



## **Leadership Board**

Tuesday 17th May 2016

County Hall, Durham, DH1 5UQ

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## **SUPPLEMENTAL AGENDA No.2**

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### **Page No**

With the Chair's permission, due to the timetables involved the following documents were circulated at the meeting

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| <b>4. North East Combined Authority - The Devolution Agreement</b> | <b>1 - 22</b> |
| Supplementary Report 1 and Supplementary Report 2                  |               |

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**To All Members**

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# North East Combined Authority

## Leadership Board

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**DATE:** 17 May 2016

**SUBJECT:** North East Combined Authority – The Devolution Agreement  
Supplementary Report 1

**REPORT OF:** Head of Paid Service

### EXECUTIVE SUMMARY

Since the Proposed Agreement was signed in October 2015 there have been continuing discussions with Government on detailed implementation of a devolution deal. Following the 24<sup>th</sup> March Leadership Board report which identified a number of outstanding issues with the Proposed Agreement, the Head of Paid Service has sought further clarification or commitment from Government. This report sets out the information received from Government.

### RECOMMENDATIONS

The Leadership Board is recommended to:

- (1) Note the content of the report, the outstanding issues identified by the Leadership Board relating to the proposed Devolution Agreement in March and the responses by Government and subsequent progress made.
- (2) Endorse the proposed Devolution Agreement and agree to the establishment of the North East Combined Authority as a Mayoral Combined Authority.
- (3) Delegate authority to the Head of Paid Service in consultation with the Chair of the North East Combined Authority, the Monitoring Officer and Chief Finance Officer to consent to the Order creating the Mayoral Combined Authority and all other relevant matters to enable the formal establishment of the Mayoral Combined Authority to proceed.
- (4) Delegate authority to the Head of Paid Service in consultation with the Monitoring Officer and Chief Finance Officer to complete the Governance Review and the preparation of a governance Scheme for consideration at the next meeting of the Leadership Board.
- (5) Confirm that the initial term of office for the Mayor of the North East Combined Authority will be for a period of 3 years from 4 May 2017 with subsequent terms of office being for 4 years in accordance with the Local Democracy, Economic Development and Construction Act 2009 (as amended).

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- (6) Agree the proposals as set out in paragraph 25 of the report in respect of highways maintenance and incentive funding
- (7) Note all Constituent Authorities and the Mayoral Combined Authority will be required to consent to the second order for the devolution of powers and responsibilities in accordance with the Devolution Agreement of the 23<sup>rd</sup> October 2015 to proceed.

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### Section 1: Background Information

1. On the 24<sup>th</sup> March 2016, the Leadership Board received a report and supplementary report on the Proposed Agreement which highlighted the key components of the Proposed Agreement, the progress made in clarifying elements necessary for implementing the Proposed Agreement and the areas where further clarity were required.
2. The Leadership Board confirmed their continued support for devolution and support for the Proposed Agreement entered into on 23<sup>rd</sup> October 2015 but noted the outstanding issues including those referred to in the main report and the supplementary report which required further clarification and commitment by Government. The Head of Paid Service was authorised to secure this from Government and this report updates the Leadership Board on the progress made.

### Section 2: The Proposed Agreement

3. The Proposed Agreement was signed by the Leadership Board, the Chancellor of the Exchequer and the Commercial Secretary to the Treasury on 23 October 2015. Similar Agreements have also been signed by Greater Manchester, Sheffield City Region, Liverpool City Region, the Tees Valley, West Midlands, Greater Lincolnshire, East Anglia and the West of England.
4. Overall, the North East Proposed Agreement sits within the national context of other emerging deals and is well positioned in comparison with similar content across a number of themes. Only Manchester and West Midlands have more coverage, but these are specialist themes such as Police Services, Fire and Rescue Services, and Energy and Environment.
5. The Proposed Agreement provides for important devolution of powers to the North East, enabling the region to join up policies in ways previously not possible, ensuring that transport, infrastructure, skills, employment support, housing and health policies all work together to improve opportunities for the people of the region. It also opens the door to further devolution in future.
6. Key benefits of the Devolution Agreement could include
  - Long-term certainty provided by five year grant allocations and a thirty-year revenue funding allocation to the investment fund amounting to up to £900m of cash grants, which could enable investment of up to £1,800m, enabling the region to invest across priorities according to local needs rather than being constrained by ring-fences determined in Whitehall and 'stop-start' annual funding processes.
  - Fiscal devolution which includes an opportunity for business rates supplement to fund critical infrastructure.
  - Local influence over adult skills, DWP employment support programmes, distribution of ESIF funding, UKTI activity in the region and regional transport investment.

