

27 June 2016

**LOCAL DEMOCRACY ECONOMIC DEVELOPMENT AND CONSTRUCTION
ACT 2009 – IMPLEMENTATION OF THE SHEFFIELD CITY REGION
DEVOLUTION DEAL**

Summary

- This report asks the Combined Authority to approve the launch of a statutory consultation process relating to the Governance Review that has been undertaken and the Scheme that has been prepared.
- This approach is further to and consistent with the SCR Devolution Deal which was ratified by the Combined Authority on 31 March 2016.
- The Governance Review is included at Appendix A and the Scheme at Appendix B.

1. Issue

- 1.1. To allow the Authority to progress the implementation of the SCR Devolution Deal through the commencement of the relevant statutory process introduced by the Cities and Local Government Devolution Act 2016 (“the 2016 Act”).

2. Recommendations

- 2.1. It is recommended that the Combined Authority:
- (1) consider the outcome of a review undertaken under the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”) as set out in Appendix 1 to the report;
 - (2) approve a Scheme prepared in accordance with the 2009 Act as set out in Appendix 2 of the report;
 - (3) approve the commencement of a statutory consultation exercise in relation to this Scheme.

3. Background

- 3.1. Following the ratification of the SCR Devolution Deal by the Combined Authority and its constituent authorities on 31st March 2016 work has proceeded to progress the Deal in accordance with the relevant statutory procedure introduced by the 2016 Act.
- 3.2. Chief Executives and the Clerk to the Authority were given delegated approval to give formal consent to an Order made by the Secretary of State to establish a Mayor for the Sheffield City Region Combined Authority. Following that consent the Secretary of State has or will imminently lay an order before Parliament which provides that the Combined Authority will have a Mayor and the first election for the return of the Mayor is to take place on 4 May 2017. Subsequent elections will take place in May 2020 and in every fourth year thereafter.
- 3.3. Creation of the role of an elected Mayor is the first building block to implement Sheffield City Region Devolution Deal.
- 3.4. The additional building blocks require the making of appropriate Orders by the Secretary of State to give the Mayoral Combined Authority (“MCA”) the necessary powers and functions to deliver the Devolution Deal and to make appropriate changes to the governance of the Authority.
- 3.5. The 2009 Act as amended by the 2016 Act provides for the following statutory procedure to be followed to lead to the making of relevant Orders by the Secretary of State:
 - (1) the Combined Authority and/or one or more of its constituent authorities and/or any authority that may wish to become a constituent member may undertake a review;
 - (2) the Combined Authority or other relevant authorities may conclude as a result of that review that the exercise by the Secretary of State of the power to make relevant Orders would be likely to improve the exercise of statutory functions in relation to the Combined Authority area or a proposed area of the Combined Authority;
 - (3) the Combined Authority or other relevant authorities may then prepare and publish a Scheme relating to the exercise of the relevant powers;
 - (4) the relevant authorities may then carry out a consultation exercise in respect of the Scheme proposals;
 - (5) the Secretary of State may make a relevant Order if to do so is likely to improve the exercise of statutory functions in the area or areas to which the order relates;
 - (6) the Secretary of State need not carry out a further public consultation exercise if the authorities have provided the Secretary of State with a summary of their consultation responses and the Secretary of State considers that no further consultation is necessary.

- 3.6. In making an Order Secretary of State must have regard to the need to reflect the identities and interests of local communities and to secure effective and convenient local government.
- 3.7. In order to implement the Orders the consent of the Combined Authority and constituent councils will be required.

