

Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Cabinet	
MEETING/ DECISION DATE:	14 November 2016	EXECUTIVE FORWARD PLAN REFERENCE:
		E2909
TITLE:	Consideration of the establishment of the West of England Combined Authority	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		

1 THE ISSUE

1.1 At its meeting of 29th June 2016, Cabinet resolved to proceed with the next stage of the Devolution Deal announced in March 2016. As part of that decision Cabinet approved the Governance Scheme for public consultation.

1.2 Cabinet also resolved to:

- “d) Authorise the Chief Executive to subsequently submit to the Secretary of State;
 - i. the Governance Scheme;
 - ii. the consultation responses received (or an appropriate summary); and
 - iii. any further consultation response that the Council itself may wish to make to the Secretary of State for the Department of Communities and Local Government;
- e) Authorise the Chief Executive to make any minor amendments or corrections to the governance scheme to enable publication of the scheme for public consultation.
- f) Refer any resulting Order to Cabinet for approval.”

1.3 This report now provides Cabinet with an update of the actions taken since the 29th June, and asks Cabinet to consider the following recommendations.

2 RECOMMENDATION

The Cabinet is asked to:

- 2.1 Note the Summary of Consultation Responses Report and the Representations submitted to the Secretary of State;
- 2.2 Subject to the safeguard in recommendation 2.4 below, to give consent to the establishment of the West of England Combined Authority
- 2.3 Appoint the Leader of the Council as this Council's Member of West of England Combined Authority,
- 2.4 Delegate to the Chief Executive, in consultation with the Leader of the Council, authority to take all decisions, to make all necessary appointments, arrangements and provide written confirmation to the Secretary of State consenting to the making of the Order creating a West of England Combined Authority.
- 2.5 Delegate authority to the Monitoring officer to make all consequential amendments to the Constitution

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 The financial implications were previously set out in detail as part of the Cabinet Report dated 29th June 2016, specifically at Appendix 6

<http://modern.gov/documents/g4841/Public%20reports%20pack%2029th-Jun-2016%2015.30%20Cabinet.pdf?T=10>

- 3.2 The financial implications are largely unchanged from the position presented there, with the exceptions set out below. The impact of the treatment of specific highways and transport powers is as follows:
- 3.3 Highways – no statutory highway authority functions will now be conferred on the WECA and as such no apportionment of existing revenue funding will be required.
- 3.4 Transport – the DCLG has indicated that, in line with the Scheme, the WECA will be designated as the Transport Authority with:
 - joint powers in respect of passenger transport in areas other than integrated transport areas and passenger transport areas (socially necessary bus services) for subsidised buses including community transport;
 - the delivery and operation of bus lanes/gates remaining with the constituent Councils; and
 - the WECA being responsible for Concessionary Fares.
- 3.5 Arrangements will need to be made by the WECA for the delivery of the relevant functions, most likely by way of commissioning or delegation back to the relevant constituent council. The WECA will levy appropriately for the

costs of these services and no net additional costs are anticipated to those currently incurred by the individual councils.