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- Over the next five years the Devolution Agreement would enable local control of circa £1,517 million. This includes £1,042 million of existing funding in the NECA area where the NECA could have greater devolved local control and flexibility over these funds and £475 million of new funding over the next five years. It is estimated that £229 million of this new money is directly related to the Proposed Agreement and would unlikely be received without the deal.
  - Access to regulatory powers to support housing, neighbourhood and health outcomes.
  - Opportunity to shape North East Health and Social care integration ahead of National programme.
  - Opportunity to progress transformational infrastructure projects.
  - The opportunity to create a fully integrated transport system, bringing together responsibilities for rail, local highways, metro, buses and ferries. This would include a consolidated local transport budget, integration of the metro with rail services, long-term investment in the metro system, and the opportunity to deliver a new approach to bus services through powers in the forthcoming Buses Bill.
  - Devolution of business support, and greater responsibility for securing inward investment in the region.
  - Establishment of a North East Land Board to identify land for new homes and to improve the quality of existing housing in the North East.
  - Increasing the region's ability to join up economic initiatives, through new responsibilities for skills training for young people, supporting those needing employment, improving transport services and infrastructure and helping the region build more homes.
  - The option for Government and the Combined Authority to consider further opportunities for devolution over time.
7. Throughout the negotiation process, Ministers have made it clear that devolution is conditional on the creation of an Elected Mayor for the NECA area. They have argued that a transfer of responsibilities would only be appropriate if the public could hold an individual elected person accountable for the exercise of those responsibilities. The Leaders have expressed opposition to this precondition, arguing that devolution should not depend on a particular model of governance imposed from the Government. Nevertheless, in the interests of securing the region's proposals for devolution, and as a basis for future devolution opportunities, the NECA Leadership Board has kept an open position on this issue during the negotiations with Government and has sought to establish a model for an Elected Mayor that includes appropriate checks and balances.
8. The current proposals respect the North East's specific circumstances. The "embedded mayor" model set out in the Agreement ensures significant control for local leaders, an acknowledgement that the "metro mayor" approach adopted in largely urban combined authority areas is not appropriate for the NECA geography.

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9. If the region chooses not to adopt the Mayoral Combined Authority, the NECA would expect the loss of £30 million a year investment funding, putting in jeopardy £1.5 billion in additional investment over 30 years. The NECA would also lose multiyear certainty on local growth and transport funding, reducing the region's ability to plan for the long-term therefore putting the region at a competitive disadvantage compared to the areas to have adopted mayoral combined authorities. The NECA would also lose the ability to vire funding between devolved programmes, and return to the status quo of decisions on LGF, the future of local transport and employment and skills dominated by Whitehall. Importantly the NECA would also lose out on the opportunities for further devolution of powers, responsibilities and resources.

### Section 3: Outstanding issues and the Clarification Received

10. Since the Proposed Agreement was signed in October 2015 there have been continuing discussions with Government on detailed implementation of a devolution deal. Following the 24<sup>th</sup> March Leadership Board report which identified a number of outstanding issues with the Proposed Agreement, the Heads of Paid Service has sought further clarification or commitment from Government.

#### The key outstanding issues

11. The outstanding matters as highlighted by the 24<sup>th</sup> March Leadership Board report were:
  - The Proposed Agreement establishes the principle of a single five-year programme allocation of LGF, to form part of the flexible North East Investment Fund. The region has proposed a five-year programme allocation of LGF to Government, and awaits clarification on how Government intends to fulfil this commitment.
  - A lack of certainty on £30 million a year funding over all 30 years and the 5-year gateway tests which is needed if the NECA is to create a substantial investment fund. Although Government have provided some reassurance on the gateway process, uncertainties remain which need to be clarified. Specifically, confirmation is sought that where longer term borrowing is undertaken to support infrastructure and economic development initiatives, which have met both Government and the NECA's rigorous assurance and appraisal processes, that the 5-year gateway review process should not be able to reduce the level of funding received.
  - The Proposed Agreement commits to providing a single devolved transport fund covering 'all highways and sustainable travel budgets'. The confirmation of £273 million in devolved, flexible local highways funding for the region announced alongside the budget is positive, but

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confirmation on how Government plans to devolve sustainable travel funding to the region is still outstanding.

