

DECISION-MAKERS:	COUNCIL CABINET		
SUBJECT:	COMBINED AUTHORITY		
DATE OF DECISION:	20 TH JULY 2016		
REPORT OF:	LEADER OF THE COUNCIL		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY	
None	
BRIEF SUMMARY	
To seek approval from the Executive as to the Solent Governance Review and its conclusions. If agreed, to approve in draft the Solent Combined Authority Governance Scheme for consultation.	
RECOMMENDATIONS:	
	Council is recommended to:
(i)	Note the report; and
(ii)	In the context that the formal decision-making needs to be undertaken by the Executive, consider and express whatever views Full Council has prior to the Executive's decision.
	Having complied with paragraph 15 of the Council's Access to Information Procedure Rules, Cabinet is recommended to:
(i)	Note the report;
(ii)	Endorse the findings of the Solent Governance Review and its conclusion that in principle a Mayoral Combined Authority is in the best interests of Southampton;
(iii)	Approve, in draft, the Solent Combined Authority Governance Scheme for consultation; and
(iv)	Delegate to the Chief Executive any actions necessary to fulfil the resolutions in this report.
REASONS FOR REPORT RECOMMENDATIONS	
1.	This report is submitted for consideration as a General Exception under paragraph 15 of the Access to Information Procedure Rules in Part 4 of the City Council's Constitution, notice having been given to the Chair of the relevant Scrutiny Panel and the public
2.	This report has been brought forward in this timeframe following discussions between the Leaders of Southampton, Portsmouth and Isle of Wight Councils to enable a decision to be made on the Governance Review and

	draft Governance Scheme and to enable the subsequent commencement of formal consultation with the public over the draft Governance Scheme.
3.	There are significant benefits for Southampton and the wider Solent area in being part of a Combined Authority with the Isle of Wight and Portsmouth. To create this Combined Authority we need to undertake a governance review and approve a Governance scheme. The recommendation enables the City Council to fulfil this requirement. We will then need to consult extensively on the scheme, in conjunction with the other participating councils, and report back to Cabinet with the results of this consultation.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
4.	To not undertake this process (and hence not propose a Combined Authority)
DETAIL (Including consultation carried out)	
<u>Background</u>	
5.	Council has previously discussed the possibility of a Combined Authority and on 16 th March 2016 Council resolved: (i) that following consideration of the updated position, approval be given in principle for the Leader to sign an agreement to be party to any Combined Authority; and (ii) that delegated authority be granted to the Leader, following consultation with the Chief Executive and Group Leaders, to undertake detailed negotiations with relevant government departments and public bodies in respect of a proposed devolution deal and to agree final terms subject to public consultation and ratification by Council.
6.	Last summer the expectation was that the devolution proposals would be based on a Hampshire & Isle of Wight geography. However as the work on these proposals progressed, and the Government insisted that it would be necessary to have a directly elected mayor, it became apparent that it would not be possible to secure an agreement on the governance arrangements that would be needed to have a combined authority covering 15 local authorities, 2 national parks and 2 local enterprise partnerships.
7.	As the Hampshire & Isle of Wight proposal was unravelling, HM Treasury invited representatives from authorities in the Solent area to explore whether it would be possible to agree a devolution deal for the Solent area. The hope was that a deal could be announced at the March Budget. A draft deal was agreed very quickly and this provided significant opportunities for authorities in the Solent area although as part of the deal the authorities had to agree to set up a Combined Authority with a Directly Elected Mayor. The draft deal included.
	<ul style="list-style-type: none"> • £900m funding for the area over 30 years (£30m p.a.) to invest in economic growth and housing. • Keeping all business rates generated in the area (approximately £400m) and leaving the current system of government funding for local councils - meaning the area would have better control of its own financial future and piloting the new approach • Powers over strategic planning, such as future spatial plans

