

Report to:	Cabinet	Date of Meeting:	8 December 2016
Subject:	Liverpool City Region Combined Authority Order	Wards Affected:	(All Wards);
Report of:	Chief Executive		
Is this a Key Decision?	Yes	Is it included in the Forward Plan?	No - Rule 27 and 46 Procedure consent given
Exempt/Confidential	No		

Purpose/Summary

To seek consent to the Liverpool City Region Combined Authority Order.

Recommendations

That Cabinet:

- (1) consider and agree the draft LCR Order as detailed in Appendix 3 to the report which sets out the powers to be devolved to the LCRCA and directly elected Mayor;
- (2) grant delegated authority to the Chief Executive in consultation with the Leader of the Council to agree minor amendments with Government and subsequently to provide confirmation of Sefton Council's formal consent to Government in respect of the LCR Order;
- (3) note and reaffirm the governance principles, previously agreed by the Council and LCRCA in November 2015 (as detailed in Appendix 1b to the report submitted), that will form the basis of the revised LCRCA constitution;
- (4) agree the scrutiny principles as detailed in Appendix 2 to the report submitted and note that these will be incorporated into the revised LCRCA constitution;
- (5) note the assurances given as detailed in Appendix 5 in respect of employment, education and skills. Should the Government fail to deliver on those assurances, then the Council shall take all actions considered necessary, including such legal action as may be considered appropriate, to compel Government to deliver the commitments made by Government in the 2015 Devolution Deal; and
- (6) note that the proposal was a Key Decision but had not been included in the Council's Forward Plan of Key Decisions. Consequently, the Leader of the Council and the Chair of the Overview and Scrutiny Committee (Regulatory, Compliance and Corporate Services) had been consulted under Rule 27 of

the Access to Information Procedure Rules and Rule 46 of the Overview and Scrutiny Procedure Rules of the Constitution for these decisions to be treated as urgent and not subject to "call in", because to do so would result in a failure to meet the required deadline for action as the Orders have been subject to a Government timetable which only became clear in recent days.

How does the decision contribute to the Council’s Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity	√		
3	Environmental Sustainability		√	
4	Health and Well-Being		√	
5	Children and Young People		√	
6	Creating Safe Communities		√	
7	Creating Inclusive Communities	√		
8	Improving the Quality of Council Services and Strengthening Local Democracy	√		

Reasons for the Recommendation:

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.

Alternative Options Considered and Rejected:

On 19 November 2015, Council ratified (Appendix1A) 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.

The report is seeking agreement to the final legal and governance steps required to implement that decision.

What will it cost and how will it be financed?

(A) Revenue Costs

There are no immediate financial implications. The headline future financial impacts are set out below.

(B) Capital Costs

N/A

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial

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

The implementation of the proposed Agreement is subject to both the Cities and Local Government Devolution Act 2016 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 Devolution 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 9 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.

Human Resources

Nil

Equality

- | | | |
|----|--|-------------------------------------|
| 1. | No Equality Implication | <input type="checkbox"/> |
| 2. | Equality Implications identified and mitigated | <input checked="" type="checkbox"/> |
| 3. | Equality Implication identified and risk remains | <input type="checkbox"/> |

Impact of the Proposals on Service Delivery:

The legislative framework ensures that key powers are devolved from Parliament to the LCRCA with a view to enhancing economic development within the Merseyside region.

What consultations have taken place on the proposals and when?

None undertaken. This report follows the previous agreement of Full Council (report attached as Appendix 1) to the terms of the devolution agreement on 19 November 2015.

The Head of Corporate Resources has been consulted and comments are incorporated into the report (FD 4418/16)

The Head of Regulation and Compliance has been consulted and comments are incorporated into the report (LD 3701/16)

Implementation Date for the Decision

Immediately following the call-in period following the publication of the Cabinet Minutes.

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Background Papers:

There are no background papers available for inspection

Appendices to the Report

Appendix 1	Report to Council 19 November 2015
Appendix 1A	LCR Devolution Agreement
Appendix 1B	LCR Devolution Governance
Appendix 2	LCRCA Scrutiny Principles
Appendix 3	Draft LCRCA (Functions and Amendment) Order 2017
Appendix 4	LCR Devolution Deal – Powers and the exercise of those powers as contained within the LCRCA Order 2016
Appendix 5	Letter of Commitment from Government concerning Employment and Skills powers
Appendix 6	The Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2016

1. Introduction/Background

- 1.1 Following consent to the LCR Devolution Agreement 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.
- 1.2 The Cities and Local Government Devolution 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.
- 1.3 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.
- 1.4 The LCR Order must be laid before Parliament during the week commencing 12 December, in order for it to have sufficient Parliamentary time and for the secondary legislation to be agreed and be in place for May 2017 for the election of the LCR Mayor. All constituent authorities and the LCRCA need to consent to the order before it is laid by Parliament.
- 1.5 A verbal update will be provided by the Chief Executive on any outstanding issues associated with the Orders and/or the decision making powers at the meeting.

2. Powers to be conferred on LCRCA

- 2.1 The Legislation on combined authorities is detailed in sections 103-113 of the Local Democracy, Economic Development and Construction Act 2009 (the 2009 Act) and this was amended by the 2016 Act to allow an existing combined authority to be changed into a Mayoral Combined Authority through a further Order from the Secretary of State.
- 2.2 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 now permits 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, in other words secondary legislation in the form of a statutory instrument for each individual combined authority.
- 2.3 Before the enactment of the 2016 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.

- 2.4 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).
- 2.5 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 steps were a review of governance, publication of a draft Scheme setting out the powers requested and a public consultation exercise. These steps were all completed and were considered by the LCRCA in June 2016 and August 2016.
- 2.6 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 agreements which are relevant and also how those powers will be exercised.
- 2.7 The draft order aligns with the Devolution Agreement agreed by all Councils in November 2015 and contains all powers necessary to implement the deal with the exception of Employment and Skills.
- 2.8 In respect of those powers necessary to give effect to the Employment and Skills elements of the Devolution Agreement, the Government have indicated that these powers will be conferred in forthcoming legislation. Members will note that assurances have been given by Government to devolve these powers by Spring 2017 but the Combined Authority is making representations for a stronger, more robust commitment to be made.
- 2.9 When approving the Devolution Agreement in November 2015, the Local Authorities and LCRCA agreed a number of Governance Principles. These Principles were contained within the report to Council on 19 November 2015 (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.

3. Overview and Scrutiny of the LCRCA

- 3.1 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.
- 3.2 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.

- 3.3 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 in accordance with the provisions contained within the draft regulations.
- 3.4 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.
- 3.5 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.
- 3.6 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 to take effect in May 2017.

4 Next Steps

- 4.1 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. The new constitution will take effect following the Mayoral election process in May 2017.