

FULL COUNCIL**12 OCTOBER 2016****REPORT OF THE CHIEF EXECUTIVE****LEICESTER AND LEICESTERSHIRE COMBINED AUTHORITY****1.0 PURPOSE OF REPORT**

- 1.1 To seek approval of the countywide proposal to create a Combined Authority for Leicester and Leicestershire.

2.0 RECOMMENDATIONS**2.1 Council is recommended to**

- 2.2 **Approve the Draft Constitution of the Leicester and Leicestershire Combined Authority attached as Appendix 1;**

- 2.3 **Approve the draft Operating Agreement of the Leicester and Leicestershire Combined Authority attached as Appendix 2;**

- 2.4 **Authorise the Chief Executive, following consultation with the Leader and the Leader of the Opposition, to make any final amendments to the Constitution and Operating Agreement prior to their adoption by the Leicester and Leicestershire Combined Authority;**

- 2.5 **Authorise the Chief Executive, following consultation with the Leader and the Leader of the Opposition, to agree any minor changes to the Operating Agreement in future following adoption of the document by the Leicester and Leicestershire Combined Authority; and**

Agrees the appointment of representatives from the Council to serve on the Leicester and Leicestershire Combined Authority and its committees as set out in paragraph 3.7

3.0 KEY ISSUES

- 3.1 On 16 December 2015, the Council resolved to approve the proposed scheme and Governance Review for the Leicester and Leicestershire Combined Authority ("the LLCA"). Both documents have since been sent to the Secretary of State for Communities and Local Government ("the Secretary of State") for approval.

- 3.2 Update on Order

- 3.3 The Council at its meeting on 16 December 2015, delegated authority to the Chief Executive, following consultation with the Leader and the Leader of the Opposition, to agree the Constitution, the Order and any ancillary documents supporting the operation of the LLCA. Delegated authority was initially requested as it was envisaged that some decisions may need to be taken with some urgency. The Chief executive has now taken

the decision that as there has been some delay in the timetable initially provided by the Department of Communities and Local Government, it is appropriate that Councils approval is sought of the appended documents.

- 3.4 There are a number of documents which have been prepared in order to facilitate the functioning of the LLCA. These include the Constitution, an operating agreement and an officer sharing agreement.

CONSTITUTION

- 3.5 The Constitution is now in a draft form which has been agreed by officers of the Constituent Councils and Council approval of this document is now sought. Instructions have been provided to the Monitoring Officers, who have drafted the documents, following instructions from the Chief executive's and members of the Economic growth Board. The Constitution is attached at Appendix 1 of this report.

- 3.6 As with the constitutional document of any local authority, the document details the proposed governance arrangements for the LLCA. It contains information on such matter as:

- Membership
- Committees
- Voting
- Meeting procedure rules
- Contract procedure rules
- Financial procedure rules

- 3.7 Members will recall that the previous report on 16 December 2015 referred to the Leicester and Leicestershire Enterprise Partnership (LLEP) membership on the LLCA; in the Scheme they are described as a non-voting member of the LLCA. There are provisions in the Constitution which allow the LLCA to resolve, by unanimous decision, to award voting rights to the LLEP. Such voting rights can be awarded on all matters or it can be limited to specific matters. It is proposed that at the first meeting of the LLCA, the members will be asked to consider whether to award voting rights to the LLEP. The proposal intended to be put to the LLCA is that the LLEP shall have a vote on all matters of the full LLCA but not on committees and that it will not have the power to veto any decision except for any decision in relation to the strategic economic plan (which they lead on). The draft Constitution also states that the LLEP will be an advisory, non-voting member of the LLCA transport committee. By approving the draft Constitution, Council would be providing their support to the proposal on awarding voting rights to the LLEP as described above.

In recognition of the potential impact that some of the decisions made by the LLCA could have upon individual Constituent Councils, provision has been made for certain decisions to qualify for "reserved status" and some decisions to be unanimous (as with the granting of voting rights for the LLEP). A "reserved decision" will require a special majority, which will require that the Member(s) appointed by the Constituent Councils who are directly affected by the decision must be present at the meeting and be part of the deciding vote's majority for the decision to be carried.