	<ul style="list-style-type: none"> • Increase productivity and create more jobs and better jobs by simplifying and strengthening support for business growth, innovation, and global trade and investment • Control of the budget for adult education and training in the area, enabling a focus on the skills businesses want people to have, therefore people get jobs and businesses prosper • Development of a new programme to help the hardest to help claimants back into work and provide them with support • Delivering 52,000 homes in the area by 2026 • Control of a dedicated transport budget, franchised bus services and key network of local authority roads • Innovative and integrated approaches to public service reform, including health
8.	<p>The expectation was that the deal would be announced by the Chancellor of the Exchequer at the Budget in March. Initially the deal was agreed by representatives from Hampshire County Council, the three unitary authorities and the five district councils in the Solent area. Unfortunately before the deal was announced Hampshire County Council (HCC) changed their mind and stated that they were no longer prepared to sign up to the deal. The Government asked the Solent authorities to work with HCC in the hope that a deal could be agreed with all partners allowing a deal announcement to be made. Despite the best efforts of the City Council and partner authorities it has not proved possible to persuade HCC to sign up to the deal and the creation of a Solent Combined Authority. Without HCC's agreement to be part of the Solent Combined Authority it is not possible for the Solent district councils to be part of the formation of a Solent Combined Authority. The District Councils outside of the Solent area were also seeking to create a Combined Authority (the Heart of Hampshire Combined Authority) and negotiate a devolution deal. HCC were actively involved in these discussions from the outset but are currently not supporting the proposition.</p>
9.	<p>In this situation, encouraged by central government, the three unitary authorities within the Solent area (Portsmouth, Southampton and the Isle of Wight) are looking to create a Solent Mayoral Combined Authority to deliver on the draft devolution deal. The first stage in creating a combined authority is to undertake a Governance Review and approve a Scheme for the combined authority. The Scheme has to be approved by the Council's Executive.</p>
Combined Authorities	
10.	<p>A combined authority is a legal structure that may be established, via an Order issued by the Secretary of State, at the request of two or more local authorities. The combined authority's executive consists either of one representative of each member authority; or one representative of each member authority plus a directly-elected Mayor (hence a 'Mayoral combined authority').</p>
11.	<p>The legislation on combined authorities can be found in sections 103-113 of the Local Democracy, Economic Development and Construction Act 2009, which has been substantially amended by the Cities and Local Government Devolution Act 2016. The power to set up a combined authority extends to</p>

	England only (but not to London).
12.	There are multiple routes to establishing a combined authority
13.	Under the original procedure from the 2009 Act, a local authority or authorities may carry out a 'governance review', which must publish a 'scheme' recommending the creation of a combined authority. Publication of the scheme requires the consent of the local authority areas included in the scheme. The Secretary of State may then agree to create a combined authority by Order under the 2009 Act.
14.	Alternatively, via the 2016 Act, the Secretary of State may decide to establish a combined authority, if the councils in the relevant area consent. The Secretary of State must hold a public consultation, unless one has already been carried out locally and a 'scheme' has been published. The Secretary of State must be satisfied that the establishment of a combined authority is likely to "improve the exercise of statutory functions" in the area in question.
15.	An existing combined authority may be changed into a mayoral combined authority via a further Order from the Secretary of State. All the member authorities must consent to this. However, the 2016 Act provides that any authorities that do not consent must be removed from the combined authority when the elected mayor is established
Functions	
16.	The 2009 Act originally provided that a combined authority could only undertake functions related to economic development, regeneration, or transport, or other functions that its member authorities agreed to transfer upwards to it. The 2016 Act removes these limitations, and permits the Secretary of State to transfer statutory functions or the functions of public bodies to combined authorities. This is to be done via an Order for each individual combined authority. The powers of the Secretary of State in this regard are wide, though the 2016 Act includes a number of qualifications with regard to the transfer of health service functions.
17.	As well as statutory functions, the devolution deals agreed so far provide for the transfer of a number of Government-funded programmes to combined authorities. Where such programmes are not statutory, they will not be covered by the combined authority's Order, and can be transferred as soon as the Government and the relevant combined authority can agree on terms. In Greater Manchester, which was the first area to agree a devolution deal, many programmes have already been transferred.
18.	The actual scope of the functions and powers that the combined authority could undertake will depend on the specific powers granted to that authority under the establishing Order made by the Secretary of State. This may include the following: <ul style="list-style-type: none"> • Transport functions delegated by the Secretary of State that the Secretary of State considers can be appropriately exercised by the combined authority (excluding the power to make legislative instruments and the power to fix fees or charges). • Transport functions of a local authority in relation to an area comprised in the combined authority area, which the Secretary of State considers can appropriately be exercised by the combined authority. The orders that are made transferring transport functions

to the combined authority may be made subject to conditions.

