

PAPER NO. 3

REPORT TO THE EXECUTIVE MEETING OF 10th October 2016

Meeting: Executive

Date: 10 October 2016

Subject: Leicester and Leicestershire Combined Authority

Report of: Verina Wenham – Head of Legal and Democratic Services and Monitoring Officer

Portfolio Holder: Councillor Pain

Status: Recommendation to Council

Relevant Ward(s): All

1 Purpose of the Report

1.1 To consider the documents, specifically the constitution and the operating agreement which support the functioning of the Combined Authority for Leicester and Leicestershire before submission to Council for approval.

2 Recommendations:

That Council is recommended to:

2.1 Approve the draft Constitution of the Leicester and Leicestershire Combined Authority as attached at Appendix A to this report;

2.2 Approve the draft Operating Agreement of the Leicester and Leicestershire Combined Authority; as attached at Appendix B to this report;

2.3 That Council consider authorising the Corporate Director (NP) in consultation with the Leader to make any final amendments to the Constitution and Operating Agreement prior to their adoption by the Leicester and Leicestershire Combined Authority;

2.4 That Council consider authorising the Corporate Director (NP) in consultation with the Leader to agree any minor changes to the Operating Agreement in future following the adoption of the document by the Leicester and Leicestershire Combined Authority and;

2.5 That Council agree 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.

3. Summary of Reasons for the Recommendations

- 3.1 The Leicester and Leicestershire Combined Authority will need to have in place a Constitution setting out the governance arrangements and an agreement governing the day to day operation of the Combined Authority

4. Key Facts

- 4.1 On 30 November 2015, the Executive considered a report seeking its support for the county wide proposal to create a Combined Authority for Leicester and Leicestershire. The Executive recommended that the Council approve the proposed the proposed Scheme and Governance Review for the Leicester and Leicestershire Combined Authority (the "LLCA"). The Council approved this recommendation at its meeting on 14 December 2015. Both documents have since been sent to the Secretary of State for Communities and Local Government (the "Secretary of State") for approval.
- 4.2 Council at its meeting on 14 December 2015 delegated power to the Corporate Director Community Services, following consultation with the Leader, to agree the Constitution, the Order and any ancillary documents supporting the operation of the LLCA. Delegated powers were initially requested as it was envisaged that some decisions may need to be taken with some urgency. As there has been some delay in the timetable initially provided by the Department of Communities and Local Government and there have been a number of political changes which took place over the summer, it would seem to be appropriate to continue engagement with Members and as such to seek Council's approval of the appended documents.

5. Leicester and Leicestershire combined authority core documents

- 5.1 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

- 5.2 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 been tasked with drafting the documents, by the Corporate Director (NP), the Chief Executive's' of the other Constituent Councils and members of the Economic Growth Board. The Constitution is attached at Appendix A of this report.

- 5.3 As with the constitutional document of any local authority, the document details the proposed governance arrangements for the LLCA. It contains information on such matters as:
- membership
 - committees
 - voting
 - meeting procedure rules and rules of debate
 - contract procedure rules
 - financial procedure rules
- 5.4 Members will recall that previous reports have 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. If Council were to approve the draft Constitution, it would be providing their support to the proposal on awarding voting rights to the LLEP as described above.
- 5.5 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 either use delegated powers which have been given or take the documents back to Members. The document may be subject to some final subsequent tweaks after it has been approved to ensure it coincides with the wording of the final Order and it will then be approved and adopted by the LLCA at its inaugural meeting. Members will note that recommendation 2.3 requests Council to consider a delegation to the Corporate Director (NP), in consultation with the Leader, to make any final amendments which may be required between now and the first meeting of the LLCA.
- 5.6 The Executive is requested to recommend to Council that the draft Constitution attached at Appendix A of this report be approved. Should any of the Constituent Councils not approve the Constitution in the form attached at Appendix A then a revised version will be brought back for consideration by members in in due course.

Operating agreement

- 5.7 This agreement should be read alongside the Constitution and provides further detail 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 members are asked to recommend to Council that this document is approved. This document is at Appendix 2 of this report.

