangements.

- 8.2 There will be human resources and other legal and operational implications if assets and functions are moved between the Combined Authorities but these can be addressed by officers in accordance with usual practices.
- 8.3 NECA is party to an accountable body with the North East Local Enterprise Partnership and any changes to current arrangements must have regard to the obligations of that agreement and the consent of the North East Local Enterprise Partnership will be required.

9. Financial and Other Resources Implications

- 9.1 It is anticipated that the 'minded to' Devolution Deal would, when implemented, bring significant additional funding to the Mayoral Combined Authority. Assurances have been received from the Government that there would be no detriment to NECA or its constituent authorities. The Government's reply was considered at the Leadership Board meeting held on 20th March 2018.
- 9.2 The current arrangements for the Transport Levies are proposed to continue, with three separate levies, and the levy for transport costs in Tyne and Wear continuing to be based on a population share. There is therefore no proposed change in the arrangements for the largest funding source for Transport, and the transport levies currently make up over 99% of the NECA revenue budget.
- 9.3 The constituent authorities will need to make arrangements for the funding of the operations carried out on behalf of the seven authorities by the two Combined Authorities and the other functions these combined authorities are required to discharge. These costs are relatively small. Currently, they are a £300,000 Corporate Contribution to NECA, a £250,000 contribution made towards LEP Core Costs and a £140,000 contribution being made towards the cost of the inward investment function, all being made equally by all seven councils. Corporate contributions to the LEP and to fund the accountable body responsibilities for the LEP and for the Transport function will also continue to be required from all seven authorities, whichever authority is accountable for them. The impact on the residual cost of NECA is expected to be minor and will not be known until operational decisions are taken later in the year in respect of accountable body functions and the future

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arrangements for the administration of NECA are determined. The working assumption is that detriment will be avoided or minimised by continuing current arrangements where it is possible to do so.

9.4 The NECA Constitution will be substantially obsolete at the point the Order is made and will need to be rewritten. Similarly, it is anticipated that standing orders will need to be developed for the Joint Transport governance arrangements. The amendment to the Constitution and the new Deed of Co-operation gives the opportunity to ensure that the decision making process and voting arrangements for securing the unanimous decisions of the Joint Transport Committee and NECA are clearly set out to ensure that the decisions are taken effectively.

9.5 There may be some actions relating to the transfer of assets and staff between the two Combined Authorities. It will be important for the North East LEP to maintain the current link with the Transport pension arrangements, which brings a significant savings to the North East LEP budget.

10. Legal Implications

10.1 The giving of consent is likely to result in an Order being made to amend the NECA boundary to remove the Local Authority areas of Newcastle upon Tyne, North Tyneside and Northumberland from the area of the North East Combined Authority and the other changes discussed in this paper.

10.2 The Monitoring Officer, working with the Chief Legal Officers of each constituent authority, has obtained Leading Counsel's opinion on various matters relating to the decision members are being invited to make. A copy of that opinion has been distributed to each Authority. Consistent with that opinion the Monitoring Officer advises members that:

- The decision must be made by the Leadership Board at a properly constituted meeting in accordance with the NECA Constitution;
- The decision is one which falls to be made by simple majority; and
- Decision makers must make a decision based only upon their Authority's genuine and reasonably held opinion.

10.3 It is recognised that this meeting is being held during the Local Government Pre-election period and the Chief Legal Officers of each of the seven local authorities have indicated that the pre-election period does not prevent this meeting or the decisions at it going ahead. Each Chief Legal Officer has confirmed that their Leader may participate in this meeting and make the decision proposed.

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11. Key Risks

- 11.1 Maintaining operational performance and outcomes for the benefit of the area covered by the seven local authorities throughout any transition process, particularly in relation to each Combined Authorities activities and those of the regional transport function and North East LEP.

12. Equality and Diversity

- 12.1 None

13. Crime and Disorder

- 13.1 None

14. Consultation/Engagement

- 14.1 The draft Order has been discussed with Chief Legal Officers and Chief Executives and the matter of devolution and the proposed amendments of the NECA boundary have been discussed with Leaders and at the Leadership Board, as well as at various committees of NECA for a number of months.

15. Other Impact of the Proposals

- 15.1 None

16. Appendices

- 16.1 Schedule 1 – Heads of Terms for Deed of Co-operation

17. Background Papers

- 17.1 North East Leadership Board Report 20th March 2018. Item 6: North of Tyne Proposal – Consent to Secretary of State's Order.