- Functions that are transferred from an integrated transport area of Passenger Transport Executives (local government bodies with responsibility for public transport within large urban areas).
- Local authority functions for the area. However, before an order can be made the consent of the constituent councils, and where the combined authority already exists additionally the combined authority, is required.
- Public authority functions for the area. The Secretary of State may, by order, transfer functions from other public authorities to a combined authority in relation to the combined authority area. Any order that transfers functions from a public authority to a combined authority may also require the transfer of property, rights and liabilities associated with that function. If the result of the order and transfer of functions means the public authority will no longer have any functions, the order will provide for the abolition of the public authority. Any order that is made in relation to public authority functions may include provisions concerning the exercise of that function, including:
 - making the exercise subject to conditions or limitations. For example, such a condition might be used to specify that a transfer of health powers would not change responsibilities in relation to the NHS Constitution or mandate;
 - jointly working in connection with the function (such as a provision requiring the function to be exercised by a joint committee); and
 - any public authority function for the area that is transferred under an order may be transferred on the basis of being undertaken separately, with the combined authority taking over the function of the relevant public authority; concurrently, with the combined authority and public authority each exercising the function simultaneously; jointly, with the combined authority and public authority working together to exercise the function; or jointly and solely, with the combined authority and public authority working together to exercise the function while the public authority also continues to exercise the function alone.
- Police and Crime Commissioner functions where a mayor is in place. The Secretary of State may make an order providing for the transfer of functions from a Police and Crime Commissioner to the mayor of a combined authority. The 2009 Act contains provisions in connection with an order which transfers those functions. In this case, the Constabulary boundary is not co-terminus with the proposed Combined Authority boundary.
- For mayoral combined authorities, issuing precepts. The function may only be exercised by the mayor on behalf of the combined authority.
- Health service functions. An order transferring health service functions to a combined authority must:
 - not transfer any of the Secretary of State's core duties

	<p>in relation to the health service;</p> <ul style="list-style-type: none"> ○ not transfer health service regulatory functions vested in national bodies; and ○ make provision about the standards and duties to be placed on the combined authority, having regard to the national service standards and the national information and accountability obligations.
Mayoral Combined Authorities(MCA)	
19.	The 2016 Act permits a combined authority to have a directly-elected mayor. This can be done by either a new or an already existing combined authority.
20.	Of the five existing combined authorities, four (Greater Manchester, Sheffield, North-East and Liverpool) have agreed to establish a directly-elected Mayor as part of their deal. The new combined authorities proposed for Tees Valley and West Midlands will also do so, making a total of six mayoral combined authorities. The draft 'North Midlands' deal also includes provision for an elected mayor. The Mayors will be elected using the Supplementary Vote system, used for local authority Mayors and the Mayor of London. The Government currently anticipates all seven MCA "mayoralities" holding their first elections in 2017.
21.	The principles behind an MCA are that the Mayor will chair the Combined Authority and be a member of the combined authority. The Mayor will be able to allocate 'Cabinet' portfolios to each of the combined authority members. The 'Cabinet' will be made up of representatives from the member local authorities. There may be non-constituent (ie non-voting) members. They may receive expenses but may not be paid. The Mayor will have no control over who these representatives are; thus an incoming Mayor would only be able to reshuffle a 'cabinet', not change its personnel without their consent.
22.	The Mayor must appoint a deputy mayor, who must act if the Mayor becomes incapacitated. Where a Mayor is also a Police and Crime Commissioner they may appoint a 'deputy PCC mayor', separate from the deputy mayor. This person will be able to take on most of the mayor's PCC functions. So far, only Greater Manchester (plus the draft 'North Midlands' agreement) has agreed to the elected mayor becoming the PCC..
23.	The Order setting up the combined authority may confer functions solely on the Mayor or on the combined authority. Subject to any limitations in the Order, the Mayor may delegate functions to Cabinet members, committees, or officers of the combined authorities. Regulations may also be made permitting agreements with other authorities to exercise functions jointly, under section 101 of the Local Government Act 1972.
24.	Each devolution deal provides some outline details of scenarios when the combined authority membership may overrule the Mayor. For instance, in each deal, the combined authority membership may reject the Mayor's budget on a two-thirds majority. In some deals, the Mayor's 'strategies' may also be amended on a two-thirds majority. These provisions can be anticipated in the Orders setting up the mayoral combined authorities.
Financial Powers	