A decision (other than a transport matter) which affects the entirety of the Combined Authority will require unanimous support of all the Constituent Councils. The list of matters requiring such support is set out in E1.30.4.1 of the constitution and includes approval of the budget and expansion of the LLCA's functions.

The Constitution is to be taken to a meeting of the Economic Growth Board in the autumn where Members will be asked to approve the document. Before that meeting takes place the Constituent Councils will have individually undertaken their own internal processes requesting approval. Each Constituent Council will have either used delegated powers to take the documents back to Members. The document may be subject to some final subsequent minor amendments after it has been approved to ensure that it co-incides with the wording of the final Order and it will then be approved and adopted by the LLCA at its inaugural meeting. The Chief Executive, therefore, request that Council approve the Constitution with delegation to her, in consultation with the Leader and the Leader of the Opposition, to make any final amendments between now and the first meeting of the LLCA.

Council is requested to approve the draft Constitution attached as Appendix 1 to this report. Should any of the Constituent Councils not approve the Constitution in the form attached the revised version will be brought back to Council in due course.

OPERATING AGREEMENT

This agreement should be read alongside the Constitution and provides further details as to how the LLCA will be run on a day to day basis. This document has been agreed by the officers of the Constituent Councils and approval of this document is now sought from Council. The draft Operating Agreement is attached as Appendix 2 to this report.

The Operating Agreement has been drafted by the Monitoring Officers of the Constituent Councils, with input being provided by the Section 151 Officers on the financial aspects of the document. The Chief Executives have provided instructions on the content of the document.

The document deals with the following matters:

- Statutory Officers
- Business Cases to be put to the LLCA for approval
- Provision of support staff to the LLCA to enable it to function
- Apportionment of costs between the Constituent Councils
- Procedure for resolving disputes between the Constituent Councils
- Exit Strategy in the event that any Constituent Council wants to leave the LLCA

The Operating Agreement contains a robust change control mechanism that Constituent Councils will follow, through their Chief Executives', where any changes to the Operating Agreement are proposed. In the interests of efficiency, it would be beneficial for the Chief Executive to resolve minor changes with the other Chief Executives without having to bring the matter back for approval. Therefore Council is asked to consider recommendation 2.5 above.

As it is not intended that the LLCA will be employing its own staff, the mechanism through which staff will be provided to the LLCA will be under a secondment arrangement. A draft officer sharing agreement is currently being negotiated by the officers of the Constituent Councils. Once in an agreed form, it will be appended to the Operating Agreement as a template for any agreement to engage officers to provide support to the LLCA to ensure that all officers are working on the same basis.

APPOINTMENTS TO THE LLCA

The following appointments to the LLCA and its committees, including named substitutes will need to be made as set out below:

- (a) LLCA – 1 Member.
- (b) Transport Committee – 1 Member
- (c) Planning Committee – 1 Member
- (d) Overview and Scrutiny Committee – 1 Member

It should be noted that the draft Constitution states that the Member who will sit on the LLCA shall be the Leader or the Mayor of the relevant Constituent Council and their substitute can be any member of the Constituent Council as the Council resolves to appoint.

Council are not requested to appoint any member to the Governance Committee as the composition of this Committee is prosed in the draft Constitution to be three members of the LLCA, two members of the Overview and Scrutiny Committee and two independent members. Therefore it will be the LLCA who makes this appointment once it has been created.

It is proposed that the following Members are appointed to these roles:

- a) LLCA – the Leader
- b) Transport Committee - TBC
- c) Planning Committee – TBC
- d) Overview and Scrutiny Committee – TBC

The following persons to be appointed as substitutes for the above Members:

- a) LLCA – TBC
- b) Transport Committee - TBC
- c) Planning Committee - TBC
- d) Overview and Scrutiny Committee- TBC

NEXT STEPS

When the draft Order is received from the Department of Communities and Local Government, the LLCA working group shall meet to discuss and compare the draft order with the Scheme, Constitution and Operating Agreement to ensure that they are the same in terms of content.

