

EXTRAORDINARY COUNCIL**6TH DECEMBER 2016**

REPORT TITLE	<i>Liverpool City Region Devolution – Order Terms</i>
REPORT OF	<i>Chief Executive</i>

REPORT SUMMARY

This report outlines the final legal and governance requirements to establish the Liverpool City Region Combined Authority (LCRCA) Mayoral Model with the devolved powers and functions agreed as part of the Devolution Deal in November 2015.

RECOMMENDATION

- (a) Notes the next steps required for the implementation of the LCR Devolution Agreement;
- (b) Considers the draft LCR Order as detailed in Appendix 3 and additional Appendices to the report which sets out the powers to be devolved to the LCRCA and directly Elected Mayor and confirms its support for the same;
- (c) Notes that the Department for Communities and Local Government has confirmed that the decision to agree the detailed terms of the Orders is an Executive decision, and that an Executive decision in relation to the proposed draft LCR Orders shall be made at Cabinet on 8th December 2016;
- (d) Notes and reaffirms the governance principles, previously agreed by the Council and the Liverpool City Region Combined Authority in November 2015 (attached as Appendix 1b), that will form the basis of the revised LCRCA constitution; and
- (e) Considers and agrees the scrutiny principles (as attached in Appendix 2) and notes that these will be incorporated into the revised LCRCA constitution.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

Consent is required from all local authorities to the LCR Order which will give legal status to the powers and functions agreed as part of the devolution agreement

2.0 OTHER OPTIONS CONSIDERED

On 19th November 2015, Council ratified the Devolution Agreement, the change to governance with a directly elected Mayor and the scope of the powers and functions to be devolved to the City Region.

3.0 BACKGROUND INFORMATION

Following the agreement to the LCR Devolution Deal by all Councils in November 2015, an initial Order was passed through Parliament in July 2016 to establish the office of Mayor and make arrangements for the election of an LCR Mayor in May 2017.

The Cities and Local Government Act 2016 (the 2016 Act) is the enabling legislation providing the framework for devolution of powers and functions to take place. This legislation requires the conferring of specific Combined Authority and Mayoral Powers through a Parliamentary Order which requires the consent of all LCR authorities and the LCRCA itself.

Further steps are now required to progress the Parliamentary processes and put in place the Parliamentary Orders to ensure that the LCR Devolution Agreement can be implemented in full, allowing the directly elected Mayor to have the powers agreed in the devolution agreement.

The LCR Order must be laid before Parliament week commencing 12 December, in order for it to have sufficient time to be in place for May 2017 and the election of the LCR Mayor. All constituent authorities and the LCRCA need to consent to the order before it is laid by Parliament.

Powers to be conferred on LCRCA

The Legislation on combined authorities is detailed in sections 103-113 of the Local Democracy, Economic Development and Construction Act 2009 and this was amended by the Cities and Local Government Devolution Act 2016 (2016 Act) so that an existing combined authority may be changed into a Mayoral Combined Authority through a further Order from the Secretary of State.

The 2009 Act originally provided that a combined authority could only undertake functions related to economic development, regeneration, or transport, or other functions that its member authorities agreed to transfer upwards to it. The 2016 Act removes these limitations, and will permit the Secretary of State to transfer statutory functions or the

functions of public bodies to combined authorities. As detailed above, this is to be done via an Order for each individual combined authority.

Before the enactment of the Cities and Local Government Devolution Act, the functions which could be conferred on the Liverpool City Region Combined Authority by order were limited to transport functions mainly inherited from the former Integrated Transport Authority and functions of the constituent councils relating to economic development and regeneration. These could be exercised instead of, by or concurrently with the constituent councils.

The amendments by the 2016 Act now enable an Order to confer on Liverpool City Region Combined Authority:

- (i) Any function of a constituent council (not limited to transport, economic development or regeneration);
- (ii) Any function of a public authority (including that of a Minister of the crown or government department) which is exercisable in relation to Liverpool City Region; and
- (iii) Any functions corresponding to a function that a public authority has in relation to another area (e.g. functions of the Mayor of London or GLA).

In order for the LCRCA to acquire additional functions to implement the devolution agreement, it was necessary to follow the statutory process as set out in legislation. These are a review of governance, publication of a draft Scheme setting out the powers requested and a public consultation exercise. These steps are all complete and were considered by the LCRCA in June 2016 and August 2016.

The final draft LCR Order is now attached in Appendix 3. For clarity, the powers set out in the Order have been detailed in Appendix 4 alongside the devolution deal agreements which are relevant and also how those powers will be exercised.

The draft order aligns with the Devolution Deal agreed by all Councils in November 2015 and contains all powers necessary to implement the deal with the exception of Employment and Skills.

In respect of those powers necessary to give effect to the Employment and Skills elements of the Devolution Deal, these powers are pending further legislation which will be laid by Easter 2017. The LCR are expecting a letter of commitment from Government (to follow) which provides assurance of the Government commitment to devolve these powers and that this will take place by Easter 2017.

When approving the Devolution Deal in November 2015, the Local Authorities and LCRCA agreed a number of Governance Principles. These Principles were contained within the report to Council on 19th November 2015 (attached at Appendix 1b) and remain unaltered. These Principles will form the basis of the LCRCA Constitution that will apply post May 2017 and the LCR Order is entirely consistent with those principles.

