

Open Report on behalf of Tony McArdle, Chief Executive

Report to:	County Council
Date:	20 October 2016
Subject:	Devolution – Approval to Creation of a Greater Lincolnshire Combined Authority

Summary:

The Report sets out the latest position in relation to the implementation of the devolution agreement for Greater Lincolnshire.

On 20 May 2016 the Leader of the Council received 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 approved the preparation and publication of a Scheme for consultation under section 109 of the Act.

This Report reports on the outcome of the consultation exercise undertaken by the ten local authorities in the Greater Lincolnshire area and invites the Council to determine whether to support the giving of consent on behalf of Lincolnshire County Council to the creation of a Combined Authority in Greater Lincolnshire.

The giving of consent to the establishment of a Combined Authority is an Executive function and the final decision whether to do so will be taken by the Leader of the Council.

Recommendation(s):

That the Council:-

- 1 notes the contents of the consultation report at Appendix A ("the Consultation Report").
- 2 notes and has due regard to the contents of the Equalities Impact Analysis at Appendix B.
- 3 supports the giving of consent, on behalf of Lincolnshire County Council as a constituent council of the proposed combined authority for the Greater Lincolnshire area, to the making by the Secretary of State of an order:-
 - (a) for the establishment of a combined authority for the Greater Lincolnshire area pursuant to section 110 of the Local Democracy, Economic Development and Construction Act 2009 (LDEDCA)

- (b) for the making of constitutional provisions in relation to the combined authority pursuant to section 104 of LDEDCA
- (c) for the delegation to the combined authority of the transport functions of the Secretary of State and the other functions of public authorities pursuant to sections 104 and 105A of LDEDCA
- (d) for functions of the Combined Authority specified in the Order to be exercisable only by the mayor subject to the conditions and limitations specified in the Order pursuant to S107D of LDEDCA
- (e) for Chapter 1 Part 1 of the Localism Act 2011 to have effect in relation to the combined authority as it has in effect to a local authority
- (f) for the combined authority to be treated as a levying body for the purposes of section 74 of the Local Government Finance Act 1988 in respect of expenses of the combined authority that are reasonably attributable to the exercise of any of its functions other than mayoral functions.
- (g) for the combined authority to be given power to borrow under section 1 of the Local Government Act 2003 for a purpose relevant to any of its functions.

1. Background

Previous Decision-Making

- 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 On 20 May 2016 the Council received a report on Devolution – Governance Review and draft Scheme and resolved amongst other things

- that, on the basis of the Governance Review, the Council concluded that the establishment of a Mayoral Combined Authority for the Greater Lincolnshire Area would improve the exercise of statutory functions in that area;
- that the Council supported 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;
- that the Council supported the publication of the draft Scheme for a Greater Lincolnshire Mayoral Combined Authority as attached as Appendix B to the report 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; and
- that Council meets no later than 20 October 2016 to consider giving consent to an Order establishing a Mayoral Combined Authority for Greater Lincolnshire.

4 On 20 May 2016 the Leader of the Council received a report on the outcome of the governance review and appending a draft scheme for a combined authority and on the basis of the Report

- noted the contents of the Governance Review for Greater Lincolnshire, attached at Appendix D ("the Governance Review").
- concluded, 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.
- approved 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.

- approved in principle the publication of the draft Scheme for a Greater Lincolnshire Mayoral Combined Authority for consultation purposes,
 - delegated 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
- 5 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 devolve appropriate powers from central government. The Councils have undertaken a governance review and published a Scheme. Between the 27th June and 8th August the Councils conducted a public consultation on the establishment of a Combined Mayoral Authority for Greater Lincolnshire. This Report sets out the results of that consultation.

The Consultation

- 6 A report on the findings from the consultation is attached at Appendix A and full details of the feedback are available on the Council website. 4,432 surveys were received during the period. The results indicated support was split across Greater Lincolnshire on the setting up of a mayoral combined authority (46.7% for and 48.6% against). Results were more clearly against combining the roles of Directly Elected Mayor and Police and Crime Commissioner (38.1% for and 55.8% against). Strong support was expressed for more collaborative working around economic growth, infrastructure and housing (73.1% for and 24.7% against) and pursuing powers and funding (77.2% for and 19.5% against).
- 7 2984 responses were received from people in the Lincolnshire County Council area of which 95% came from individual residents. The percentage responses to the following questions were as follows:
- 53% indicated disagreement to a mayoral combined authority
 - 58% indicated disagreement in combining the Mayoral and PCC roles
 - 57% agreed with pursuing devolution of powers and funding
 - 75% agreed to the 10 Councils working together and
 - 79% agreed with pursuing funding in excess of the proposed “deal”

The Draft Order

- 8 The governance review, the Scheme (Appendix C) and the consultation on the Scheme have been provided to the Secretary of State to enable the

Secretary of State to decide whether to make an order establishing the Mayoral Combined Authority.

