
TEES VALLEY MAYORAL CONSTITUTION

Responsible Cabinet Member – Councillor Bill Dixon, Leader

Responsible Director - Ada Burns, Chief Executive

SUMMARY REPORT

Purpose of the Report

1. To advise Members of the procedure that will be followed for the making of the Order that sets out the powers of the Tees Valley Mayor.
2. The report provides details of the proposed revised Tees Valley Constitution (with amendments to make provision for the role of the Mayor) about which Members views are sought.

Summary

3. On 23 October 2015 the historic Devolution Deal for the Tees Valley was signed by the five Tees Valley authorities. The Devolution Deal offered the establishment of a Tees Valley Combined Authority with devolved decision making powers for transport, economic development and regeneration, together with significant additional Government funding (£15m annually over 30 years). As part of the deal there was a requirement for a directly elected mayor.
4. On 1 April 2016 the new Tees Valley Combined Authority came into being. In July 2016 the Order establishing that elections for a mayor for the Tees Valley Combined Authority will take place on 4 May 2017, was laid before Parliament. In September 2016 the first tranche of funding of £15m was transferred to the Combined Authority as a flexible revenue grant directed to the Tees Valley's priorities.
5. A further Order (The Tees Valley Combined Authority (Constitution) Order 2016) which sets out the powers of the Tees Valley Mayor, now needs to be laid before Parliament. The draft Order is set out at **Appendix 1**. Before this can happen the five constituent Councils within the Tees Valley Combined Authority area and the Combined Authority must also consent to the order being made.
6. Similar reports have been taken to all of the five constituent Councils within the Tees Valley Combined Authority Area in the current cycle of meetings. Once all five Councils have given their consent, the Combined Authority will meet on 25 November 2016 to give consent. After this has been communicated to The

Department for Communities and Local Government, the Secretary of State will lay the Order before Parliament on 28 November 2016.

7. This report also sets out the details of the proposed changes to the Tees Valley Combined Authority's constitutional arrangements 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.
8. Checks and balances on the power of a Tees Valley mayor are proposed which 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.
9. Whilst this decision is an executive decision within the terms of Darlington's Constitution, Cabinet will have regard to the views of Council when they meet on the 25 November 2016 to consider recommendations to give consent to the making of the Order and to agree to the revised constitution.

Recommendation

10. It is recommended that Members:-

- (a) Note the progress made to date concerning the development of the Tees Valley Combined Authority
- (b) Note the arrangements for giving the Authority's consent to the making of an Order establishing the powers of the Tees Valley Mayor and the report that is going to Cabinet about this on 25 November 2016
- (c) Consider the content of the draft Mayoral Combined Authority Constitution at **Appendix 2**, to enable Members' comments to be taken into account by Cabinet and the Combined Authority when reaching decisions on approval of the new Constitution.

Reasons

11. The recommendations are supported by the following reasons:

- (a) Consent from the constituent councils of the Tees Valley Combined Authority is required by Government before legislation setting out the devolved powers and governance arrangements for the Tees Valley Combined Authority can be laid before Parliament.

- (b) To enable the Tees Valley Combined Authority to update the Constitution to reflect legislation relating to the powers and functions for a Mayoral Combined Authority and the constitutional arrangements agreed locally.

Ada Burns
Chief Executive

Background Papers

- (i) Tees Valley Combined Authority Order 2016, No 449
- (ii) Tees Valley Combined Authority (Election of Mayor) Order 2016, No 783
- (iii) Tees Valley Combined Authority (Constitution) Order 2016, No. TBC
- (iv) Local Democracy, Economic Development and Construction Act 2009

- (v) Previous Reports about the Combined Authority:
Cabinet: 3 March 2015, 3 November 2015
Council: 19 March 2015, 19 November 2015.

Luke Swinhoe: Extension 5490

S17 Crime and Disorder	There are no specific impacts on Crime and Disorder
Health and Well Being	The Combined Authority is likely to have positive benefits for health and well-being.
Carbon Impact	Not applicable.
Diversity	There are no specific diversity impacts resulting from this report.
Wards Affected	The report impacts on all wards equally
Groups Affected	The report impacts on all groups equally.
Budget and Policy Framework	The report does not impact on the overall budget and policy framework.
Key Decision	The Combined Authority will have a significant impact in Darlington.
Urgent Decision	This is a report to Council and not the Executive. [The Executive decision to be taken on 25 November will be an urgent decision. The constituent Local Authorities are being asked to consent to the proposed Order before it can be laid in Parliament. The legislative timetable requires this to be done by late November 2016 if the timetable for mayoral elections in May 2017 is to be met.]
One Darlington: Perfectly Placed	The devolution of powers helps support the aspirations for economic growth in Darlington
Efficiency	The devolution of powers to the Tees Valley will enable more effective local collaboration and further our economic ambitions.

