

North East Derbyshire District Council

Council

2 March 2016

Devolution –Sheffield City Region and North Midlands Proposals

Report No CE/02/15-16/DS of the Joint Chief Executive Officer

This report is public

1. Purpose of the Report

To seek Council's endorsement of the Devolution Deal proposals for the Sheffield City Region and the North Midlands and to determine the preferred membership status for the respective Combined Authorities.

2. Recommendations

It is recommended that Council:

- (a) Note the significant work undertaken in the development of both Devolution Deal proposals and the key elements contained within each Deal document,
- (b) Consider and endorse the Sheffield City Region Devolution agreement,
- (c) Consider and endorse the proposed North Midlands Devolution agreement,
- (d) Determine the preferred 'membership status' option for the respective Combined Authorities as follows;
 - i. Option 1 – Constituent membership of SCR Combined Authority and non constituent membership of proposed North Midlands Combined Authority
 - ii. Option 2 - Constituent membership of proposed North Midlands Combined Authority and non constituent membership of SCR Combined Authority,
- (e) Authorise the Chief Executive, in consultation with the Leader to continue discussions to (i) finalise the relevant constitutional provisions and voting arrangements for delivery and separation of Mayoral and Combined Authority functions across the two respective areas, and (ii) develop proposals for the overlapping economic areas,
- (f) Authorise the Chief Executive, in consultation with the Leader to consent to the necessary enabling orders.

3. Reports details

The report sets out the background and details of the themes within each proposed Devolution Deal, the current position and the proposed timetables. It also summarises the potential governance arrangements and relevant statutory provisions. Additionally the report sets out the short and potential long-term benefits to the Council from the overlapping economic geography and the significant risks and

uncertainties going forward. In view of the significance of the required decisions Council is advised to give due regard to the information contained within the report. In addition to this report the Leader and Chief Executive invited all Councillors to attend update seminars throughout the development of the Deal proposals with these being held in October and on 15 February. Further details of the proposed deals are set out as follows.

3.1 **Sheffield City Region Devolution Deal background and proposals**

In April 2014 the SCR Combined Authority was established (SCR CA). The SCR CA membership comprises of the four South Yorkshire Councils who are the constituent members. These four South Yorkshire Councils make up the constituent membership area footprint of the Combined Authority.

3.2 In addition there are five non constituent members of the SCR CA comprising of Bolsover District Council, Chesterfield Borough Council, Derbyshire Dales District Council, and North East Derbyshire District Council from Derbyshire, and Bassetlaw District Council from Nottinghamshire. These five Councils make up the non constituent membership area footprint of the SCR CA which covers northern areas of Derbyshire and Nottinghamshire. Together the constituent and non constituent membership area footprints cover the economic area of the Sheffield City Region Local Enterprise Partnership.

3.3 The present constitutional arrangements within the SCR CA enable the constituent member Councils to agree when the non constituent Council members vote on functions of the Combined Authority. Additionally under the present SCR CA constitutional arrangements the Combined Authority and the SCR Local Enterprise Partnership are supported by five themed executive boards with District Councils Chairing the Infrastructure and Housing Boards.

3.4 On 2 October the Leaders from the four constituent member Councils signed an 'in principle' Devolution Deal with government. Further details of the proposed deal can be viewed at <http://sheffieldcityregion.org.uk/2014/12/city-region-agrees-devolution-deal/>

3.5 The deal proposal involves devolution of power from government to the SCR CA together with an annual gain-share funding pot of £30m per year over a projected 30 year period. This gain-share would comprise of 60% capital funding and 40% revenue and would be subject to a five year gateway assessment by a government appointed panel. This money can be spent on projects outside the South Yorkshire area but the spend must benefit it.

3.6 The terms of the proposed deal require formal endorsement by the SCR CA membership by end March 2016, in order for the first gain share payment to be received from April 2016. Consultation has been undertaken on the Deal proposals which included a six week formal online exercise across the SCR CA constituent and non constituent member's areas. During this period there were 245 responses and a summary of the consultation process can be viewed on the Council's website alongside this report.