4. The Review and Scheme exercise

- 4.1. In accordance with steps 1-2 above, a Governance Review has been undertaken under Section 111 of the 2009 Act as amended by the 2016 Act.¹ A draft Scheme has been prepared in accordance with Step 3 above. These documents are appended to the report as Appendices one and two respectively.
- 4.2. The Combined Authority was advised at its meeting on 31 March 2016 that the context around the Devolution Deal had altered as a result of decisions taken by Bassetlaw District Council and Chesterfield Borough Council to seek full constituent member status which would alter the geographical boundaries of the Combined Authority beyond South Yorkshire and widen the mayoral election mandate. The three remaining existing non-constituent members of the Combined Authority, Bolsover North East Derbyshire and Derbyshire Dales District Councils have indicated their intention to retain that non-constituent membership status within the Sheffield City Region.
- 4.3. The work on the review and draft Scheme has therefore taken into account those decisions and the review exercise addresses in particular the implications of the extension of the geography of the Combined Authority area beyond South Yorkshire; and the case for doing so with reference to the relevant statutory test that to do so is likely to improve the exercise of statutory functions. This is in addition to considering the statutory test with reference to the acquisition of relevant additional powers and functions and appropriate changes in governance to deliver the implementation of the Sheffield City Region Devolution deal. Members will note the detailed analysis undertaken in the review document and the conclusions arrived at with reference to the relevant statutory test. There is a persuasive case that the extension of the geography will enhance the arguments that already exist to support the meeting of the statutory test with reference to the original Devolution Deal.
- 4.4. The Scheme document essentially sets out the way in which the Mayoral Combined Authority would operate in terms of its additional powers and functions and related changes in governance which would form the basis for the Secretary of State to make necessary relevant Orders following the conclusion of the statutory consultation process. It identifies in particular those functions which will be the responsibility of the Mayor alone and those functions which would be discharged by the Combined Authority of which the Mayor would be a member and be appointed as its Chair.

¹ <http://www.legislation.gov.uk/ukpga/2016/1/contents/enacted>

5. Consultation

- 5.1. It is a statutory requirement to undertake consultation in connection with the proposals contained in the Scheme and to provide the Secretary of State with a summary of the consultation responses.
- 5.2. The approach to consultation has been designed with a view to securing extensive opportunities for interested persons to consider and respond to the proposals contained in the Scheme. This has been done with the objective of satisfying the Secretary of State that no further consultation would be necessary so as to enable them to proceed to make the necessary statutory Orders.
- 5.3. It is important to recognise that the consultation exercise is not asking the specific question whether or not the Combined Authority should have an elected Mayor. That principle was already established through the ratification of the Devolution Deal following an earlier non-statutory consultation exercise. The Secretary of State has made/or will immanently make the necessary Order for there to be an elected Mayor and to provide for the date of the first election. The electoral area for the Mayoral election would be the geographical area of the Combined Authority as at May 2017. Therefore if the Secretary of State accepts the case for the extension of the geography of the Combined Authority area to include Bassetlaw and Chesterfield electors in those areas would also be part of the franchise for the election of the Mayor.

6. Implications

i. Financial

- 6.1. The proposed consultation process will have time and resource implications. In the interim, £70K has been earmarked from the existing communications budget to support activity, with a view to calling on 'gainshare' resource in the longer-term.
- 6.2. The proposals set out in the Scheme include giving the Mayor / the Combined Authority control over substantial budgets and revenue raising powers. This will potentially have a significant impact on how the CA budgets and raises resource from partners.

ii. Legal

- 6.3. The steps set out in this report have been undertaken in line with the provisions of the 2009 Act. The statutory consultation exercise proposed is entirely consistent with these provisions.

iii. Diversity / Equality

- 6.4. The Combined Authority must have regard to the equalities implications of its decision with regard to the statutory process to reflect its responsibilities under the Public Sector Equality Duty. The Secretary of State will need to do likewise in deciding whether or not to make the relevant Orders. The requirement is to give due consideration to the impact on any protected characteristics and how they

could be mitigated. Given that the decisions being taken at this stage in the procedure are essentially governance changes any adverse impact would arise in the context of individual decisions taken through the implementation of the Deal and such decisions would in themselves be subject to the PSED. Proper consideration would be given as part of the taking of those decisions as to how any adverse impact could be mitigated.

- 6.5. In taking this approach the Authority is properly discharging its PSED but in addition a bespoke Equalities Impact Assessment is being undertaken with regard to the Scheme Document itself which will be provided to the Secretary of State together with the summary of the consultation responses.

Andrew Frosdick / David Hewitt
Monitoring Officer, Sheffield City Region Combined Authority / Senior Economic Policy Manager

Officer responsible: **Dave Smith**
Sheffield City Region Executive Team
Dave.smith@sheffieldcityregion.org.uk
0114 220 3403