- 3.6 Borrowing – final details have yet to be confirmed by DCLG although it is anticipated that borrowing may initially be limited to Transport capital schemes, specific borrowing limits may be applied to MCAs. It is anticipated that the draft Order will confirm that any borrowing proposals will be subject to unanimous agreement by the WECA.
- 3.7 Levying Arrangements – it is understood that transitional arrangements will be put in place to ensure any initial levy for powers transferring to the WECA (e.g. transport) will not impact on the constituent councils' calculations for council tax referendum limits.
- 3.8 In addition to the provisions within the original deal, the Government is introducing pilot schemes for 100% business rate retention in 2017/18 in advance of a national scheme later in the parliament. Only authorities with signed devolution deals are eligible to be in a pilot: the pilot for the West of England would therefore include B&NES, Bristol and South Gloucestershire.
- 3.9 The 100% pilot will give the three authorities the opportunity to retain 100% of any business rates growth over the next two to three years, with no downside financial risk when compared to remaining in the national system. It also gives the three authorities the opportunity to help shape the national scheme. Based on the budgeted level of business rates income in 2016/17, this will deliver a significant benefit.
- 3.10 The pilot will run until the national 100% retention scheme is introduced in either 2019/20 or 2020/21. The Pilot will include the rolling in of the Revenue Support Grant for the three councils with the WECA receiving a share of the business rates to reflect the rolling in of the DfT Integrated Transport Block and Highways Maintenance Capital Grants; this is expected to be 5%.
- 3.11 As part of the Local Government Finance Settlement for 2016/17, the Government included plans to provide Local Authorities a 4 year financial settlement. This is subject to individual councils submitting a fully approved Efficiency Plan covering this period. Subsequent to this the Secretary of State agreed as part of the West of England Devolution Deal, a lighter touch approach to the Efficiency Plan requirements for the three authorities.
- 3.12 Each of the three authorities made the appropriate light touch submissions to the DCLG to meet the 14th October 2016 deadline. DCLG subsequently advised that the approval of Efficiency Plans announcement is anticipated in November 2016.
- 3.13 DCLG has clarified that Mayoral Election Costs should initially be met by the three authorities and will then be fully recharged to the WECA. The WECA will be able to meet these costs from the revenue element of the gainshare funding.
- 3.14 There are no personnel implications that arise directly from this report.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The legal implications were set out in the report of 29th June 2016. Each stage of establishment of the WECA is subject to statutory process. Details of the process to be followed by the Secretary of State are set out at paragraph 5 below.
- 4.2 In addition to the Order establishing the WECA, there will be a number of associated generic orders; these will relate to all authorities seeking devolution deals. The generic orders relate to Finance, Overview and Scrutiny, Audit and Election arrangements. It is not anticipated that these Orders will require separate consents from the Council
- 4.3 As referred to at 5.14 below, members will be provided with details of the latest draft order and any relevant update report, prior to the meeting
- 4.4 The consent of the Cabinet is required to the matters set out in this report so as to enable the Secretary of State to make an Order to establish the West of England Combined Authority.
- 4.5 All 3 Council's must agree to the establishment of the WECA on the 14 November to enable Parliament to meet the statutory timetable to establish the WECA by 1 April 2017. Accordingly, the call-in exception (Rule 5) set out in the Constitution at Part 4 D 1 therefore applies and the usual call in rules do not apply(see para 5.17 below).

5 THE REPORT

- 5.1 Consultation on the Scheme for the WECA ran for six weeks between 4th July and 15th August 2016. The consultation was undertaken in accordance with the methodology approved on 29th June. The purpose of the consultation was to seek views from the public on the establishment of a WECA as a means of exercising devolved powers from Government. Responses were sought from as wide and diverse an audience as possible – using Plain English and various communication and engagement methods to achieve this.
- 5.2 Consultees including residents, businesses, voluntary and community organisations, and other stakeholders were invited to participate through a range of mechanisms. Responses were received online, on paper and in some cases sent directly to government. Information and surveys were made available across the region.
- 5.3 A high level summary of the responses received is set out below:
 - 2,011 individual residents, businesses, voluntary and community organisations and other stakeholders participated in a survey
 - 14 organisations and individuals provided a response by email.
 - 471 responses were received from Bath and North East Somerset,
 - 685 from Bristol and
 - 531 from South Gloucestershire.
 - 66 responses were received from 13 other local authority areas

258 had missing or incomplete postcodes.

5.4 The majority of respondents (55%) expressed support for the WECA. There were differences in views in the different council areas.

Bath and North East Somerset: 44% Agreed and 45% Disagreed

South Gloucestershire: 50% Agreed and 37% Disagreed

Bristol 70% Agreed and 20% Disagreed.

5.5 There were also clear differences in views with age, with younger respondents more likely to be in favour of proposals compared to older people.

5.6 In response to whether a Mayor would provide increased accountability and transparency for decisions affecting the region:

47% of respondents Agreed, 38% Disagreed and 14% were Unsure

5.7 There was more support for transport and housing proposals compared to adult education and business proposals, although the shift in views was due to respondents being unsure rather than disagreeing with business and adult education proposals.

5.8 Following the close of the consultation a report summarising the outcome of the consultation responses was prepared. In addition a Representation made on behalf of the WECA Authorities was also prepared. In accordance with the resolution of the Council, both documents were submitted to the Secretary of State. The submission can be viewed in full at:

<http://www.westofenglanddevolution.co.uk/>.