3.7 The key trends from the formal consultation responses were:

- Positive support for the principle of stronger local control of decision making
- Recognition of the impact that specific policy areas could have on the SCR CA and the local economy
- Negative perceptions of the need for an Elected Mayor and the creation of additional bureaucracy, complexities with the existing arrangements, and the outcome of the 2012 City Mayor referenda
- Need for clarity about the geographical scope of the Mayoral arrangements and powers particularly for the East Midlands districts
- Positive about the potential for more devolution once the current set of proposals have been implemented

3.8 The SCR CA proposed deal is based around a number of themes including governance, skills and employment, housing, planning and public assets, innovation and advanced manufacturing, business growth and transport. The Deal also contains a proposed business rate growth retention pilot scheme. The proposed deal is dependent on the adoption of a directly elected Mayor over the Combined Authority area with the first elections in May 2017. Based on the present constituent membership footprint of the SCR CA this Mayoral area comprises of the four South Yorkshire Councils. In summary the themes and principles within the proposed Deal are:

- *Governance - clarification of constitutional provisions for voting and separation of Mayoral and Combined Authority functions*
- *Skills - Area Based Review to provide better access and link to skills need (expected completion April 2016)*
- *Employment - Co-design with DWP and Health of programmes e.g. Ambition programme for 18-24 unemployed to access work*
- *Housing and Planning - more influence to improve local plan alignment through SCR area spatial framework*
- *Transport - devolved transport and highways budget for the constituent member Council areas based on a multi-year settlement, potential franchising of bus services within South Yorkshire (subject to further legislation)*
- *Business rates - ongoing discussions with government for retention of growth income across the SCR economic area and determination of arrangements for percentage re-distribution*
- *Trading and Investment - enhanced promotion and opportunities to show wider investment offer / opportunities of the SCR economic area*
- *Innovation – delivery of a National Institute for Infrastructure within Doncaster (potential for alignment with new National college for High Speed Rail)*
- *Business Growth and Support - Growth Hub for simple access to advice and funding, potential additional Enterprise Zones*

4. **Sheffield City Region Devolution Deal current position, governance arrangements and timetable**

The current position requires constituent members and non constituent members of the SCR CA to formally ratify their support for the proposed deal by end of March, in order that the first instalment of gain-share money is released by government from 1 April 2016. At this point the non constituent members can make a choice about their membership status in order to inform the SCR CA and Mayoral geography at the May 2017 elections. If non constituent members choose to retain their existing

membership status then they could, at a later stage decide to seek constituent status, but this wouldn't give sufficient time to form part of the May 2017 Mayoral geography.

- 4.1 Provisions within the Cities and Local Government Devolution Act 2016 remove the geographical restrictions in relation to Combined Authorities subject to approval of the Secretary of State. In simple terms the provisions require the Secretary of State to have regard to the likely effect of the change to the Combined Authorities area on the exercise of functions within its area, or any neighbouring Combined Authority's area, or proposed neighbouring Combined Authority's area. The test would also require regard to be given to the likelihood of improving the exercise of statutory functions in the areas, the need to reflect the identities and interests of local communities and to secure convenient and effective local government. Therefore, although the legislation enables the District Councils to make a choice on membership status, the final decision is made by the Secretary of State, who will consider if this improves the exercise of statutory functions across the SCR CA area and the proposed North Midlands CA area.
- 4.2 This decision would require consultation to give regard to the views of a range of relevant public and private sector stakeholders together with those of residents across the two areas. Such a decision would need to give regard to the impact of the proposals for the North Midlands Combined Authority, its powers and functions, Mayoral footprint and the amalgamation of the Derbyshire and Nottinghamshire Police and Crime Commissioner roles and the transfer of transport and highways powers. The decision of the Secretary of State can be challenged by way of the judicial review process.
- 4.3 In determining membership status of the SCR CA the Council needs to consider that constituent membership (subject to Secretary State approval) would expand the proposed Mayoral footprint beyond South Yorkshire so that it covered areas within Derbyshire. Additionally if the Council did successfully seek constituent status the County Council transport and highways powers would need to be transferred as part of the need to co-ordinate these activities across the SCR CA constituent membership footprint area. A change in the Councils membership status would also require that further consultation was undertaken as a consequence of the proposed change to the Combined Authority area. This would need to be reflected in the proposed timescale for the SCR CA in order to have the necessary arrangements in place for the May 2017 Mayoral election.
- 4.4 The timeline for the proposed deal is set out below:
 - 2016 - March SCR CA Councils to formally ratify support for proposed deal
 - Districts can make a membership upgrade choice at this point requiring consultation to be undertaken June to August prior to a Secretary of State decision
 - Constitutional provisions for Mayoral and CA functions to be agreed
 - SCR CA meets to formally ratify full deal proposal
 - SCR CA produces 'Assurance framework' for management of £30m gain share
 - April - first instalment of £30m gain-share paid to SCR CA
 - April to June - details of Mayoral Order agreed in principle with government
 - June - Order agreed by SCR CA Authorities and put to Parliament
 - October - Mayoral CA Order ratified by Parliament