- We are seeking the Government's commitment to build a "rural proofing" element into the prioritisation and allocation of the Investment Fund to ensure that rural areas are not left behind and receive an equitable share of funding to promote sustainable economic growth
- In line with Proposed Agreement, confirmation is needed that the approach to Human Capital will be as agreed with Lord O'Neill and specifically that the ABR process should not commence until the commission led by the Lord O'Neill Board is established.
- The Proposed Agreement sets out commitments that future funding outcomes would ensure the North East is not disadvantaged in relation to the fiscal freedoms granted to the Scottish Government and that the North East does not suffer disproportionately from future reductions in funding through a fair funding settlement. This is an outstanding issue.
- The Prime Minister committed during the 2015 general election campaign to protecting Newcastle Airport from the impacts of devolution of Air Passenger Duty to Scotland. The proposed Agreement commits Government to addressing this issue. This has become increasingly urgent since the Scottish Government's recent publication of a document setting out its detailed plans for implementation of a 50% cut to APD at Scottish Airports with effect from 2018. The lack of an announcement in the March 2016 Budget is a concern and confirmation on how this issue is to be addressed by Government remains outstanding.

### **Clarification and Commitment secured on the Devolution Agreement**

#### Local Growth Fund

12. Ministers have confirmed that this round of Local Growth Fund will be competitive, with the money going to those areas that bring forward the most ambitious proposals. Government suggest that with a Mayoral Combined Authority, the North East will be at an advantage compared to some areas. As a Mayoral Combined Authority, NECA/NELEP would be able to submit a programme level proposition, providing the ability to bring forward dynamic proposals that align with the wider investment strategy through the new Single Pot for the North East. The bid for the next round of LGF is due in July 2016. Plans for the programme bid are in development and it is currently proposed to submit an ambitious bid for up to £150m of LGF funding, including a strong bid for Local Sustainable Transport projects of c £30m.
13. In regards to the £2 billion of Local Growth Fund monies which are being allocated through the Homes and Community's Agency (HCA)' Home Building Fund, the NECA has sought Government commitment to the North East



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preparing, in collaboration with private sector developers and the HCA, a 5 year programme to utilise these funds in the area. The Government have clarified that once the prospectus is launched, the HCA will engage on the mechanism of the fund with the NECA and developers.

### Investment Fund

14. The Government has committed to a thirty-year investment fund with NECA and recognise the ambition of the plans to maximise its impact. The Government have confirmed that the level of funding would not be reduced subject to NECA's investments meeting both Government and the NECA's rigorous assurance and appraisal processes. Funding will be subject to Government's gateway review every five years as described in the deal, however clarification has been received that the early gateway 'reviews' will recognise that the local and national economic impact of the Investment Fund may not yet be observable. As a result, the Panel will use appropriate metrics at each gateway, such as whether investments are being delivered on time and to budget. The panel will have to take into account NECA's specific approach to implementing the investment fund in the North East. This is an improvement of the previous position where input measure were to be applied to only the first review and measures that input measure will be used to measure performance for the first 15 years, reducing risk of the gateway process.
15. Government has provided the assurance requested on the matter and it is worth noting that the NECA is not the only combined authority that would be receiving an investment fund as part of their Devolution Agreement. In addition, the first year tranche of monies for the investment fund will be available to CAs in the 2016/17 financial years pending ratification of their Agreement.
16. Our proposals for the Investment fund include ambitious plans to enable additional 'investment activity' over the life of the programme in particular in the first fifteen of the programme. This significant investment activity, estimated to be worth up to £900m, would create considerable additional opportunities to provide access to finance for business growth and economic development across the region. This would help create thousands of additional jobs in the early years of the programme, increasing and accelerating the contribution to job creation and growth that the infrastructure works themselves would bring in the medium to long term. Details of these 'investment' programmes and project pipelines are currently being developed and will be brought forward later this financial year for consideration and approval by NECA.

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### Sustainable Travel Funding

17. Government have confirmed that they have placed the £500m of capital for the Access Fund within the competitive element of the Local Growth Fund. Government are expecting the North East's forthcoming LGF proposal to include a package of sustainable transport measures building on the good track record to date. The NECA has already set out a proposal for a devolved sustainable transport allocation for the North East. . It remains our position that this should form part of our single pot arrangements, and we will maintain this position while also including capital investment proposals alongside our LGF proposals, which also making a separate request for revenue funding from the Government budget that sits outside of the LGF programme.

### Rural Proofing

18. The Government appreciate that rural areas and communities are important for NECA considering the wide and different geography of the area. Confirmation has been received that the decisions on the prioritisation of spending from the Investment Fund will be North East decisions, supported by the Assurance Framework.