At its meeting on 16 December 2015, Council gave delegated authority to the Chief Executive, in consultation with the Leader and the Leader of the Opposition, to agree the terms and the final Order, subject to their being no significant departure from or variation to the Scheme. On the basis that Council approve the Constitution and the Operating Agreement the Chief Executive will use her delegated authority to approve the Order.

The Economic Growth Board will meet once all authorities have taken the Constitution and the Operating Agreement through their respective internal governance processes to approve the documents in readiness for the documents to be formally adopted by the

LLCA at their first meeting. It is anticipated that this will be in January 2017.

4.0 POLICY AND CORPORATE IMPLICATIONS

- 4.1 By working together with the other Leicestershire authorities, the Council will secure more robust strategic decision making on important issues within the area and will develop cross border strategic alliances. This will improve the Councils ability to take advantage of any opportunities for investment and improved functions within the areas, such as devolution.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

- 5.1 The costs of operating the Combined Authority shall be met initially by the constituent Councils and the apportionment of costs is one third to Leicester City Council, one third to Leicestershire County Council and one third to be apportioned between the district councils on the basis of population. However, there is also provision that if the LLCA incurs any liability as a result of exercising its vote on a reserved status or unanimous decision such that the decision is blocked, then each Constituent Council agrees that they will share the liability equally.

, An initial budget of £200,000 was drawn up prior to the consideration of the previous report on 16 December 2015. Based upon the agreed apportionment an indicative sum of £5,000 was included on the 2016/7 budget. However, further work on the budget is being undertaken in consultation with the Section 151 Officers of the Constituent Councils and it is anticipated that this figure will need to be increased, although at this stage the actual costs are unknown.

- 5.2 It is not envisaged that the LLCA will directly employ staff and officer support will be provided by the Constituent Councils on a "secondment" basis. The costs of providing core support to the LLCA will be recovered by the authority providing the support on a costs recovery basis. (This includes a percentage for overheads).

The Operating Agreement details which officers will be appointed as the Statutory Officers of the LLCA. Each Statutory Officer will appoint a deputy, and whilst this is a personal appointment, the Head of Central Services is expected to be appointed as the Deputy Chief Financial Officer for the LLCA.

6.0 LEGAL IMPLICATIONS/POWERS

- 6.1 Combined Authorities are established under the Local Democracy, Economic Development and Construction Act 2009 by Order of the Secretary of State for communities and Local Government. A Combined Authority operates as a public body but it is not a merger of existing local authorities. Full details of the legal powers and process for establishing a combined authority were set out in the report of 16 December 2015.

7.0 COMMUNITY SAFETY

- 7.1 None as far as this report is concerned.

8.0 EQUALITIES

- 8.1 The equality impact assessments will be completed for the key decisions of the combined authority.

9.0 RISKS

9.1 To consider and give any Risks related to this report and if there are risks to complete the tables below. If there are no risks identified, then delete the table

Probability



Very High A				
High B				
Significant C		2		
Low D		3		
Very Low E		1		
Almost Impossible F				
	IV Neg- ligible	III Marg- inal	II Critical	I Catast- rophic

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Impact

Risk No.	Description
1	An unbudgeted liability is incurred as a result of voting decisions which impacts on the Council's overall financial position.
2	The Council incurs costs over and above budget based on the spending decisions of the Combined Authority
3	Failure to create a Combined Authority would mean that devolved powers could not be sought.

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10.0 CLIMATE CHANGE

10.1 None as far as this report is concerned.

11.0 CONSULTATION

11.1 The Constitution and the Operating Agreement have been subject to extensive negotiation and consultation between officers at the Constituent Councils and also discussed at the Economic Growth Board before seeking member approval.

12.0 WARDS AFFECTED

12.1 All Wards

Contact Officer: Chief Executive(Section 151 Officer and Solicitor to the Council)
Date: 28 September 2016?

Appendices : Appendix 1: Draft Constitution
Appendix 2: Draft Operating Agreement

Background Papers: Council Report – Proposed Leicester and Leicestershire Combined Authority 16 December 2015

Reference : X : Committees\?