- December - Secretary of State decision on any potential Membership status changes
- 2017 - January Mayoral election preparations commence across SCR constituent member footprint area
- May - Mayoral election across South Yorkshire area (based on current SCR constituent membership footprint area)

5. **North Midlands proposed Devolution Deal background and proposals**

In December 2013 the ten Councils from across Derbyshire established the Derbyshire Economic Prosperity Committee (EPC). Also at that time the nine Nottinghamshire Councils agreed the establishment of the Nottinghamshire Economic Prosperity Committee. Together the areas covered by these Committees reflect the economic area of the D2N2 Local Enterprise Partnership. In March 2015 discussion commenced between the two EPCs and government regarding a potential Devolution Deal. These discussions indicated a deal requirement by government for only one Combined Authority across the respective areas. The proposed deal would also be dependent on the adoption of a directly elected Mayor over the one Combined Authority area with the first elections in May 2017. Based on a North Midlands Combined Authority (NM CA) with a 19 constituent membership the Mayoral footprint would cover Derbyshire and Nottinghamshire. The deal proposals include the merger of the Nottinghamshire and Derbyshire Police Commissioner roles with that of the Mayor for the NM CA area. A 19 constituent membership footprint would comprise of the following Councils:

Derbyshire	Nottinghamshire
Amber Valley Borough Council	Ashfield District Council
Bolsover District Council	Bassetlaw District Council
Chesterfield Borough Council	Broxtowe Borough Council
Derby City Council	Gedling Borough Council
Derbyshire County Council	Mansfield District Council
Derbyshire Dales District Council	Newark and Sherwood District Council
Erewash Borough Council	Nottinghamshire County Council
High Peak Borough Council	Nottingham City Council
North East Derbyshire District Council	Rushcliffe Borough Council
South Derbyshire District Council	

- 5.1 In September 2015 an initial deal North Midlands Deal prospectus was submitted to government and following discussions with DCLG and HM Treasury a revised version was submitted in December, which has formed the basis for subsequent dialogue. Further details of the proposed deal can be viewed at:

