

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

10 NOVEMBER 2016

**REPORT OF SENIOR
MANAGEMENT TEAM**

CABINET DECISION

Leader of the Council – Councillor Cook

GOVERNANCE PROPOSALS FOR THE TEES VALLEY MAYORAL COMBINED AUTHORITY

1. Summary

Following the Authority's approval of the Devolution Deal; the formation of the Tees Valley Combined Authority on the 1 April 2016; and the making of the Order creating the position of Mayor for the Tees Valley Combined Authority area, public consultation has taken place on the functions of a Tees Valley Mayor and how the Mayor could work within the Combined Authority.

This report seeks the Council's approval to give consent to the Order being made that would determine the powers of the Tees Valley Mayor. A similar report is being presented to all five Borough councils in the current cycle of meetings. Once all five councils have given their consent, along with the Combined Authority which meets on 25 November 2016, the Secretary of State will lay the Order before Parliament on 28th November 2016. Following the Parliamentary process and approval over the New Year period, the Secretary of State will then make the Order, and it will be brought into force.

It is important to note that where a Council operates executive arrangements (a Leader and Cabinet system or as elected Mayor and Cabinet model), the decision to give consent is legally an executive (not a full Council) function.

2. Recommendations

It is recommended that:-

1. Cabinet agrees to consent being given to the proposed Order being made by the Secretary of State.
2. Subject to this being agreed, that authority is delegated to the Chief Executive, in consultation with the Leader of the Council, to give the Council's final consent to the Order being made when requested by the Secretary of State.
3. Consideration is given to the draft Mayoral Combined Authority constitution, with a view to any comments from Cabinet being referred to the Combined Authority for consideration when reaching its decision on approval of the constitution, and
4. Cabinet's report and decisions are submitted to Council, in order to update all Members regarding the proposals for the Tees Valley Mayoral Combined Authority and the

arrangements for giving the Authority's consent to the making of the Order establishing the powers of the Tees Valley Mayor.

3. Reasons for the Recommendations

To confirm the Council's views regarding the proposals relating to the new governance arrangements for the Tees Valley Combined Authority, and to enable the Council to respond within the timescale specified by the Secretary of State regarding any invitation to consent to the making of the mayoral functions order.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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SUMMARY

Following the Authority's approval of the Devolution Deal; the formation of the Tees Valley Combined Authority on the 1 April 2016; and the making of the Order creating the position of Mayor for the Tees Valley Combined Authority area, public consultation has taken place on the functions of a Tees Valley Mayor and how the Mayor could work within the Combined Authority.

This report seeks the Council's approval to give consent to the Order being made that would determine the powers of the Tees Valley Mayor. A similar report is being presented to all five Borough councils in the current cycle of meetings. Once all five councils have given their consent, along with the Combined Authority which meets on 25 November 2016, the Secretary of State will lay the Order before Parliament on 28 November 2016. Following the Parliamentary process and approval over the New Year period, the Secretary of State will then make the Order and it will be brought into force.

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RECOMMENDATIONS

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2. Subject to this being agreed, that authority is delegated to the Chief Executive, in consultation with the Leader of the Council, to give the Council's final consent to the Order being made when requested by the Secretary of State.
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4. Cabinet's report and decisions are submitted to Council, in order to update all Members regarding the proposals for the Tees Valley Mayoral Combined Authority

and the arrangements for giving the Authority's consent to the making of the Order establishing the powers of the Tees Valley Mayor.

DETAIL

Introduction

1. In October/November 2015, all five Tees Valley authorities gave their approval, (or approval in principle), to the historic Devolution Deal signed on 23 October 2015. Since then, a great deal has happened, and this report sets out that progress, and the current position on which the Authority's approval is now sought.
2. This report sets out the details of the proposed changes to the Tees Valley Combined Authority's operation to incorporate a Tees Valley mayor and enact the devolution of powers and responsibilities in the Tees Valley devolution deal. It follows the publication of the Tees Valley governance review and scheme in July 2016 and the recent public consultation on the proposed changes. The governance review and scheme proposed checks and balances on the power of a Tees Valley mayor and these were supported by the responses to the consultation. These have been highlighted in negotiations with Government and are embedded in the draft Mayoral Combined Authority constitution which is attached to this report.
3. The report covers:
 - Establishment of the Tees Valley combined Authority
 - Progress on the development and delivery of the Devolution Deal
 - The Tees Valley Combined Authority (Election of Mayor) Order
 - Recent consultation on the proposed powers of the Mayor
 - Checks and Balances and the (name of the) Order
 - Draft Mayoral Combined Authority constitution
 - Next steps and timescales going forward