### 'Skills' Area Based Review (ABR) Process

19. BIS have agreed to push back the North East's Area Based Review to wave 4 which is September 2016.

### Large Scale Transport Infrastructure Projects

20. Productive discussions have been held with DfT on the two specific transport infrastructure projects mentioned in the Proposed Agreement and DfT have confirmed an outline timetable for both Ashington, Blyth and Tyne Line and investment in the Metro.

### Air Passenger Duty

21. Government agree that the North East has legitimate concerns about the potential impacts of air passenger duty devolution to Scotland on airports in the North East and have confirmed that a formal response will shortly be published to the discussion paper published last year. The Government believe that there are possible solutions that would avoid State aid or other restrictions. However, there remain real uncertainties as to the scale of impacts, not least due to decisions that remain to be made by the incoming Scottish government after their elections in May. Treasury officials are in regular discussions with Newcastle Airport on the airport's congestion charge proposal and will continue this dialogue on how to implement the preferred solution.

### Fair Funding

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22. In regards to fair funding the Government have provided the following commitments:
- Local Authorities have been provided with summaries and figures for Revenue Support Grant, Transitional Grant and Rural Services Delivery Grant allocations for the multi-year settlement offer, and the Government has committed to providing the amounts that have already been set out in that settlement.
  - Looking to the future and the introduction of 100% Business Rates Retention, Government have provided assurance that there will be redistribution between councils so that areas have funding adjusted where they currently collect less in local taxes.
  - The Fair Funding Review will consider the appropriate funding needs of different types of areas and assurances have been received that the Government intends to fully engage with the North East on this, and places great value on specific circumstances being recognised and accommodated.
  - The consultation on the New Homes Bonus closed on 15 March and responses are currently being considered. Government have confirmed they will consider the impact on all parts of the country carefully where they implement the reforms.

### Section 4: Other Issues

23. The devolution proposals included the devolution of a single transport pot to be controlled by the mayor, with an allocation of £273.4m over the next 5 years. In announcing the elements of the Single Pot it became clear that that a significant element of this funding was the current Highway capital maintenance funding with the opportunity to secure the maximum amount of incentive funding over the next five years. This would guarantee the highest level of incentive funding worth almost £20m, of which up to £8m would be additional funding, based on the current performance levels.
24. The highway allocations are based on national formula and reflect the backlog maintenance requirements of roads including the roads in the larger rural areas of the region. For this reason, the allocation to Durham and Northumberland are significantly higher than simple measures such as population. There was a significant perceived risk and concern that this funding could be redirected by being included in the Single Pot. In order to secure the agreement to progress with the devolution agreement, a solution to give confidence to the rural areas of the combined authority has had to be found.
25. It is therefore proposed that NECA agree the current planned geographic distribution of the highways maintenance and incentive funding over the next five years that is shown in the table below and that the issue is reflected in the Governance Review and draft Scheme, which would require any proposal to change this allocation once a mayor is elected to be subject to the approval of

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the authorities affected by the change. In addition, the Single Pot letter, received from Government on the 17<sup>th</sup> May, highlights that the consolidated local transport budget controlled by the Mayor but recognises that the Cabinet will be able to amend the Mayor's annual budget if 2/3 of the members agree to do so.

Highways Maintenance (Including Incentive Funding at the Highest Level)						
	2016/17	2017/18	2018/19	2019/20	2020/21	2016/21
	£000	£000	£000	£000	£000	£000
Durham	11,557	11,556	11,556	11,556	11,556	57,781
Gateshead	2,663	2,663	2,663	2,663	2,663	13,315
Newcastle	2,639	2,639	2,639	2,639	2,639	13,195
North Tyneside	2,195	2,195	2,195	2,195	2,195	10,975
Northumberland	16,959	16,959	16,959	16,959	16,959	84,795
South Tyneside	1,506	1,506	1,506	1,506	1,506	7,530
Sunderland	3,214	3,214	3,214	3,214	3,214	16,070
NECA	40,733	40,732	40,732	40,732	40,732	203,661

26. The early approval of this Highway Capital allocation for the next five years would give additional certainty and provide significant advantages in terms of effective and efficient delivery of the programme, enabling schemes to be delivered earlier that would otherwise be the case. It would represent a significant benefit flowing early from the devolution agreement decision.