- 5.2 The deal proposal involves devolution of power from government to a North Midlands Combined Authority, together with an annual gain-share funding pot over a projected 30 year period. This gain-share would comprise of 100% revenue and would be subject to a five year gateway assessment by a government appointed panel. This money can be spent on projects outside the NM CA proposed area but the spend must benefit it. At this time the size of the gain-share pot has not been confirmed but negotiations have been based on a figure of at least £30m in line with the SCR CA deal.
- 5.3 The governance arrangements for delivery of the proposed NM CA are based around a number of themed boards with district council leaders each assigned a portfolio of responsibility. It is anticipated that these themed boards would have delegated authority to allocate resources and would influence and deliver the Combined Authority work programmes. The NM CA proposed deal is based around a number of themes including governance, skills, apprenticeships, employment, housing and planning, transport, business support, trade and investment, SMART infrastructure, and Public Service Reform. In summary the themes and principles within the proposed deal are:
- *Governance - clarification of constitutional provisions for voting and separation of Mayoral and Combined Authority functions, PCC powers and responsibilities transfer*
 - *Skills - Area Based Review to provide better access and link to skills need, local commissioning of 19+ Adult Skills Budget and full devolution of funding from 2018/19,*
 - *Apprentices - responsibility for Apprenticeship Grant for Employees and ability to vary grant criteria to meet local need, increased apprenticeship numbers by 110,000 by 2020*
 - *Employment - co-deliver, location and integration with DWP for delivery of focused National Work and Health programmes*
 - *Housing and Planning - greater co-ordination of public estate through Joint Asset Board, Housing Investment Fund of £200m over ten years to unlock housing growth*
 - *Transport - devolved transport and highways budget based on a multi-year settlement, potential franchising of bus services (subject to further legislation), further investment in the rail network*
 - *Business Support, Trade and Investment - Growth Hub for simple access to advice and funding, Free Trade Zone East Midlands Airport enhanced promotion and opportunities to show wider investment offer / opportunities of the SCR economic area*
 - *SMART Infrastructure - increased Broadband coverage and speed in excess of 10Mbps by 2020*
 - *Public Sector Reform – to establish a Public Sector Reform Board to explore health, blue light services, mental health, crime and community protection*

5.4 **North Midlands proposed Devolution Deal current position, governance arrangements and timetable**

The current position requires the 19 Councils from across the proposed NM CA area to formally ratify their support for the proposed deal by end of March. At this point each Council can make a choice about their membership status. The timetable enables the Councils to make an 'in-principle' non-binding decision of constituent status. This non-binding decision could be reversed providing this was done in sufficient time to revise the enabling Orders for the establishment of Combined Authority and the Mayoral geography. Enquires indicate any reversion of an 'in principle' decision for constituent status would have to be made before October.

5.5 Constituent status would require the statutory test to be satisfied. However the proposed NM CA area would not require the transfer of transport and highways powers, or create complexities with the Mayors Police and Crime Commissioner role not being reflected across parts of the NM CA Mayoral footprint. Discussions with government in the development of the NM CA proposals have been based around a NM CA Mayoral footprint of Derbyshire and Nottinghamshire in order to reflect convenient and effective local government and consistency with the principles of the statutory test within the legislation.

5.6 If the districts councils in the overlapping economic areas chose to make such an 'in principle' decision they would not be able to also seek constituent status of the SCR CA, as the legislation does not provide for constituent membership of two Combined Authorities.

If Councils chose at this time not to seek constituent status of the NM CA they cannot reverse this decision and seek constituent membership status in time for the May 2017 elections, as the proposed timeline and preparation and agreement of necessary enabling Orders does not facilitate this. However they could participate as non constituent members and subsequently seek constituent status in time for the next set of Mayoral elections, subject to the relevant process for altering the Combined Authority and Mayoral footprints. Dependant on the finalised composition of the SCR CA and proposed NM CA then Secretary of State approval may be required.

5.7 In determining membership status of the NM CA the Council needs to consider that proposed constituent membership would mean the Mayoral footprint would cover Derbyshire and Nottinghamshire (based on a 19 Council constituent membership). If the constituent membership was different then this would be reflected in the Combined Authority and Mayoral geography. The timeline for the proposed deal is set out below:

- March - clarification of NM CA membership status and formal ratification of support for proposed deal agreement
- Councils make 'in principle' decision for constituent membership status or seek non-constituent status
- Deal agreement finalisation with government and deal 'in principle' sign off by Chancellor
- April – participating constituent member Councils sign the Deal in principle

- September – constituent membership ‘in-principle’ decisions can be reversed
- October - draft Order and deal agreed by all constituent member Councils
- Constitutional provisions for Mayoral and CA functions to be agreed
- November / December - 2016 Combined Authority and Mayoral Order ratified by Parliament
- December 2016 North Midlands CA established
- NM CA meets to formally ratify full deal proposal
- 2017 NM CA produces ‘Assurance framework’ for management of gain share
- 2017 April - first instalment of gain-share paid to NM CA
- 2017 - January Mayoral election preparations commence across NM CA constituent member footprint area
- May - Mayoral election across Derbyshire and Nottinghamshire area (based on current 19 constituent membership footprint area)

