

Open Report on behalf of Tony McArdle, Chief Executive

Report to:	Councillor M J Hill OBE, Leader of the Council
Date:	26 May 2016
Subject:	Devolution - Governance Review and Scheme
Decision Reference:	I011222
Key decision?	Yes

Summary:

The Report sets out the latest position in relation to the implementation of the devolution agreement for Greater Lincolnshire. The Report sets out the results of a Governance Review under section 108 of the Local Democracy Economic Development and Construction Act 2009 and on the basis of that Review seeks approval for the publication of a Scheme for consultation under section 109 of the Act.

Recommendation(s):

That the Leader of the Council:-

- 1 notes the contents of the Governance Review for Greater Lincolnshire, attached at Appendix A ("the Governance Review").
- 2 concludes, on the basis of the Governance Review, that the establishment of a Mayoral Combined Authority for the Greater Lincolnshire area would improve the exercise of statutory functions in that area.
- 3 approves the preparation and publication of a Scheme for the establishment of a Mayoral Combined Authority for the Greater Lincolnshire area under section 109 of the Local Democracy, Economic Development and Construction Act 2009.
- 4 approves in principle the publication of the draft Scheme for a Greater Lincolnshire Mayoral Combined Authority as attached at Appendix B "the draft Scheme") for consultation purposes,
- 5 delegates to the Chief Executive, in consultation with the Leader of the Council authority to approve the making of changes to the draft Scheme prior to the commencement of the formal consultation exercise and to submit the outcome of the consultation exercise to the Secretary of State

Alternatives Considered:

1. Not to proceed with the publication of the draft Scheme

If the council were not to proceed at this stage it would lose the opportunity to develop the benefits of the devolution process and may lose access to future government resources and the local determination of policy and spending priorities.

Reasons for Recommendation:

The Governance Review determines that the creation of a Mayoral Combined Authority would improve the exercise of statutory functions in the Greater Lincolnshire area. Such a Mayoral Combined Authority would enable the implementation of the devolution deal involving access to future government resources and the local exercise of devolved functions.

1. Background

- 1 The full County Council received the Greater Lincolnshire Devolution Interim Governance Proposal and the then latest version of the deal document at its meeting on 18 December 2015. Council, amongst other things:-

- Supported the development of the Greater Lincolnshire devolution expression of interest, submitted to Government on 4 September 2015, into a fit for purpose devolution deal document via continued formal engagement with Government
- Supported in principle the carrying out of a governance review
- Supported in principle the establishment of a Combined Authority for the Greater Lincolnshire geography if that was the most efficient and effective means of securing strategic economic (and related) growth and
- Endorsed certain principles as those that should underpin and inform the establishment of any formal governance arrangements.

- 2 On 5 January 2016 the Executive considered the same Interim Governance Proposal and:-

- approved the carrying out of a governance review, as described in the report, to commence no sooner than January 2016 such review to be conducted, to the fullest extent envisaged by the Act, as a formal governance review under section 108 of the Local Democracy, Economic Development and Construction Act 2009; and
- subject to the outcome of any governance review, supported in principle the establishment of a combined authority for the Greater Lincolnshire geography if that is the most effective and efficient means of securing strategic economic (and related) growth.

- 3 Further discussions and extensive work have culminated in the Devolution Agreement being signed by the ten Greater Lincolnshire Council leaders and Government ministers. This was formally announced by the Chancellor in the Budget on 16 March.
- 4 There are clear statutory processes that need to be followed in accordance with the Local Democracy Economic Development and Construction Act 2009 as amended by the Cities and Local Government Devolution Act 2016 to establish a mayoral combined authority and devolving appropriate powers from central government for May 2017. The Greater Lincolnshire deal is one of the first to be progressed under this legislation.
- 5 The councils need to undertake a governance review, publish a scheme as to how a mayoral combined authority would work and undertake a public consultation on the scheme. They must provide a summary of the consultation responses to the Secretary of State.
- 6 The primary purpose of a governance review is to set out the rationale for creating a Greater Lincolnshire geographic/economic footprint and to propose options for governance. On the basis of the governance review the council must conclude whether or not it considers that a combined authority would lead to the improved exercise of statutory functions in the Greater Lincolnshire area.
- 7 If the Council concludes that a combined authority would lead to the improved exercise of statutory functions in the Greater Lincolnshire area it may publish a Scheme for the establishment of a Combined Authority.
- 8 The governance review, the Scheme and the consultation on the Scheme will be provided to the Secretary of State to enable the Secretary of State to decide whether the statutory tests on improving the exercise of functions are met and whether it is appropriate to make an order (if parliament approves) establishing the Mayoral Combined Authority.
- 9 Before making such an order, consent needs to be sought from the constituent councils.
- 10 Appendix A to this report sets out the results of the Governance Review carried out in Greater Lincolnshire as approved by the Executive on 5 January 2016. Appendix B to this report contains the Scheme which it is proposed to publish and on which it is proposed to publicly consult.
- 11 Each council is to receive the attachments for approval.
- 12 The council is intensively involved in developing the devolution agreement. The details are subject to continuing refinement as detailed discussions are ongoing with civil servants about all 71 paragraphs in the Devolution Agreement document. This document is being turned into a detailed implementation plan. The council will need to assess whether the

opportunities and freedoms that devolution can bring will be delivered by the final negotiated agreement.