### Section 5: Further Devolution

27. The Proposed Agreement sets the framework for ongoing dialogue with Government to transfer more power and resources from Whitehall to the North East. Once the current Proposed Agreement is ratified the Combined Authority and Government can start to progress further opportunities for devolution moving forward. Some of the opportunities open to the North East include but are not limited to:
- Business cases for the relocation of significant government functions from London to the North East;
  - Devolution of funding and assets held by central government which could be devolved to support faster housing and regeneration;
  - Devolution of climate change initiatives, support for investment in energy efficiency and technological development;
  - Measures to implement the Prime Minister's commitment to protect Newcastle Airport from the impact of devolution of Air Passenger Duty to Scotland;
  - Opportunities for joint initiatives between the North East and Scotland, in areas such as tourism, culture, transport and industrial collaboration.
  - Proposals for an appropriate relationship between the functions of a Mayor and future role of the Police and Crime Commissioners, including in relation to fire services, to be developed, subject to local

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consent and a business case developed jointly by PCCs and council leaders, and in consultation with the Fire and Rescue Authorities.

28. The Proposed Agreement also sets out a commitment for the NECA and the NHS to jointly establish a Commission for Health and Social Care Integration, to establish the scope and basis for integration, deeper collaboration and devolution across the NECA area, in order to improve outcomes and reduce health inequalities. The Commission is established, a public call for evidence will be published imminently and the Commission is due to report back in September 2016.
29. County Durham is in a unique position within the NECA regarding the police, fire and health and social care as the geographical footprint of these services extends beyond the NECA. Any proposed devolution in these areas will be subject to consent of Durham County Council (and all other Constituent Authorities) and the NECA Leadership Board. Such devolution proposals would be supported by the inclusion of appropriate safeguards in decision-making to protect the interests of Durham County Council or other Constituent Authorities in a minority voting position in decision making.

### Section 6: Next Steps

30. Clarification has been sought from Government on the outstanding issues outlined in the 24<sup>th</sup> March Leadership Board report. Following meetings with Government representatives and correspondence, a response has been secured for each issue.
31. Conferring the specific NECA and Mayoral powers will be subject to Orders, all of which will require the consent of all of the constituent authorities and of the NECA Leadership Board. Advice from DCLG has indicated the following timetable
  - Order 1 to deal with the creation of a Mayoral Authority and the initial term of the Elected Mayor. Order 1 will need to be laid in May 2016 and implemented by 4 November 2016. It is recommended that the initial term of office for an elected Mayor be for a period of 3 years. This enables subsequent Mayoral elections to continue to coincide with local elections in the NECA area, particularly the Tyne and Wear Authorities, and so continue to be cost effective but will avoid a recurrence of a Mayoral election for the North Tyneside elected Mayor and a regional Mayor coinciding. In addition the initial 3 year term avoids the future coincidence of all-out elections in the County Council areas and the election of a regional Mayor. Further, as part of the proposed Devolution Agreement NECA has been invited to develop a joint business case with Police and Crime Commissioners in consultation with Fire and Rescue Services, regarding their future relationship and role with NECA. The 3 year initial term provides for the synchronisation of future elections of PCCs and the NECA Mayor pending the development and outcome of the proposed business case.

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- Order 2 to address issues relating to the devolution of powers and responsibilities to NECA. Order 2 requires a Governance Review and the development of Scheme which will be consulted on for a minimum of six weeks. Consultation on the Scheme would have to commence in early July following completion of the Governance review. Order 2 will need to be laid in October and will need to be in place by the end of December 2016.
  - In addition, there will be a number of generic Orders developed which cover all Combined Authorities and Government will be consulting on this during 2016
32. One Constituent Authority has to date indicated a desire not to participate in a Mayoral Combined Authority and as such is likely to be classified as a Non Consenting Authority (NCA). If this position is maintained by the NCA, and the Leadership Board and (at least 2 of) the remaining Constituent Authorities decide to proceed with the creation of the Mayoral Authority, at the point at which DCLG seeks formal consent from the Constituent Authorities and NECA to the making of Order 1, which creates the Mayoral Authority, and consent from the NCA is not forthcoming, the Secretary of State will be prompted to make an Exclusion Order to remove the NCA from NECA and so changing the NECA boundaries.

### Section 7: Potential Impact on Objectives

33. The ratification of the Proposed Agreement will mean that the decisions relating to the powers devolved to the NECA will be made in the North East by the NECA rather than in London and will therefore have a significant impact on the way in which the NECA will meet its objectives.

### Section 8: Finance and Other Resources

34. If approved, the Proposed Agreement will bring additional resources from 2016/17 onwards to the NECA area, which could increase significantly in 2018/19 and future years with the devolution of skills and other funding. These additional resources will be administered by the NECA and the use of these resources will be determined by the NECA Cabinet, which would include the Elected Mayor.
35. The devolution of additional flexibility and the ability to take decisions locally about the allocation of existing and new resources is also a notable benefit of devolution. The intention is to maximise the benefits of flexibility through the operation of a Single Pot. Flexibilities such as wider borrowing powers if secured would give real benefits in terms of accelerating capital investment and creating opportunities to achieve savings in revenue financing costs, which could be used to increase the level of investment in the NECA area.