6. **Short and long-term potential benefits of the proposed deals**

The Council has worked successfully for many years with its neighbouring District Councils. It has also worked well as a participant in the SCR CA maintaining a positive relationship with the four South Yorkshire Councils. Additionally the Council has played an active role in the development of the proposed North Midlands Devolution Deal. Evidence of the short terms benefits of these relationships are:

- Delivery of the 2 year Ambition and Talent Match programmes with the SCR CA providing employment and in work support for 18-24 year old (£13m across the SCR CA)
- Delivery of the three year Skills Made Easy initiative with the SCR CA to support for SMEs to access high quality training and apprenticeships (£23m across the SCR CA)
- Growth Hub Funding packages across SCR CA and North Midlands CA areas providing significant funding (£50m low carbon technology and business support, £19m innovation fund and £5.5m rural business economy)
- Derbyshire Broadband initiative with £2.17m D2N2 local growth funding to support roll out of superfast broadband across Derbyshire
- Seymour Link extension delivery with Derbyshire County Council (DCC), D2N2, and SCR CA to open 33 HA of additional employment land with Enterprise Zone status
- A61 corridor enhancements and improvement with DCC and D2 N2

6.1 The longer term benefits that could be achieved from participation in the SCR CA and the proposed NM CA and the respective devolution deals are:

- Transport – Improved rail network and electrification, A61 and wider highways infrastructure e.g. Callywhite Lane access - North East Derbyshire District, Glapwell by-pass – Bolsover District
- Skills and employment – access to post 16 learning and continued Ambition and Talent match schemes including DWP and health provision
- Enterprise – Access to more funding and support for businesses, two Growth Hubs for advice and help. Increased micro businesses and SMEs accessing support and finance

- Built Environment – potential Coalite remediation and infrastructure funding to unlock housing and employment site development, Housing investment fund and HRA flexibility on borrowing for building
- SMART Infrastructure – Better broadband access and speed and improved and phone coverage
- Trading and Investment - enhanced promotion of the overlap areas competitive advantage internationally

7. **Risks and uncertainties**

The Cities and Local Government Devolution Act received Royal Assent on 28 January 2016. This legislation provides for the election of Mayors for the areas of Combined Authorities and enables powers to be devolved from government. As the legislation is new and there are uncertainties about either deal the significant areas of risk and uncertainty are:

SCR CA and proposed deal risk and uncertainties

- Support for the deal has not yet been formally endorsed by the constituent Councils
- Constituent status for districts of the SCR CA enables a transport levy
- Constituent status would extend SCR CA Mayoral geography beyond the County line
- There is uncertainty of some Districts membership intentions
- The SCR CA Spatial Framework has potential for housing overspill to address demand
- A decision on 'membership status' has a short timescale if required for May 17 elections
- Membership status upgrade requires a Secretary of State decision and is not guaranteed. This decision is challengeable through the Judicial review process
- Constituent status requires the transfer of County Council transport powers
- Constituent status would have implications for the proposed NM CA and Mayor due to the merged Police and Crime Commissioner role
- Clarity of Post-16 education delivery is likely to be affected in the overlap areas
- Resources are likely to focus on the Mayoral geography
- Non constituent status could restrict influence
- If the North Midlands constituent membership is sought and that deal is not secured then constituent status of SCR CA cannot be achieved until next Mayoral election
- Overlap arrangements are not yet resolved

NM CA and proposed deal risk and uncertainties

- Support for the deal has not yet been formally endorsed by all potential constituent Councils
- The footprint of the Combined Authority and Mayoral geography are not yet agreed
- There is uncertainty of some Districts membership intentions
- Constituent status decision 'in principle' is required without deal being finalised
- A decision on membership status has a short timescale for May 17 elections
- A decision at this stage is in principle and non binding

- If constituent status is not sought at this stage then it cannot be achieved until the next Mayoral Election
- The PCC role of the Mayor may match the Police force areas
- Overlap arrangements are not yet resolved

8. Conclusions and Reasons for Recommendation

Since the development of the Sheffield City Region Combined Authority the Council has had non constituent membership status. This arrangement enables the five District Councils that overlap in the Sheffield City Region area to have a vote on Combined Authority matters subject to the agreement of the four Constituent South Yorkshire Councils. Dialogue in the development of the Devolution Deal for Sheffield, and the relevant constitutional arrangements to support this, have indicated that this arrangement can remain in place. However safeguards would need to put in place to prevent the administration of the Mayor's powers within the South Yorkshire area being restricted or negated by the non constituent District members.