- 13 The full County Council is due to consider the Governance Review and draft Scheme at its meeting on 20 May 2016 and is being asked to support the governance review and the publication of the draft Scheme and the carrying out of a public consultation on that draft Scheme.
- 14 The decision to publish a Scheme and to consult on that Scheme is an executive function and therefore the Leader of the Council is being asked, taking into account the contents of the Governance Review, to consider whether the establishment of a Mayoral Combined Authority for the Greater Lincolnshire area would improve the exercise of statutory functions in that area and if so to approve the publication of the Scheme for consultation. This will allow the council to consult and report to the Secretary of State the outcome of the consultation to inform his decision on the Devolution Deal and the Scheme for the Mayoral Combined Authority.
- 15 The Council's duty under the Equality Act 2010 needs to be taken into account when coming to a decision.
- 16 The Council must, in the exercise of its functions, have due regard to the need to:
 - Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it: Equality Act 2010 section 149(1). The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation: section 149(7)
- 17 Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:
 - Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
 - Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low
- 18 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities

- 19 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding
- 20 Compliance with the duties in this section may involve treating some persons more favourably than others
- 21 A reference to conduct that is prohibited by or under this Act includes a reference to:
- ❖ A breach of an equality clause or rule
 - ❖ A breach of a non-discrimination rule
- 22 This duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.
- 23 Consideration has been given to the duty in preparing this Report. As the proposals concern the governance arrangements for the exercise of devolved powers and not the exercise of those powers there is not considered to be any implications for the Council's Equality Act duty. The Scheme makes clear that the proposed Combined Authority itself will be bound by the Equality Act duty and will therefore be under an obligation to have regard to it when it exercises devolved functions. The proposed Scheme is subject to public consultation and equality issues will be kept under review.
- 24 The Council is under a duty in the exercise of its functions to have regard to its Child Poverty Strategy. Child poverty is one of the key risk factors that can negatively influence a child's life chances. Children that live in poverty are at greater risk of social exclusion which, in turn, can lead to poor outcomes for the individual and for society as a whole.
- 25 In Lincolnshire we consider that poverty is not only a matter of having limited financial resources but that it is also about the ability of families to access the means of lifting themselves out of poverty and of having the aspiration to do so. The following four key strategic themes form the basis of Lincolnshire's Child Poverty strategy: Economic Poverty, Poverty of Access, Poverty of Aspiration and Best Use of Resources.
- 26 The Governance Review concludes that the establishment of a Mayoral Combined Authority would lead to improved exercise of statutory functions in the Greater Lincolnshire area with specific reference to economic conditions in the area. The Greater Lincolnshire Devolution Agreement is based on the generation of economic growth and the local exercise of central government functions that are key determinants of growth including

transport, planning, housing and skills. Local exercise of such functions has the potential to impact positively on economic poverty and, through the generation of growth and opportunity, poverty of access and aspiration.

- 27 The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS). Improvements in the way statutory functions are exercised and the local exercise of key central government functions in the interests of increased economic growth has the potential to impact positively on people's health and wellbeing by increasing access to skills, training, employment and housing.
- 28 Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.
- 29 The creation of a Mayoral Combined Authority opens up the possibility of further devolution deals in future including a greater degree of local involvement in decision-making around the justice system. Such future deals have the potential to increase co-ordination within the overall justice system so as to maximise the use of the available funding to prevent crime and disorder.

2. Conclusion

- 1 The Report presents the results of a Governance Review into the exercise of statutory functions in the Greater Lincolnshire area. The Review concludes that the greatest degree of improvement in the exercise of statutory functions on the area could be achieved through the creation of a Mayoral Combined Authority for the area to exercise devolved central government functions.
- 2 On the basis of the Review the Report presents a proposed Scheme for publication with a view to this forming the basis for an Order made by the Secretary of State creating a Mayoral Combined Authority
- 3 The draft scheme, if approved, will be the subject of a public consultation exercise which will commence by 4 July 2016. The results of the consultation exercise will be reported back to council and the Secretary of State.

3. Legal Comments:

The Council has jointly with the other local authorities in the Greater Lincolnshire area undertaken a Governance Review under section 108 of the Local Democracy Economic Development and Construction Act 2009. If the Council concludes that the establishment of a Mayoral Combined Authority will lead to an

improvement in the exercise of statutory functions in the Greater Lincolnshire area it may publish a Scheme for the establishment of such a Combined Authority.

The creation of such an Order is dependent on the Secretary of State. The Secretary of State must have regard to the Scheme and the results of public consultation undertaken by the constituent councils.

The Report sets out the results of the Governance Review and proposes a Scheme for consultation

In accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the decision whether to publish a Scheme on the basis of a Governance Review is an executive function and the decision accordingly falls within the remit of the Leader of the Council.

4. Resource Comments:

There are only modest financial implications from the acceptance of the recommendations in this report. These are generally limited to the cost of using existing officer time and resources together with a limited amount of additional expenditure. With regard to the latter the Director of Finance & Public Protection has used his delegated authority to allocate £20,000 to the initiative from the current year revenue contingency budget of £4m. There will be further more significant financial implications for all authorities should final approval be given to the establishment of a Mayoral Combined Authority. These will be presented for consideration as part of the report addressing the giving of consent to establishing a Mayoral Combined Authority.

5. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

This Report has not been subject to pre-decision scrutiny

d) Policy Proofing Actions Required

As set out in the Report

6. Appendices

These are listed below and attached at the back of the report	
Appendix A	Governance Review for Greater Lincolnshire
Appendix B	Scheme for the Establishment of the Greater Lincolnshire Mayoral Combined Authority

7. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Full Council Report Greater Lincolnshire Devolution - Interim Governance Proposals dated 18 December 2015	Democratic Services
Executive Report Greater Lincolnshire Devolution - Interim Governance Proposals dated 5 January 2016	Democratic Services
Greater Lincolnshire Devolution Agreement	Chief Executive's Office
Full Council Report Devolution - Governance Review and Scheme dated 20 May 2016	Democratic Services

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