MAIN REPORT

Information and Analysis

12. On 23 October 2015 the historic Devolution Deal for the Tees Valley was signed by all five Tees Valley authorities. The Devolution Deal set in motion the establishment of a Tees Valley Combined Authority with devolved decision making powers for transport, economic development and regeneration, together with significant Government funding (£15m annually over 30 years). As part of the deal there was a requirement for a directly elected mayor.
13. 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.
14. The report covers:
 - (a) Establishment of the Tees Valley Combined Authority
 - (b) Progress on the development and delivery of the Devolution Deal
 - (c) The Tees Valley Combined Authority (Election of Mayor) Order 2016
 - (d) Recent consultation on the proposed powers of the Mayor
 - (e) Checks and Balances and the Tees Valley Combined (Constitution) Order 2016
 - (f) Draft Mayoral Combined Authority constitution
 - (g) Timescales going forward
15. To avoid potential confusion over the term 'Mayor' which may refer to Middlesbrough's Mayor as well as the forthcoming Tees Valley Mayor, this report refers to 'Leaders' (meaning the Leaders / Mayor of the 5 Borough councils), and 'Mayor' (meaning the forthcoming Tees Valley Mayor).

Establishment of the Tees Valley Combined Authority

16. 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.

17. 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).
18. The Council Leaders 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.
19. The Tees Valley Combined Authority was formally established on the 1 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 formalises, many years of joint working across the area.
20. 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 website: www.teesvalley-ca.gov.uk
21. 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

22. 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.
23. 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.
24. 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. In total, the investment funds now available to the Tees Valley amount to over £1/2 billion (2016-2021). 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.

25. 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.
26. Some other specific gains from the early implementation of the Devolution Deal include:
 - (a) Ability to establish Mayoral Development Corporations.
 - (b) Progress towards the establishment of a Land Commission to address brownfield sites and surplus public sector owned land for development.
 - (c) 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).
 - (d) Government funding of £264,000 pa for two years for our Growth Hub (Tees Valley Business Compass), to pump-prime business support initiatives.
 - (e) The establishment of an Education, Employment and Skills Board, with devolved skills funding.
 - (f) The devolution of Apprenticeship Grant for Employers has been agreed with Government.
 - (g) £300,000 funding agreed from Government to develop carbon capture and storage proposals, and
 - (h) Ability to submit programmes, rather than project proposals, to the Local Growth Fund, with priority given to areas moving towards a Mayoral Combined Authority.
27. 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.
28. 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

29. In July 2016, the Tees Valley Combined Authority (Election of Mayor) Order was laid before Parliament. This Order requires elections for a Mayor for the Tees Valley Combined Authority are to take place on 4 May 2017. The initial term is to be for three years, to be followed by four-year terms after that. The first Order simply establishes election to the office of the Mayor, and a further Order is separately 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 approval from each of the Councils.

Recent Consultation on the Proposed Powers of the Mayor

30. Tees Valley Combined Authority undertook a statutory consultation on the proposals about how the Mayoral Combined Authority would work. The consultation ran for six weeks from July to August 2016. Responses were received from 1160 people and organisations.

31. 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).

32. 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.

33. The consultation report is available at www.teesvalley-ca.gov.uk

Checks and balances

34. 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 key decisions table below.

35. While some powers devolved from Government legally sit 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 Council Leaders (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.

