

**Open Report on behalf of Tony McArdle, Chief Executive**

Report to:	<b>County Council</b>
Date:	<b>20 May 2016</b>
Subject:	<b>Devolution - Governance Review and Draft Scheme</b>

**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 the support of the Council for the publication of a Scheme for consultation under section 109 of the Act.

The final decision on the publication of a Scheme is a matter for the Executive.

**Recommendation(s):**

- 1 That council endorses the signing of the Greater Lincolnshire Devolution Agreement by the Leader of the Council and delegates authority to the Leader and Chief Executive to engage in negotiations with Government regarding the potential devolution of further powers, responsibilities and resources.
- 2 That the contents of the Greater Lincolnshire Governance Review, attached at Appendix A are noted.
- 3 That, on the basis of the Governance Review, the council concludes that the establishment of a Mayoral Combined Authority for the Greater Lincolnshire area would improve the exercise of statutory functions in that area.
- 4 That, accordingly, the council supports 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.
- 5 That the council supports the publication of the draft Scheme for a Greater Lincolnshire Mayoral Combined Authority as attached at Appendix B for consultation purposes, subject to such final revisions as may be approved by the Chief Executive, in consultation with the Leader, and prior to the commencement of the formal consultation exercise.
- 6 That the outcome of the consultation exercise is submitted to the Secretary

of the State by the Chief Executive in consultation with the Leader.

- 7 That council meets not later than 20 October 2016 to consider giving consent to an Order establishing a Mayoral Combined Authority for Greater Lincolnshire.
- 8 That insofar as any of the matters referred to in this report concern the discharge of non-executive functions, authority is delegated to the Chief Executive, in consultation with the Leader, to take all necessary steps and actions to progress the recommendations detailed in this report.
- 9 That further reports are presented to council and the executive as appropriate as the Devolution process develops.

## 1. Background

- 1 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 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.
- 3 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.
- 4 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.

- 5 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.
- 6 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.
- 7 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.
- 8 Before making such an order, consent needs to be sought from the constituent councils.
- 9 Appendix A to this report sets out the results of the Governance Review carried out in Greater Lincolnshire. Appendix B to this report contains the Scheme which it is proposed to publish and on which it is proposed to publicly consult.
- 10 Each council is to receive the attachments for consideration by its Full Council and a report inviting the same recommendations at their next scheduled meeting.
- 11 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.
- 12 The council is asked to support the governance review process. This will allow the council to report to the Secretary of State such views to inform his decision on the Devolution Deal and the Scheme for the Mayoral Combined Authority.
- 13 If the council were to withdraw 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.
- 14 The resource implications are dependent on the next stages of the development of the devolution process. Most will involve the use of existing

officer time and resources. Any financial or other resource requirements will be met from within existing budgets.

- 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 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 final decision accordingly falls within the remit of executive decision-making. The Report seeks support for the recommendations which will be made for an executive level decision.

#### **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 by council 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?**

The Leader of the Council has been consulted.

**c) Scrutiny Comments**

This matter has not been subject to scrutiny

**d) Policy Proofing Actions Required**

See the body of 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	Democratic Services

Proposals dated 18 December 2015	
Greater Lincolnshire Devolution Agreement	Chief Executive's Office

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