Establishment of the Tees Valley combined Authority

4. Tees Valley has a long track record of public and private partnership working to address strategic economic development, and transport matters. This dates back to 1996 with the formation of the Tees Valley Joint Strategy Unit. This collaborative, cross boundary approach included area wide strategy and vision development - Tees Valley Vision, Tees Valley City Region Business Case, Tees Valley City Region Transport Strategy, the Tees Valley Statement of Ambition, and the Strategic Economic Plan.
5. The Councils have, through Tees Valley Unlimited (TVU), pooled strategic economic functions – covering business engagement, economic strategy and intelligence, inward investment, marketing and promotions, strategic transport, and investment planning (previously through the JSU and the Tees Valley Regeneration Company).
6. The Council Leaders and Middlesbrough Mayor play a vital role in ensuring that the focus and direction of Tees Valley strategies and investments are in touch with the needs of local residents. Together with local councillors, they form a crucial link to the

people in Tees Valley, ensuring Tees Valley's needs are centre stage and their identities and interests are protected. Together with business leaders, an effective and high achieving voluntary partnership existed for many years, paving the way for the establishment of the Combined Authority.

7. The Tees Valley Combined Authority was formally established in April 2016 following a public consultation, approval by each local authority and Parliamentary approval. Members from across all Tees Valley authorities have been involved in workshops and meetings that have helped shape the Combined Authority's first constitution so that it builds on the success of, and formalizes many years of joint working across the area.
8. The Combined Authority is a legal authority in its own right and all Members can access details of its meetings, reports etc through the Combined Authority web- site: www.teesvalley-ca.gov.uk
9. The Combined Authority's Scrutiny Committee has now been established and members have been appointed to serve on the Audit and Transport Committees.

Tees Valley Devolution Deal

10. Tees Valley faces great challenges, and the opportunities afforded by working together are significant. Hence, in the summer 2015, we took the opportunity to negotiate a Devolution Deal with Government.
11. The deal which was agreed in October 2015 was firmly focused on driving economic growth across a range of areas: transport; education and skills, housing and place; business growth; culture; and innovation and energy.
12. The devolution deal included a commitment of £15m per annum additional investment funding for 30 years coming to Tees Valley, the first annual instalment of which has now been received. It also provided additional flexibilities in the use of existing funding so that the Combined Authority will be able to establish a significant single pot and have the ability to move money between years and between funding streams. With opportunities for further funds to be added in future, not only should the size of the pot increase, but the flexibilities to use funds between years allows for much more ambitious investment planning in the Tees Valley than we have previously enjoyed.
13. The Devolution Deal has also led to immediate financial savings to the individual Councils, since the Combined Authority is now able to fund its operations through funding devolved from central government.
14. Some other specific gains from the early implementation of the Devolution Deal include:
 - Ability to establish Mayoral Development Corporations
 - Progress towards the establishment of a Land Commission to address brownfield sites and surplus public sector owned land for development

- National support for Tees Valley's four key transport infrastructure projects, now considered as part of Transport for the North (new Tees crossing, East- West A66 corridor from A1(M) to Teesport, Darlington HS2 Hub, rail electrification from Northallerton to Teesport
 - Government funding of £264,000 pa for two years for our Growth Hub (Tees Valley Business Compass), to pump-prime business support initiatives
 - The establishment of an Education Employment and Skills Board, with devolved skills funding
 - The devolution of Apprenticeship Grant for Employers has been agreed with Government, and
 - £300,000 funding agreed from Government to develop carbon capture and storage proposals, and
 - Ability to submit programmes, rather than project proposals, to the Local Growth Fund, with priority given to areas moving towards a Mayoral Combined Authority.
15. Government guidance is that being a Mayoral Combined Authority with a devolution deal would mean that we have an advantage in securing Local Growth Fund money in round 3. An ambitious bid has been submitted and the announcement is due as part of the Government's Spending Review on 23 November 2016.
16. Whilst Government insists that a Mayor is required as part of our deal, we have maintained a clear position that the establishment of the Mayor would be accompanied by checks and balances to embed a Mayoral / Cabinet model with strong scrutiny arrangements, building on our track record of collaboration.

Tees Valley Combined Authority (Election of Mayor) Order 2016

17. In July 2016, the Tees Valley Combined Authority (Election of Mayor) Order was passed in Parliament. This led to the creation of the position of Tees Valley Mayor, and set out a date of 4 May 2017 for an election, and an initial term of three years, to be followed by four-year terms after that. The first Order simply established the role of the position of the Mayor, and a further Order is required to devolve powers to the new Mayoral Combined Authority, and to establish the checks and balances. It is this second Order which now requires the consent of each of the Councils to it being made.