- 8.1 The Council could seek constituent status of the SCR CA however this would be subject to the Secretary of State's approval, would alter Mayoral geography and create complexities in relation to the administration of the Police and Crime Commissioner role in the overlap areas. Additionally powers relating to highways and transport would have to be transferred from the respective County Council.
- 8.2 In relation to the North Midlands Deal the District Council could propose to 'in principle' participate as a Constituent Member of the NM CA. As such the Combined Authority footprint area would form the North Midlands Mayoral geography. However at this time the membership intentions of all 19 potential constituent member Councils have not been finalised and additionally government have not officially agree the proposed deal.

9. Consultation and Equality Impact

The Sheffield City Region Combined Authority undertook consultation on the proposed deal for a six week period ending on 15 January. A total of 245 responses were received to this consultation. The consultation was publicised on the District Council's website and details were also provided to Members and all relevant partners at that time. In respect of the North Midlands Devolution Deal and proposals for a Combined Authority further consultation is required. It is anticipated that this consultation will run between March and September and focus on the deal proposals and the potential deal geography. There are no equality implications arising from the report.

- 9.1 Alongside the developments of the devolution proposals the Council Leader sought clarification from the Secretary of State for Communities and Local Government of the intentions within the Cities and Local Government Devolution Bill, particularly those relating to geographical restrictions and membership status. In response to this letter Minister for Local Government, Marcus Jones MP, confirmed on 21 January that the provisions within the legislation aimed to give flexibility to deliver economical sensible Devolution Deals and prevent any one Council having an unreasonable veto over sensible and generally agreed changes. In his letter the Minister indicated that he did not see why such flexibilities would derail what would be an important Devolution Deal for the North Midlands or alter the Councils

relationship that had been established with the Sheffield City Region. A copy of this letter has been provided to all Councillors.

10. Alternative Options and Reasons for Rejection

The alternative options to determining membership status would be for the Council to determine a non participative approach to either Combined Authority or proposed deal. This would significantly restrict ability to influence and access funding streams to support the delivery of the growth agenda particularly in respect of delivering employment land, residential development and skills and employment opportunities.

- 10.1 As present government policy focuses on a reduction in local authority grant funding, and the replacement of this through growth related income, such as business rates, council tax, and new homes bonus, a lack of access to funding to support growth is likely to negatively impact on the Councils ability to protect frontline services.
- 10.2 A further alternative to supporting either proposed deal and/or participation in Combined Authorities would be to consider local government structure and geography, subject to the relevant legislative requirements, consensus across participating authorities and consultation. If this process was considered the likely timescale could hinder access to any gain-share funding for some considerable time restricting the ability to grow the local economy and enhance skills provision across the area.

11. Finance and Risk Implications

In addition to the information set out in the report the revenue element of the gain-share presents an opportunity to generate more funding through borrowing, subject to prudential borrowing principles within the Cities and Local Government Devolution Act. This could enable growth of investment capacity particularly in relation to unlocking housing growth and delivery of key infrastructure requirements.

- 11.1 As set out in the report the allocation of gain-share funding is subject to five year gateway assessments by a government appointed Panel, in order to confirm its contribution to growth. Therefore the continuance of gain-share allocation is not guaranteed indefinitely and would be subject to subsequent inclusion in government spending plans.

The risk implications are set out in the body of the report.

12. Legal Implications including Data Protection

As set out in the body of the report.

13. Human Resources Implications

There are no direct Human Resources implications.

Decision Information

Is the decision a Key Decision? (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None	
Report Author	Contact Number
Dan Swaine – Chief Executive	01246 242262
	01246217001