5.9 The Secretary of State must take account of the consultation responses in determining whether the proposed scheme meets the statutory tests, and thus proceed to lay the draft Order before Parliament with the intention of making an Order establishing the WECA.

The Statutory Test

5.10 Having considered the Scheme and the responses to the public consultation, the Secretary of State must consider whether the statutory tests have been met. The tests are:

- i) whether the establishment of a combined authority for the area is likely to improve the exercise of statutory functions
- ii) the constituent authorities consent to the establishment of a combined authority

5.11 The governance review was included as Appendix 2 to the June 2016 report. It concluded that a combined authority would improve the exercise of statutory functions

- 5.12 If the Secretary of State is satisfied that the statutory tests have been met, he can proceed to lay an Order before Parliament. In making the Order, the Secretary of State must have regard to the Scheme as submitted by the Constituent authorities and should not deviate from the Scheme without good reason.
- 5.13 It is understood that the Secretary of State has reached the conclusion that the Scheme does meet the statutory tests. Officers have been advised that the Order will reflect the Scheme subject to a table, which will be circulated prior to the meeting and will highlight any final variations.
- 5.14 Members will be provided with details of the latest draft Order prior to the meeting along with any relevant update to this report.

Parliamentary Process

- 5.15 In the event the Councils approve the terms of the WECA, and resolve to continue to proceed with the devolution deal, the Secretary of State will be required to lay before Parliament:
- i) a draft statutory instrument containing the draft Order
 - ii) a report explaining the effect of the draft Order and why the Secretary of State considers it appropriate to make the Order.
- 5.16 The report must include details of the consultations, representations and any other evidence or contextual information the Secretary of State has considered.
- 5.17 The Parliamentary timetable indicates that the draft statutory instrument and report of the Secretary of State will be laid before Parliament by 24th November 2016. Once a draft statutory instrument is laid before Parliament, there is no opportunity for it to be further amended
- 5.18 It is anticipated that the Parliamentary process will be concluded by the Christmas recess, allowing the Order establishing the WECA to be made prior to Christmas, and the election for the directly elected Mayor will be held on 4th May 2017

6 RATIONALE

- 6.1 The outcome of the public consultation across the region broadly supported the creation of the WECA and it is understood that the Secretary of State is of the opinion:

“that the order is likely to improve the exercise of statutory functions in the area of the proposed combined authority and has regard to the need to reflect the identities and interests of the local communities and to secure effective and convenient local government”.

7 OTHER OPTIONS CONSIDERED

- 7.1 None

8 CONSULTATION

- 8.1 As set out above the Governance Scheme was subject to six weeks statutory public consultation, details of which have been reported to the Secretary of State and in the event the Secretary of State lays the draft Order before Parliament, his accompanying report will contain details of the consultations taken into account.
- 8.2 The Council has assessed its obligations in relation to the public sector equalities duty under section 149 of the Equality Act 2010 (PSED) and has concluded that the immediate decision primarily relates to the potential establishment of a different form of governance rather than decisions that could be deemed to impact on the rights of groups or individuals with a protected characteristic or others protected under the PSED.
- 8.3 However in undertaking the public consultation the councils were conscious of the PSED. The report of 29th June approved a consultation methodology that took full account of the PSED. The consultation was undertaken in accordance with the approved methodology. A working Equalities Impact Assessment has been established for the devolution project as a whole and this will be updated at each stage of the process to ensure that actions taken are relevant to the specific stages.
- 8.4 The Order for the establishment of the WECA will ensure that it is subject to the PSED. The WECA itself when established will be bound by the PSED as a body exercising public functions and will therefore be under an obligation to have regard to it when exercising its function

9 RISK MANAGEMENT

A risk assessment related to the issues and recommendations in this report has been undertaken. The key risk is that if no Order is made, no Combined Authority will be established.

Contact person	David Trethewey, Divisional Director Strategy and Performance
Background papers	Risk register Council Report 269 June 2016 Consultation response report and representations made on behalf of the WECA Authorities
Please contact the report author if you need to access this report in an alternative format	