Recent Consultation on the Proposed Powers of the Mayor

18. Tees Valley Combined Authority ran a statutory consultation on the proposals for how the Mayoral Combined Authority would work. The consultation was open for six weeks and 1160 people and organisations responded.
19. A significant proportion of respondents expressed opposition or scepticism about whether a Mayor was appropriate for the Tees Valley, and this has been fed back to Government. There were also strong themes around making sure that the changes did not bring about unnecessary bureaucracy, the need for local areas to retain their autonomy, and support for checks and balances in relation to the Mayor's powers. These themes have been taken into account in the draft Mayoral

Combined Authority Constitution (see below).

20. Overall, the responses to the consultation which are directed at the key issues give support to the proposals to make governance changes as part of the overall devolution deal.
21. The consultation report is available at www.teesvalley-ca.gov.uk

Checks and Balances and the Draft __ Order

22. The clear aim of the Mayoral Combined Authority will be to work by consensus, with the new Mayor working as one with his / her Cabinet. The Combined Authority has worked collaboratively to date and it builds upon a long history of joint work between councils. However, it is necessary to set out how decisions will be taken should there not be consensus so that the Authority can continue to operate. The way in which it is intended that decisions will be made is set out in detail in the draft constitution attached at Appendix 2.
23. While some powers devolved from Government will sit legally with the Tees Valley Mayor, the agreed concept of an embedded mayor means that we are aiming to set out how that power can be operated in the spirit of a Mayor working with the Cabinet, and to share decision-making with Borough Council Leaders / Middlesbrough Mayor (the constituent members of the Combined Authority). The basic principles are that in general terms the Tees Valley Mayor should have the support of the majority of council leaders for their proposals on an ongoing basis; and where necessary, because of the critical nature of a decision or because of the direct impact on a particular area of the Tees Valley, there should be unanimity in decision-making.
24. The Tees Valley devolution deal set out some of these checks and balances but in many cases what is proposed in the draft Order and constitution goes further.
25. Tees Valley have negotiated hard with Government on how the Mayoral Combined Authority would work. Government's policy preference has been to centralise power in a mayor to provide a single accountability externally; and we have negotiated the checks and balances which will be necessary to make the Mayoral Combined Authority work in the context of the good partnership working that already exists in Tees Valley. Government raised questions about several proposals which were key checks and balances from a Tees Valley perspective:
 - the rotation of a deputy mayoral role between the Borough Council Leaders/ Middlesbrough Mayor (as opposed to appointment by the mayor);
 - the arrangements around a budget and strategy, where we have put forward a proposal to allow the rejection of a mayoral strategy and budget and an alternative proposal on which the mayor would not be able to vote;
 - that (unlike in the original deal where it was proposed the mayor would need to be on the side of the majority and therefore hold an effective veto) the definition of majority voting should be a simple majority.

26. In this context, discussions are continuing to take place with Government officials to ensure that appropriate provisions are reflected in the draft Order which the Councils will be asked to give their consent to being made. Accordingly, a copy of the draft Order is not therefore currently available to attach as **Appendix 1** to this report. As soon as it is available, a copy will be provided. It should be emphasized, however, that until the Secretary of State makes his final decision regarding the Order, it will continue to be a working draft which will be able to be changed, and that it will be made available on a without prejudice basis pending the Secretary of State's final decision.
27. What these checks and balances mean in practice, in terms of some of the key decisions that the Combined Authority will have to make, is set out in the draft constitution.

Draft Mayoral Combined Authority Constitution

28. The Tees Valley Combined Authority's original constitution, agreed at its inaugural meeting in April 2016, would need to be amended to reflect how it would work as a Mayoral Combined Authority, and thus to reflect the Mayoral powers, checks and balances as described, including how key decisions will be made. The draft Mayoral Combined Authority Constitution is attached at **Appendix 2**.
29. Members' seminars on the original draft constitution were held in each Borough to ensure the final version presented to the Combined Authority reflected Members' views.
30. Members Seminars have again been held in each Borough (on the Mayoral Combined Authority constitution) and key themes raised are reflected in the draft at **Appendix 2**. It will be the responsibility of the Combined Authority to consider and adopt its own constitution, but Members' views from this meeting will be collated and shared with the Combined Authority ahead of its decision.

Next Steps

31. Following this cycle of Council meetings, the next steps are as follows:
 - Tees Valley Combined Authority to meet to consider giving consent to the Order being made at its meeting on 25 November 2016
 - Secretary of State lays the Order before Parliament on 28 November 2016
 - Early 2017 – Parliamentary approval expected and the Order is made (comes into law)
 - Process for the election of Tees Valley Mayor continues as now, with the date of the election as 4 May 2017

Conclusion

32. Tees Valley has ambitious plans for growth which have underpinned our collaborative working in recent years, and the rationale for the establishment of the Combined Authority. Whilst a Tees Valley Mayor is not something that is wanted either by many Members or by the public, the prize on offer through the devolution deal is significant. It is in the interests of the whole of the Tees Valley to maintain our drive for growth and prosperity, hence the recommendation before Members to approve the giving of consent to the Order being made.