- 5.8 The operating agreement has been drafted by the Monitoring Officers of the Constituent Councils, with input being provided by the section 151 Officers of the Constituent Councils on the financial aspects of the document. Instructions have also been sought from the Corporate Director (NP) and the Leader on matters contained within this agreement.
- 5.9 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
 - Sharing of Information between the LLCA and Constituent Councils
 - Procedure for resolving disputes between the Constituent Councils
 - Exit Strategy in the event that any Constituent Council wants to leave the LLCA
- 5.10 The operating agreement contains a robust change mechanism that Constituent Councils will follow, through their Chief Executives (and in the case of this Council the Corporate Director (NP)), where any changes to the Operating Agreement is proposed. In the interests of efficiency, it would be beneficial for to resolve minor changes with the other Constituent Councils without having to bring the matter back to this Council for approval. Therefore Executive is asked to consider referring the recommendation 4 to Council for consideration.

Officer Sharing Agreement

- 5.11 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 and instructions are being sought from the Corporate Director (NP) and the Leader on the provisions contained in that agreement. This will then be appended to the operating agreement as a template for any agreement to engage officers to provide support to the LLCA to ensure all officers are working on the same terms.

6. Appointments to the LLCA

- 6.1 Members have seen previous reports detailing the committees of the LLCA and their composition and the draft Constitution is attached (which includes terms of reference). Members will therefore be aware that the following appointments, including named substitutes, need to made:

a) LLCA – 1 Member (Leader) and named substitute

- b) Planning t Committee -1 Member and named substitute
- c) Transport Committee – 1 Member and named substitute
- d) Overview and Scrutiny Committee – 1 Member and named substitute.

- 6.2 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 a Constituent Council as the Council resolves to appoint.
- 6.3 Council will not be requested to appoint any Member to the Governance Committee as the composition of this committee is proposed 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.
- 6.4 Nominations for the respective roles, as well as substitutes for the roles, in accordance with the proposed composition of the committees and the political balance rules, as set out in the LLCA Constitution will be referred to Council for consideration along with the recommendations from this meeting, at its meeting on 24 October 2016.

7. Next Steps

- 7.1 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.
- 7.2 At a meeting of Council on 14 December 2015 the Corporate Director (NP) was given delegated power, to be used following consultation with the Leader, to approve the wording of the Order. If the draft Order aligns with the other LLCA documents (Scheme, Constitution and operating agreement) then if Council approve the Constitution and operating agreement at its meeting on 24 October 2016, the Corporate Director would be minded to use his delegated power to approve the Order. The reason for using his delegated power is due to the short timescale for consideration of the draft Order which has been set by the Department of Communities and Local Government, and as all other documents will have received Council approval, and the provisions of the Order mirror those documents, it would be appropriate for him to use those powers.
- 7.3 The Economic Growth Board are likely to meet once all the Constituent Councils have taken the Constitution and 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. On current timescales it is anticipated that the first meeting of the LLCA take place in January 2017.

8. Legal Issues

- 8.1 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 with its own legal personality but it is not a merger of existing authorities. To operate effectively the LLCA will need to adopt a robust Constitution and Operating Agreement.

9. Resource Issues

- 9.1 The costs of the Combined Authority shall be met initially by the Constituent Councils, on the basis set out in the Operating Agreement. This states that the costs incurred in relation to the administration of the LLCA be apportioned between the Councils with Leicester City Council bearing one third, the County Council bearing one third and one third being apportioned between the district councils on the basis of population. In addition the districts councils bearing one third, further work is being undertaken in consultation with the Section 151 Officers of the Constituent Councils.
- 9.2 The Operating Agreement sets out a number of Core Support services that will be provided the costs of which will be recovered on a cost recovery basis.

10. Equality Analysis Implications/Outcomes

- 10.1 None as far as this report is concerned.

11. Risk Management Implications

- 11.1 The documents have been considered and approved by the Monitoring Officers.

12. Consultation

- 12.1 Officers of the Constituent Councils have worked collaboratively on the Constitution and the Operating Agreement and the documents have been considered by the Economic Growth Board.

13. Options

- 13.1 If recommended by the Executive, the draft Constitution and Operating Agreement will be considered by Council on 24 October 2016 If the

documents are not approved by all of the Constituent Council's a further report will need to be considered by members at a later date.

14 Background Papers

14.1 Report to Council 14th December 2015.

Previous report(s): 30th November 2015

Information Issued Under Sensitive Issue Procedure: Y/N

Ward Members Notified: Y/N

Appendices:

A. Draft Constitution

B. Draft Operating Agreement