18. Contact Officers

- 18.1 Peter Judge, Monitoring Officer, peter.judge@northeastca.gov.uk, 0191 338 7455

19. Sign off

- Head of Paid Service: ✓
- Monitoring Officer: ✓

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- Chief Finance Officer: ✓

20. Glossary

2009 Act – Local Democracy, Economic Development and Construction Act.

CA – the proposed Durham, Gateshead, South Tyneside and Sunderland Combined Authority.

LA7 or Seven Constituent Authorities - the Authorities for the Local Government areas of Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland.

Leading Counsel, Jonathan Moffatt QC, 11 Kings Bench Walk, London

MCA – the proposed Newcastle upon Tyne, North Tyneside and Northumberland Mayoral Combined Authority.

NECA – North East Combined Authority for the Local Government areas of the LA7.

NECA Order – the Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Order 2014 (SI 2014 No. 1012)

NECA Deed of Operation – Deed of Operation dated 15 June 2015

North of Tyne Authorities – The Authorities for the Local Government areas of Newcastle upon Tyne, North Tyneside and Northumberland.

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**Heads of Agreement (Short Form) –
Side Agreement on Co-operation on Transport and Other Matters**

1. Form: Deed

2. Parties:

- a. The seven authorities for the Local Government areas of Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland (**'LA7'**).
- b. The North East Combined Authority (**'NECA'**).
- c. The three local authorities North of Tyne will procure that the North of Tyne Mayoral Combined Authority (**'NTMCA'**) will become a party within 90 days of the commencement of an order creating the Combined Authority, and will procure that the terms of this agreement are honoured by the actions of the NTMCA until it becomes a party.

3. Recitals/Preamble:

- a. This agreement is made in anticipation of consent being given to the making of an order by the Secretary of State for the reduction in size of the NECA area and the creation of NTMCA.
- b. The purpose of the agreement is as a framework for collaborative working and continuing the strong working relationship of the LA7 and the overall commitment that the two Combined Authorities will work together constructively; will continue partnership arrangements at relevant geographies and will unequivocally support the work of the North East Local Enterprise Partnership and the North East Strategic Economic Plan.
- c. The intention that the new arrangements replicate, as far as possible, the governance already in place in relation to transport.
- d. The opportunity to strengthen Executive Officer support for transport, reflecting the strategic importance of transport across the North East and to ensure that all decision making is transparent.
- e. Maintaining a clear distinction between the Transport Joint Committee arrangements and those of individual local highway authorities.
- f. Noting that Local Transport Plan funding and Highways Maintenance funding will continue to be directed to each of the LA7 local authorities.

4. Commencement Date and Term:

- a. The agreement will be signed by all parties on or before the date that consent is given to the making of the order.
- b. The agreement will come into force on the same date as the order comes into effect and will remain in force until varied or terminated by agreement of all parties or on the dissolution of either Combined Authority by order.
- c. The agreement will be effective in relation to the NTMCA from the date of execution and service of notice on the other parties.

5. Executive Structures LA7:

- a. Continuation of the Chief Executives group ('**CExG**') made up of the LA7 Chief Executives or their appointed deputies, the Heads of Paid Service of the two Combined Authorities (if separate post-holder) and the Executive Director of the North East Local Enterprise Partnership (if a separate post-holder) or their appointed deputies.
- b. This group is responsible for the support and sponsorship of the effective strategic direction of executive activities across the LA7 area in relation to transport and economic development.
- c. The Proper Officer appointed by the Transport Joint Committee will report into this group.

6. Governance Structure – Transport:

- a. The Transport Joint Committee will have no authority in relation to the Local Transport Plan Integrated Transport block funding or the Highways Maintenance block funding which will, as present, continue to be paid to individual LA7 authorities or passported by the relevant Combined Authority to the LA7 authorities in the amounts specified by the Department for Transport.
- b. The Transport Joint Committee will have all the powers and responsibilities in the NECA Constitution of the current NECA Transport North East Committee or the NECA Leadership Board, to the extent they relate to Transport (updated to reflect any recent changes in the law).
- c. The Transport Joint Committee will create a Tyne and Wear Sub-Committee.
- d. The Tyne and Wear Sub-Committee will have all the powers and responsibilities in the NECA Constitution for the TWSC (updated to reflect any recent changes in the law) and the inclusion of express reference to setting Tyne Tunnels tolls.