COMMUNITY IMPACT IMPLICATIONS

33. The Devolution Deal will, through the Tees Valley Combined Authority and an Elected Mayor, as an inherent part of the Deal, bring significant additional resources and devolved funding to the area, thereby accelerating economic growth. Communities and businesses will benefit significantly. In particular, some of our most disadvantaged communities will stand to benefit as more jobs are created; skills funding is targeted at training and apprenticeships that will help individuals in those communities to secure the jobs that will be created; people are helped to connect with work opportunities; more and improved housing options are provided, and confidence in their futures in the Tees Valley is bolstered.

FINANCIAL AND LEGAL IMPLICATIONS

Financial

34. Although there are no financial implications arising directly from this report, the financial benefits arising from the implementation of the Devolution Deal, through the Combined Authority and the election of a Mayor for the Tees Valley are significant. As previously reported, the Devolution Deal will provide a Tees Valley Investment Fund, including a multi-year style capital pot and £450M additional funding over 30 years from 2017/18. In addition 19+ Adults skills funding will be devolved.

Legal

35. The Devolution Deal will be legally binding, as will the changes to Combined Authority governance in the Tees Valley when the Secretary of State has laid an order granting powers to the elected Mayor and the order has been approved by Parliament. Unless and until that occurs, the Tees Valley Mayoral governance proposals will not be final and binding.
36. The Governance Review was carried out by the Combined Authority under section 111 of the Local Democracy, Economic Development and Construction Act 2009, as amended by the Cities and Local Government Devolution Act 2016.
37. The Order will be made by the Secretary of State under powers conferred by sections 104, 114 and 117 of the 2009 Act.

RISK ASSESSMENT

38. There is a clear risk that if the Mayoral Combined Authority governance arrangements are not brought into force and the Devolution Deal is not implemented, the Council and the Tees Valley as a whole will be much worse off financially.
39. A Tees Valley Mayoral model will be a new form of governance for the area and is not therefore tried and tested. However, there is a strong track record and a successful model of collaboration of the Local Authority Leaders and Mayor working alongside business, through the Local Enterprise Partnership and now the Tees Valley Combined Authority. The intention is that the new Mayoral function will become an embedded, integral part of the wider governance arrangements of the Combined Authority, thereby strengthening those arrangements and very much building on our long standing and successful model of collaboration and partnership working in the Tees Valley.

COUNCIL PLAN POLICY PRINCIPLES AND PRIORITIES

40. Through the Tees Valley Mayoral governance arrangements and the implementation of the Devolution Deal there will be implications for:-
 - Planning and Housing – the purpose of establishing a Mayoral Development Corporation will be to bring surplus land into use for housing and business.
 - Transport – the Devolution Deal commits the Government to working with the Tees Valley to develop business cases for the area's key transport schemes, and will also put the Tees Valley at the forefront of new proposed arrangements for bus travel.
 - Business Support – there are major benefits for business and businesses in the Deal, not least the devolution of powers on skills funding, education and employment programmes, enabling a focus on the needs of employers.
 - Education, Skills and Employment – Government will, amongst other things work with the Tees Valley to enable us to focus funding to improve training for local people in the skills required for the new jobs being created and to transform education and skills for young people in the area so that they can thrive in the modern world.
 - Energy and climate change – the area will, for instance, receive support to become a market leader in new technology that will mitigate the impact of heavy industry.
 - Culture – working with Arts Council England, the aim will be to bring a fairer share of the national budget to the Tees Valley.

CORPORATE PARENTING IMPLICATIONS

41. There are no corporate parenting implications arising directly from this report.

CONSULTATION

42. There have been previous reports to Cabinet and to Council regarding the Devolution Deal and the integral proposals for a Mayoral Combined Authority and an Elected Mayor for the Tees Valley.
43. The Tees Valley Combined Authority Governance Review, the scheme for the establishment of the Mayoral Combined Authority and the consultation document on the mayoral functions were developed and agreed in consultation with Officers and Members across the Tees Valley.
44. Public consultation throughout the Tees Valley has now taken place.

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<u>Education related?</u>	Yes, in relation to skills funding and training (paragraph 40 refers)
<u>Background Papers:</u>	None
<u>Ward(s) and Ward Councillors:</u>	Not ward specific
<u>Property Implications:</u>	None