36. 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.
37. The Tees Valley has negotiated with Government about 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. This is what has been agreed to in principle:
 - (a) All Leaders shall have equal status as Cabinet Members within the Combined Authority regardless of the population of each constituent authority;
 - (b) At the annual meeting Cabinet Members (excluding the Mayor), will by agreement allocate portfolio responsibilities;
 - (c) The Deputy Mayoral role is to be determined by rotation between the Cabinet Members (as opposed to being appointment by the Mayor), with a substitute taking the place of the Cabinet Member when they act as Deputy Mayor;
 - (d) Certain decisions must be decided unanimously with the attendance of all of Cabinet and the Mayor (or Deputy Mayor). Decisions requiring unanimity include, constitutional changes, approval of the Investment Plan and a proposal to create a transport levy;
 - (e) For decisions requiring majority voting, there is a requirement that for the decision to be carried, the Mayor must vote with the majority (this is required by Government)
 - (f) In the absence of agreement when the Mayor is not with the majority, the proposal will be deemed to be neither carried nor rejected but will be deferred to a future meeting. This will allow adequate time for the scope for achieving consensus and alternative proposals to be explored
38. Discussions with Government officials have made the case for checks to Mayoral powers and a consensus model of decision making. The outcome is the best that can be obtained and is as closely aligned to our preferred model as can be achieved. The draft Order reflects the matters that Government is now asking Councils to give their consent to. This is attached at **Appendix 1**. The Order still gives considerable freedom to Tees Valley to develop local arrangements which fit best with our own specific context, and that these are anchored in the Tees Valley Mayoral Combined Authority Constitution

39. Members should note that the Order was still in the process of being drafted at the time when the papers for this meeting were produced. Should a more up to date version of the Order become available then an updated version will be circulated.

40. What the checks and balances means in practice, in terms of some of the key decisions that the Combined Authority will have to make, is set out in the table below.

41. **Key Decisions Table**

Decision	How	Rationale
Approval of the Tees Valley Investment Plan	Unanimous decision of TV leaders, and Tees Valley Mayor	Decisions on investment plans for the Tees Valley are critical to economic growth and therefore require the approval of all leaders
Setting of any transport levy under section 74 of the Local Government Finance Act 1988	Unanimous decision of TV leaders, and Tees Valley Mayor	Setting a levy would affect all households and so any decision requires unanimity
Such other plans and strategies as may be determined by the Combined Authority and set out in its standing orders	Unanimous decision of TV leaders, and Tees Valley Mayor	Allows the Combined Authority flexibility to require unanimous decisions for sensitive issues in the future
Medium Term Financial Plan (MTFP) for the Combined Authority	Proposed by the Mayor. Requires a majority (including the Mayor). Any aspect of the MTFP that amends the investment plan must be agreed to unanimously	This brings together the Mayor's budget and the Combined Authority budget in a single package. The Mayor will propose and checks and balances will operate for approval
Strategic Economic Plan including Mayoral Strategy and Strategic Transport Plan for the Tees Valley.	Developed in collaboration Between the Tees Valley Mayor and the local authority; and proposed by the Tees Valley Mayor. The Mayoral Strategy and Strategic Economic Plan requires a majority, including the Mayor.	This brings together the Mayor's strategy and the Combined Authority strategy in a single document – the Strategic Economic Plan. The Mayor will propose and checks and balances will then operate on approval
Creation of Mayoral Development Corporations	Proposed by the Mayor. A proposal for an MDC requires a majority vote; save that this must include the Cabinet member of the Combined Authority for a local authority which covers any part of the area within the proposed MDC.	To propose an MDC the Mayor should have majority support of leaders including support from the leader of any Authority where land proposed for the MDC lies.

Draft Mayoral Combined Authority Constitution

42. The Tees Valley Combined Authority's original constitution, agreed at its inaugural meeting in April 2016, will require amendment to reflect how it would work as a Mayoral Combined Authority, and the Mayoral powers, checks and balances as described, including how key decisions will be made as set out in the table above. The draft Tees Valley Combined Authority Constitution, amended to include the role of the Mayor, is attached at **Appendix 2**.
43. Member seminars on the original draft constitution were held in each Borough to ensure the final version presented to the Combined Authority takes account of Members views.
44. 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 will be shared with the Combined Authority.

Next Steps

45. Formal approval from Cabinet is required to give consent to the making of the Tees Valley Combined Authority (Constitution) Order 2016 Order (which sets out the powers of the Tees Valley Mayor). The function of giving consent is a Cabinet decision, for Councils operating the executive/leader or executive/mayor decision making model.
46. Following the meetings of the respective constituent local authorities to give consent, the next steps are as follows:
 - (a) Tees Valley Combined Authority to meet to consider giving consent at its meeting in the afternoon of 25 November 2016
 - (b) Secretary of State lays the Order before Parliament on 28 November 2016.
 - (c) Early 2017 – Parliamentary approval expected and the Order comes into law.
 - (d) Process for the election of Tees Valley Mayor continues as now, with the date of the election as 4 May 2017.

Conclusion

47. 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 for Cabinet to approve the Tees Valley Combined Authority (Constitution) Order 2016.