- e. Each Combined Authority will, in its standing orders (Constitution), delegate authority to the County Council in their area to the same effect as those currently included in the NECA Constitution.
- f. Transport protocols:
 - i. The Combined Authorities will develop protocols covering the following areas:
 1. The passporting of Local Transport Plan Integrated Transport block funding to Local Authorities (in the amount specified by the Department for Transport, minus any agreed top-slice to fund the Regional Transport Team). The agreement of constituent authorities will be required for any change in this arrangement. This protocol will also confirm that there will be no change in relation to the payment of highway maintenance block funding to individual local authorities and the Transport Joint Committee will have no authority in relation to these funding streams.
 2. The practical management of funding swaps between the Combined Authorities.
 3. The exercise of transport functions by Durham and Northumberland County Councils to the same effect as those already agreed.

7. Executive Structures – Transport

- a. The Proper Officer for transport will be responsible for strategy, policy and operational alignment of the LA7 authorities including the role of NEXUS.
- b. The Proper Officer for transport will report to and take strategic direction from both the LA7 Chief Executives group and the Transport Joint Committee.
- c. Subject to the agreement of the Transport Joint Committee the parties agree that NECA will act as Accountable Body and hold and account for the finances in relation to transport.
- d. Transport Joint Committee will be free to determine its own rules and procedures which, to the extent necessary, will be incorporated into the Accountable Body's standing orders (Constitution).
- e. In discharging its Accountable Body responsibilities, the Accountable Body will accept responsibilities and obligations to implement Transport Joint Committee and sub-committee decisions in similar terms to those

currently set out in the Accountable Body Agreement (currently in place in relation to NECA's role in relation to the North East Local Enterprise Partnership (**North East LEP**)).

- f. Where assets are held jointly both Combined Authorities will agree to procure that the actions agreed by the Transport Joint Committee are promptly completed (e.g. the sale, purchase or development of property). A protocol will be developed if necessary to describe agreement on the operation of this.
- g. The regional transport team will report to the Proper Officer for transport.
- h. Provisions concerning, effectiveness reviews, the appointment and dismissal of the Proper Officer for transport and support standards from the Accountable Body will be included in the agreement.
- i. Additional capacity and expert support provided under SLA terms from any LA7 authority subject to agreeing recharging arrangements.
- j. Running costs and liabilities in relation to the Joint Transport functions will be shared by the LA7, in the manner that they currently are.

8. Governance and Executive Structures - North East Local Enterprise Partnership

- a. Whilst respecting the terms of the Accountable Body agreement, the North East LEP will agree which Combined Authority will act as its Accountable Body. The parties expect that the Accountable Body for transport will not also be the Accountable Body for the North East LEP.
- b. The North East LEP will be free to determine its own rules and procedures which, to the extent necessary, will be incorporated into the Accountable Body's standing orders (Constitution). It is however acknowledged that re-charging arrangements may need to be refreshed to take account of the fact that some services are being provided without charge or at less than full cost.
- c. In discharging its Accountable Body responsibilities, the Accountable Body will accept responsibilities and obligations to North East LEP decisions in similar terms to those currently set out in the Accountable Body Agreement.
- d. Provisions concerning, effectiveness reviews, the appointment and dismissal of the Executive Director of the North East LEP and support standards from the Accountable Body will be included in the agreement. Expressly, the North East LEP will suffer no detriment – operationally or financially – as a result in any change of Accountable Body.

- e. The running costs and liabilities in relation to the North East LEP will be shared by the LA7 in current manner.

9. Indemnities by LA7 authorities

The agreement will include indemnities by which each of the LA7 local authorities indemnify the others in relation to liabilities arising out of:

- a. All actions of current or predecessor accountable bodies for the North East LEP and the Regional Transport matters;
- b. The transfer of accountable body contemplated by or pursuant to the agreement;
- c. The future discharge of accountable body functions for transport and the North East LEP; and
- d. Pensions matters – past and future liability (including an express provision that post-completion work should be shared between LA7 on current basis).

10. General

- a. Review of arrangements – an annual review of the functioning of the relevant arrangements and procedural rules will be undertaken and reported respectively to the Transport Joint Committee and the North East Local Enterprise Partnership Board by the relevant accountable body Combined Authority.
- b. Amendments to Deed – the Deed may be amended by agreement of all parties to it.
- c. Dispute resolution – Proper Officer dispute resolution first between the two CA Heads of Paid Service escalating to 7CEs.
- d. Termination – by agreement of all parties or automatically if a Secretary of State order is made dissolving or amending the boundary of either Combined Authority.
- e. Notices – at the principle offices of each Combined Authority addressed to the Monitoring Officer and to the Monitoring Officers of each Combined Authority.

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