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36. The following table provides an update on Potential Funding over the next Five Years.

**Table 1 : Summary of Potential Funding over the next Five Years**

	2016-17	2017-18	2018-19	2019-20	2020-21	Total 2016-21
	£m	£m	£m	£m	£m	£m
<b>Proposed Single Pot</b>						
Local Growth Fund (current)	79	32	24	17	15	167
Integrated Transport	14	14	14	14	14	70
Highway Maintenance	41	40	41	40	41	203
New Investment Fund grant	30	30	30	30	30	150
<b>Sub Total</b>	<b>164</b>	<b>116</b>	<b>109</b>	<b>101</b>	<b>100</b>	<b>590</b>
<b>Other Funding announced</b>						
Metro Capital (current)	31	30	23	18	18	120
Metro Revenue Rail Grant	25	25	25	25*	25*	125
Enterprise Zone (new capital investment funded by business rates)	2	15	25	25	21	88
<b>Sub Total</b>	<b>58</b>	<b>70</b>	<b>73</b>	<b>68</b>	<b>64</b>	<b>333</b>
<b>Other Potential Funding</b>						
100% Business rates Growth Retention – new revenue	-	1	1	2	-	4
Bus Services Operator Grant	-	-	28	28	28	84
LGF next round - estimated share of £1.8bn inc LSTF	-	15	25	55	55	150
LSTF Programme Bid	-	6	7	10	10	33
LGF, Major Highways - estimated share of £0.45bn	-	2	2	2	2	8
Devolved Skills Funding	-	-	80	80	80	240
Metro Capital funding for replacement cars and development of extensions	-	-	*	*	*	*
Mayors Supplementary Business Rates (new revenue to fund investment)	-	-	25	25	25	75
<b>TOTAL of figures shown</b>	<b>222</b>	<b>210</b>	<b>350</b>	<b>371</b>	<b>364</b>	<b>1,517</b>

\*While funding lines have been agreed in principle, figures in the other potential funding section or marked with an \* are uncertain at this point.

37. The total of £1,517 million shown above includes £1,042 million of existing funding in the NECA area where the NECA could have greater devolved local control and flexibility over these funds and £475 million of new funding over the next five years. It is estimated that £229 million of this new money is directly related to the Proposed Agreement and would unlikely to be received

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without the deal. Only the core annual revenue grant of £30 million a year for the Investment Fund and an annual estimate for supplementary business rates of £25 million is included above. The actual level of new capital investment over this first five period could be increased significantly by the use of borrowing powers, potentially by over £200 million in this first period.

38. Information about the funding is set out in the body of this report. In some cases discussions are continuing to confirm the details of the proposals and to seek confirmation of additional flexibilities such as borrowing powers. Discussion about additional funding, such as new investment for Metro Cars and extensions will take longer to be concluded. Positive discussions about giving NECA similar flexible borrowing powers to other councils, in order to increase the efficiency of our single pot investment activity are continuing.
39. It is important for the region to have a strong voice to help secure the principle of fair funding. While there has been some improvement in the fairness of some of the funding decisions this year, other decisions do not support this principle. It is therefore important to continue take advantage of the opportunity to discuss 'fair funding' with the Secretary of State and the Chancellor of the Exchequer, potentially working in concert with other areas of the country, including other combined authorities in the Northern Powerhouse.
40. In terms of the revenue budget for 2016/17, the budget could increase by the £30 million Investment fund revenue grant. This would be used to fund the costs of implementing the devolution proposals and a combination of capital infrastructure works as well as investment in finance for business and economic development projects aimed an increasing the number of jobs and boosting economic growth in the region. Details about how this could be used will be reported for approval to future meetings of the NECA Leadership Board.

### Section 9: Legal

41. Decisions relating to the implementation of the Proposed Agreement are executive decisions and therefore the responsibility of Cabinet of each Constituent Authority and of the NECA Leadership Board.
42. The Local Democracy, Economic Development and Construction Act 2009 (as amended), enables the creation of Mayoral Combined Authorities. A key principle of the legislation is that changes to the powers and responsibilities of the NECA and the introduction of an elected Mayor can only proceed with the agreement of the Constituent Authorities, (subject to the provisions contained in the 2016 Act where there may be one or more non-consenting Authorities) and NECA. Ministerial consent is also required.
43. The creation of a Mayoral NECA and devolution of new powers and responsibilities requires new secondary legislation in the form of Orders. Two Orders are currently envisaged, one to provide for an elected Mayor for the



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NECA and their initial term of office, Order 1, and a further Order devolving new responsibilities to the NECA, and allocating specific decision making responsibilities to the Mayor. Any responsibility which is not specifically allocated to the Mayor remains the responsibility of the Leadership Board which would be renamed the “Cabinet”.