Overview and Scrutiny of the LCRCA

Alongside the LCR order, government will also lay a generic Overview and Scrutiny Order which will apply to all Mayoral combined Authorities. The draft is attached at Appendix 6.

As anticipated the Order requires the Overview & Scrutiny Panel to be politically balanced. The majority of members of the LCRCA Overview & Scrutiny Panel must be members of the Combined Authority's constituent councils.

The LCRCA must ensure that:

- (a) any member of an overview and scrutiny committee;
- (b) any member of a sub-committee of an overview and scrutiny committee;
- (c) any member of the Combined Authority; and
- (d) any member of a constituent council or a non-constituent council(a) of the LCR CA can refer matters to Overview & Scrutiny and their representations must be considered.

The draft order allows for a referral process for such matters as above to be considered by Overview and Scrutiny and the detail for this will be outlined within the CA Constitution.

As anticipated the Chair must be an "opposition member" or an "independent person". A definition of an "independent person" is also provided. The LCRCA Audit Committee must also be politically balanced and must have at least one independent person on it.

The principles by which the LCRCA will operate scrutiny are set out in Appendix 2 and these are entirely consistent with the draft order. These will now be incorporated into the constitution of the LCRCA, alongside the requirements in the generic Overview and Scrutiny Order.

Next Steps

A review of the LCR CA constitution will be undertaken and a revised constitution drafted in order to fully reflect the powers and functions contained within the LCR Order and other generic Orders applicable to the CA, together with how they will be implemented.

FINANCIAL IMPLICATIONS

The Devolution arrangements propose the devolution of resources from central government to the LCR.

The Devolution Agreement includes the following headline financial implications. All additional and directly devolved funding streams will be managed by the Combined Authority and the newly elected Mayor for the City Region:

- (i) an additional £30m of investment for economic growth for 30 years, equating to £900m total additional investment. This is subject to five yearly gateway assessments;

- (ii) a devolved and consolidated transport budget (subject to the Government's Spending Review);
- (iii) a single pot of government funding to invest in economic growth;
- (iv) greater influence and decision making over a range of national programmes including the Work Programme, 16+ skills funding, Adult Skills budgets and potentially housing funds. Although such budgets will still sit formally with Government Departments in the immediate future, the City Region can direct and influence how these will be spent; and
- (v) ongoing consultation on the Government's proposed business rates reforms.

All additional and directly devolved funding streams will be managed by the LCRCA and the newly elected Mayor for the LCR. It will be for the LCR itself to agree the arrangements for how these resources will be managed and allocated as part of the implementation plans.

The Agreement also commits the LCRCA to –

- continue to set out proposals for how local resources and funding will be pooled;
- agree overall borrowing limits with HM Government;
- agree a process to manage local financial risk relevant to the proposals in the draft Agreement; and
- continue to progress service transformation amongst local authorities including streamlining back office functions and sharing data and services.

Officers will continue to engage with Government officials to set out how these commitments will be implemented on an individual basis. At that point the detailed financial implication on any individual proposal will be set out for the LCRCA to consider and agree.

LEGAL IMPLICATIONS

The implementation of the proposed Agreement is subject to the enactment of the necessary legislation, the Cities and Devolution Bill and to the parliamentary approval of subsequent secondary legislation. Government are working to a legislative timetable for elections for a directly elected City Region Mayor to take place in May 2017.

The Cities and Local Government Act 2016 states that each constituent council of an existing Combined Authority is required to consent to the LCR Order.

All LCR Councils are considering these proposals. They also require the consent of the LCRCA who will consider the draft Order on 9th December 2016.

The Constitution of the Combined Authority will require amendment to reflect the new governance arrangements and the powers and functions set out in the LCR Order. Amendments to the Combined Authority constitution need the unanimous agreement of the Combined Authority Constituent members.

RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

There are no such implications arising directly from this report.

RELEVANT RISKS

The governance and legal processes required to establish the CA with the required powers and functions are being monitored and managed through a detailed implementation plan. This plan has been developed with Government and is managed by the CA Monitoring Officer and Lead Chief Executive for Governance. This mechanism provides the risk management to ensure the required process is followed and the timetable met.

ENGAGEMENT/CONSULTATION

The LCR is required to undertake a Governance Review and public consultation where additional functions are to be conferred upon the Combined Authority. The LCR consultation took place between 24th June and 5th August 2016, following the approach and methodology of the Cabinet Office Statement of Consultation Principles 2016.

EQUALITY IMPLICATIONS

There are no direct equality implications associated with this report as it deals with the issue of devolution at a strategic level. Equality analysis will be undertaken in future as appropriate and in relation to specific elements or activities.

Paragraph 67 of the proposed Devolution Agreement sets out that the LCR Combined Authority will continue to adhere to its Public Sector Equality Duties, for both existing and newly devolved responsibilities.

**REPORT AUTHOR: Eric Robinson
Chief Executive**

APPENDICES

Appendix 1 – Wirral Council Report 19th November 2015

Appendix 1a - Devolution Deal

Appendix 1b - Governance Principles

Appendix 2 – LCRCA Scrutiny Principles

Appendix 3 - LCR Order

Appendix 4 - Table with devo deal/Powers in the order/exercise of those powers

Appendix 5 – to follow

Appendix 6 - Draft generic O&S order

REFERENCE MATERIAL

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet	12 July 2013
Cabinet	8 August 2013
Cabinet and Council	19 September 2013
Cabinet and Council	10 March 2014
Extraordinary Council	19 November 2015