- 9 Officers are in receipt of a first draft of the Order which is at an early stage of development. At the time this Report is published discussions are ongoing with civil servants as to whether and if so on what the basis the draft can be shared with elected members. However, the Secretary of State is bound by law to have regard to the Scheme in drafting the Order and the Order is therefore expected largely to reflect the Scheme. At the time of publication of this Report discussion is continuing on the detail of how highway funding is allocated from the combined authority/mayor to the highway authorities and the functions to be exercised by the combined authority/mayor in the area of transport.
- 10 This Report therefore seeks in principle support for the giving of consent for the making of an order. The final decision falls to the Leader who, if the full terms of the Order are not known at the time the decision is taken, may delegate the final decision to the Chief Executive in consultation with the Leader.

Making of the Order

- 11 There are two sets of conditions that must be met before making such an order. The first is that the Secretary of State must consider that the establishment of a combined authority for the area is likely to improve the exercise of statutory functions in the area or areas to which the Order relates. The second is that the consent of the constituent councils is necessary for the establishment of a combined authority and a number of the specific provisions of the Order. These consents are separately set out in paragraph 3 of the recommendations.

Analysis

- 12 The decision whether to consent to the matters required by the draft Order depends on a number of factors that are addressed in this section.

The exercise of statutory functions

- 13 As discussed above, the Secretary of State, in order to make the Order, must consider that the establishment of a combined authority for the area is likely to improve the exercise of statutory functions in the area or areas to which the Order relates. The Constituent Councils, including this Council, were also obliged to put their minds to this question before publishing the Scheme.
- 14 The considerations relating to this point were dealt with in the governance review which can be found on the Council's website at <https://www.lincolnshire.gov.uk/local-democracy/finding-your-views/greater-lincolnshire/>. That Review concluded that a combined authority would improve the exercise of statutory functions because it gave a focus for the exercise of delegated central government functions together with a single point of contact for the combined authorities in ensuring joined up exercise

of their functions alongside and in collaboration with the local exercise of devolved central government functions.

- 15 The Governance Review further went on to conclude that a Mayoral Combined Authority was the most effective way of exercising the functions because in particular it would enable future integration with the Police and Crime Commissioner.

The Deal

- 16 The main purpose of the Order for the establishment of a combined authority is to give effect to the Greater Lincolnshire Devolution Deal. A copy of the Greater Lincolnshire Devolution Agreement document can be found on the Council's website at <https://www.lincolnshire.gov.uk/local-democracy/finding-your-views/greater-lincolnshire/>
- 17 In order to achieve these benefits the government have been clear that a combined authority would be required. Furthermore, they have been clear that that combined authority would have to be a mayoral combined authority – i.e. would be chaired by a directly elected mayor who would be given direct authority to exercise certain of the combined authority's powers
- 18 Before moving on to consider the way in which the combined authority would work, it is worth pointing out that one of the benefits of a combined authority is that it provides a vehicle for pursuing further devolution of functions and funding. To this end Greater Lincolnshire is already in detailed discussion of what further functions and funding could be devolved through a second devolution deal.
- 19 Although the deal has not been finalised potential areas being discussed include Housing; Public protection; Infrastructure Investment; Advanced food manufacturing and Environmental Management.
- 20 The benefits of a second devolution deal cannot be realised without the establishment of a combined authority.

Governance

- 21 As stated above, the Secretary of State must have regard to the Constituent Councils' Scheme in making the Order so cannot deviate from the Scheme without good reason. The main features of the Scheme can be described as follows:
- the establishment of a Greater Lincolnshire Mayoral Combined Authority (GLMCA) with a directly elected mayor
 - The GLMCA to have twelve members being the Mayor, 10 members appointed by the constituent councils and a member appointed by the GLLEP who is non-voting unless the GLMCA itself resolves to confer voting rights

- The functions of the GLMCA are split between functions exercisable only by the Mayor and those exercisable by the combined authority
- Mayoral functions include the development of a strategic transport plan and spatial framework together with responsibility for transport and highway funding
- The Mayor must appoint a Deputy Mayor from among the members of the GLMCA and the Mayor may exercise the Mayoral functions him or herself or through the Deputy Mayor or individual members of the GLMCA
- When the Mayor is adopting a strategy or making a funding decision a proposal may be defeated by a two thirds majority of the GLMCA members
- For the strategic transport plan and decisions on transport funding the two thirds majority must include the three highway authority members.
- In the exercise of the GLMCA functions voting will be by majority (to include the vote of the mayor) except for certain qualified voting rights
- Unanimous voting will be required for budgetary decisions and for other decisions including whether to seek further powers for the GLMCA

22 Work has also been undertaken to ensure that the appropriate supporting framework documents are in place to support the Combined Authority, if it is established. These include a Constitution, a Financial Assurance Framework, and a Strategic Infrastructure Plan, all of which will be approved by the Joint Committee.