44. Where a Constituent Authority of NECA fails to consent to the creation of the Mayoral Combined Authority they will become a non-consenting Constituent Authority. In such a case a further Order will be made by the Secretary of State removing that Authority from the NECA. That Order will designate the non-consenting Authority as a Local Transport Authority and transfer relevant transport responsibilities to that Authority from NECA.
45. The DCLG have advised that the legislation is proposed to be created in two phases, Order 1 must be in place by 4 November 2016 at the latest and that the Parliamentary processes would be commenced with a view to Order 1 being laid before Parliament in mid-May. Subsequent Order(s), that require additional public consultation before being made must be laid in October and in place by the end of this year.
46. The Proposed Agreement provides that the Mayor will be the Chair of the Cabinet but the Mayor will not have a casting vote. Decisions taken by the NECA Cabinet and decisions that are the responsibility of the Mayor are to be subject to “Call in” by the Overview and Scrutiny Committee, which would be a new power for that Committee. Where a Mayor is not supportive of decision taken by the NECA Cabinet they will also have the power to ask for such a decision to be reconsidered but, if reconfirmed, the matter will proceed without Mayoral support.
47. Decisions in relation to the responsibilities of the NECA (Cabinet) may, like now, be taken by Committees, sub Committees and Officers if delegated. A Mayor would also have the option to delegate their decision making responsibilities.
48. The responsibilities of the Mayor not otherwise funded through government grants or contributions by Constituent Authorities, will be funded through a precept, subject to the agreement by the constituent authorities and the NECA to the necessary secondary legislation. The budget proposed by the Mayor for their responsibilities may be changed with the agreement of 2/3 of the Constituent Authorities’ Leaders/Elected Mayor on the Cabinet. The budget for the remaining responsibilities of the NECA will be funded in accordance with the current arrangements through by government grants, Constituent Authority contributions and appropriate levies.
49. Not only will the Cabinet have the power to change the Mayor’s budget proposals where 2/3 of the Constituent Authorities’ Cabinet representatives agree to do so but the Mayor’s plans and strategies will also be subject to change if the requisite 2/3 majority is achieved.

# North East Combined Authority

## Leadership Board

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### Section 10: Other Considerations

#### Consultation/Community Engagement

50. Consultation on devolution proposals has been carried out both by NECA and by the Constituent Authorities. Full details were included in the last report to the NECA Leadership Board, dated 24 March.

#### Human Rights

There are no specific human rights implications arising from this report.

#### Equalities and Diversity

There are no specific equality and diversity implications arising from this report.

#### Risk Management

51. The risks, issues and dependencies associated with the Devolution programme are actively identified, analysed and managed by the NECA programme management team. The NECA is the owner of the strategic risk register for Devolution and will ensure that all key risks are aligned with the Constituent Authority strategic risk registers.
52. The identification and analysis of risks is an ongoing process that is undertaken with the various stakeholder groups and the LA7 working groups that have been established to deliver the specific themes of the Devolution Deal. The NECA programme will report on key risks and mitigating actions as part of the fortnightly status reporting to the CEX Group which operates as the Programme Board.

#### Crime and Disorder

There are no specific crime and disorder implications arising from this report.

#### Environment and Sustainability

There are no specific environment and sustainability implications arising from this report.

### Section 11 Background Documents

The Cities and Local Government Devolution Act 2016  
The Constituent Authorities Cabinet Reports

### Section 12 Links to the Local Transport Plans

# North East Combined Authority

## Leadership Board

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Should a non-consenting Constituent Authority emerge it will become a Local Transport Authority and will need to establish its own Local Transport Plan and Concessionary Travel Scheme.

### Section 13 Appendices

None

### Section 14 Contact Officers

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### Section 15 Sign off

- Head of Paid Service ✓
- Monitoring Officer ✓
- Chief Finance Officer ✓

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# North East Combined Authority

## Leadership Board

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**DATE:** 17 May 2016

**SUBJECT:** North East Combined Authority – Devolution Agreement  
Supplementary Report 2

**REPORT OF:** Head of Paid Service

### **EXECUTIVE SUMMARY**

The Leadership Board have received a report setting out the current position regarding the Proposed Devolution Agreement (the Proposed Agreement) signed on the 23<sup>rd</sup> October 2015 with Government. The report set out the feedback received from Government on the outstanding issues identified the 24<sup>th</sup> March Leadership Board Report.

This supplementary report updates the Leadership Board on the outcome of the relevant Constituent Authorities' Cabinet meetings.

### **RECOMMENDATIONS**

The Leadership Board is recommended to note the content of this report and refer to the recommendations in the main supplementary report.

# North East Combined Authority

## Leadership Board

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### Section 1: Background Information

1. The Leadership Board received a report setting out the current position regarding the Proposed Devolution Agreement (the Proposed Agreement) signed on the 23<sup>rd</sup> October 2015 with Government. The report set out the feedback received from Government on the outstanding issues identified the 24<sup>th</sup> March Leadership Board Report.
2. This supplementary report updates the Leadership Board on the outcome of the Constituent Authorities' Cabinet meetings.

### Section 2: Local Authority Decisions

3. Prior to the 24<sup>th</sup> March Leadership Board Report, Newcastle Council agreed in March to ratify to the proposed agreement and agree to a Mayoral Combined Authority, North Tyneside confirmed the Authority's support but noted that the outstanding issues referred to in the report required clarification and Northumberland County Council was minded to agree pending clarification on the outstanding issues. Gateshead Council, whilst supporting the principle of devolution, did not endorse the Devolution Agreement and did not consent to the Authority being part of a Mayoral Combined Authority. Durham, South Tyneside and Sunderland councils decided to defer the decision.
4. Following the clarification that the North East Combined Authority received from Government, the section below summarises the decisions taken in May 2016 by the Cabinets of Durham, Northumberland, South Tyneside and Sunderland councils in relation to the proposed Devolution Agreement. The decisions of Newcastle, and Gateshead councils remain those agreed in March 2016 and in the light of the clarifications received and referred to in the main supplementary report North Tyneside Council has agreed to support the creation of the Mayoral Combined Authority.
  - Durham County Council - Cabinet have agreed to move to the next stage of the process by consenting to the making of an order creating a mayoral authority. A number of conditions were highlighted in regards to the devolution of powers and the laying of the second, more detailed order which will be based on the draft Scheme. These conditions include confirmation that there will not be a mayoral veto; that constituent authorities will not be disadvantaged by provisions for majority voting; that County Durham will not be disadvantaged by the Government's proposals on transport and highways funding; and that continued commitment to devolution is based on a commitment to fair funding being achieved through ongoing dialogue with Government.
  - Northumberland County Council – Cabinet have endorsed proposals for North East devolution after receiving government assurances on

# North East Combined Authority

## Leadership Board

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support for rural areas and the need to help grow the county's economy.

- South Tyneside Council – Cabinet have endorsed the Proposed Agreement and agreed to the establishment of the North East Combined Authority as a Mayoral Combined Authority. Continued commitment to devolution is based on the content of the Second Order being satisfactory to South Tyneside, and a commitment by Government to fair funding through ongoing dialogue.
- Sunderland City Council – Cabinet support the proposals set out in the Devolution Agreement and agree to the making of an Order creating a Mayoral Combined Authority for the North East. Before Cabinet agree to devolution of powers and the laying of a second Order setting out the functions of the Mayoral Combined Authority, it will have to be satisfied that the content of the Order was sufficient to deliver the Devolution Agreement and that it did not disadvantage the City of Sunderland and its residents.

### **Section 5: Potential Impact on Objectives**

These are referred to in the main supplementary report.

### **Section 6: Finance and Other Resources**

These are referred to in the main supplementary report.

### **Section 7: Legal**

These are referred to in the main supplementary report.

### **Section 8: Other Considerations**

#### **Consultation/Community Engagement**

These are referred to in the main supplementary report.

#### **Human Rights**

There are no specific human rights implications arising from this report.

#### **Equalities and Diversity**

There are no specific equality and diversity implications arising from this report.

#### **Risk Management**

These are referred to in the main supplementary report.

# North East Combined Authority

## Leadership Board

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### Crime and Disorder

There are no specific crime and disorder implications arising from this report.

### Environment and Sustainability

There are no specific environment and sustainability implications arising from this report.

### Section 10 Background Documents

The Cities and Local Government Devolution Act 2016  
The Constituent Authorities Cabinet Reports

### Section 11 Links to the Local Transport Plans

This report has no direct links to the Local Transport Plans.

### Section 12: Appendices

### Section 13: Contact Officers

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### Section 14: Sign off

- Head of Paid Service ✓
- Monitoring Officer ✓
- Chief Finance Officer ✓