Operation of the combined authority

23 The Mayoral Combined Authority will receive a £15m gain-share single pot payment each year, for 30 years, starting from when it is legally created, currently estimated to be in early 2017. This funding is understood to be new money to the Greater Lincolnshire area that would not be received without the devolution deal. This gain-share pot is allocated 25% revenue and 75% capital, the spending priorities against this pot will be considered and approved by the Combined Authority. In addition to the gain-share pot further resources in respect of skills and employment will also be devolved, with the potential for the further devolution of resources in subsequent devolution deals.

24 The indicative costs for the Mayoral Combined Authority budget for 2017/18 are currently estimated to be £2.2 million in respect of combined authority functions and £0.2 million in respect of mayoral functions. These indicative costs include the cost of the Mayoral Election, seconded officer time, programme management, support services and specialist support. Each of the participating local authorities will contribute towards the cost of the Mayoral functions and Combined Authority functions. The balance of funding will be resourced from the revenue element of the gain-share pot.

- 25 The Council's 2017/18 Budget to be considered by Council on 24th February 2017, will contain a proposal for provision of an anticipated contribution to the Mayoral Combined Authority. It has been agreed that each Constituent member of the combined authority will contribute the same.
- 26 The establishment of the Combined Authority will involve the use of seconded officer time and resources. This includes programme management, support services and specialist support. The financial or other resource requirements will be met from within the indicative budget. The Mayoral combined Authority will be required to appoint statutory officers i.e. a Head of Paid Service, a Monitoring Officer and a S151 Officer. A process for these appointments has been developed with appointments to be made on an interim part time basis from secondments from the constituent authorities. The proposed costs of the seconded officer time are included within the indicative costs of the Mayoral Combined Authority.

Equality Act 2010

- 27 An Equality Impact Analysis on the creation of a mayoral combined authority has been prepared and is attached at Appendix B. This EIA takes into account comments made during the consultation. Overall, however, as the proposals concern the governance arrangements for the exercise of devolved powers by the Mayoral Combined Authority there is not considered to be any implications for the Council's Equality Act duty. The EIA makes clear that the proposed Combined Authority itself will be bound by the Equality Act duty as a body exercising public functions and will therefore be under an obligation to have regard to it when it exercises devolved functions.

2. Conclusion

- 1 The Report presents the results of the work that has been done to date on a devolution deal for Greater Lincolnshire including the Governance Review, draft Scheme and consultation.
- 2 The Governance Review considered 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.
- 3 On the basis of the Review a proposed Scheme was drafted and eventually published with a view to it forming the basis for an Order made by the Secretary of State creating a Mayoral Combined Authority
- 4 The draft scheme was the subject of a public consultation exercise between 27 June 2016 and 8 August 2016. The results of the consultation exercise are reported back at Appendix A.

- 5 There are both risks and opportunities associated with proceeding to the establishment of a Mayoral Combined Authority. The primary objective is to secure, as practicably and effectively as possible, the best possible deal for Lincolnshire.

3. Legal Comments:

The consent of the Council is required to the matters set out in recommendation 3 to enable the Secretary of State to make an order giving effect to those matters as part of the establishment of a combined authority under the Local Democracy Economic Development and Construction Act 2009.

The function of the giving of such consent is an executive function. The Council is asked to indicate whether they would support the giving of such consent.

4. Resource Comments:

Acceptance of the recommendations in this report will potentially require the County Council to make an annual budget provision as a contribution towards the operating costs of the Greater Lincolnshire Mayoral Combined Authority. This requirement will be incorporated into the development of budget proposal for 2017/18 which is now underway.

5. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

The matters covered by this Report were considered by the Overview and Scrutiny Management Committee on 29 September 2016. The comments of the Committee are attached at Appendix D.

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	Consultation Report
Appendix B	Equality Impact Assessment
Appendix C	Scheme for a Mayoral Combined Authority
Appendix D	Scrutiny Comments

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

This report was written by David Coleman, Chief Legal Officer, who can be contacted on 01522 552134 or david.coleman@lincolnshire.gov.uk and George Spiteri, Devolution Programme Manager who can be contacted on 01522 552120 or george.spiteri@lincolnshire.gov.uk