25.	Mayoral Combined Authorities have a number of powers to raise small quantities of additional funding:
	<ul style="list-style-type: none"> <li data-bbox="309 282 1430 409">• Mayors will be able to raise a precept on constituent authorities' council tax bills, providing that the Order establishing them allows them to do so. <li data-bbox="309 409 1430 573">• Combined authorities (with or without Mayors) may raise a levy on their members, for any of their functions. This constitutes a shift of funding between tiers rather than a means to introduce 'new money' into the system <li data-bbox="309 573 1430 663">• A number of devolution deals include permitting local retention of 100% of business rate growth above an 'agreed baseline' <li data-bbox="309 663 1430 790">• Mayors will have the power to raise an additional 2p in the pound on business rates, subject to the agreement of the Local Enterprise Partnership. <li data-bbox="309 790 1430 918">• Combined authorities will have the power to borrow money under the local government prudential borrowing regime, though the authority's Order must specify for what purposes the money may be borrowed <li data-bbox="309 918 1430 1010">• Many of the devolution deals provide combined authorities with an investment fund (£30 million per annum in most cases).
26.	The powers and functions that are to be transferred to combined authorities are likely to come with existing funding streams, but this is not a statutory requirement. Future levels of funding for these activities will be dependent on Government decision-making.
Overview & Scrutiny	
27.	The 2016 Act requires each combined authority to set up at least one overview and scrutiny committee. The committee must publish a plan indicating how it will exercise its powers, and it will have the power to suspend decisions of the combined authority whilst it reviews them. It will be able to require members and officers of the authority to attend and answer questions. A majority of members of an overview and scrutiny committee must come from member authorities. Its members cannot hold executive positions in those authorities. The chair of the committee must come from a different political party from the Mayor (or the combined authority's majority party, if there is no Mayor).
28.	The 2009 Act did not require combined authorities to establish overview and scrutiny committees. Of the existing combined authorities Sheffield, West Yorkshire, Liverpool and the North-East are required to do so by their Order, but there is no such requirement in Greater Manchester's Order. The Greater Manchester Combined Authority has established a 'scrutiny pool', made up of three backbench members from each of the constituent local authorities.
29.	There is no requirement in either Act for the overview and scrutiny committee to reflect political proportionality across the combined authority area – though combined authorities have done this so far. Brandon Lewis, then Minister for Local Government, stated during the debate on the 2014 Orders that "Good governance practice will mean that such committees will be politically balanced, enabling appropriate representation of councils' minority parties".
The Governance Review	

30.	The first stage in the process of creating a new Combined Authority is for the relevant authorities to carry out a Governance Review. The purpose of the review is to determine whether the existing governance arrangements for economic development, regeneration and transport in the area are effective, or whether the area would benefit from changes, including the establishment of a new Combined Authority. In undertaking such a review, councils look at economic development and regeneration landscape in the round, including the activities of other arrangements. However, the review is required to focus on the governance arrangements for local authority functions that might be addressed in the formation of a new sub-regional body and not the functions and performance of those other bodies.	
31.	The relevant legislation require that the authorities, in undertaking such a review must address the issue of the effectiveness and efficiency of arrangements to promote economic development and regeneration in particular within the area to be covered by the review and, therefore, to be covered by the Combined Authority. This is because a review has to be carried out before the governance scheme (covered later in this report) can be considered, and the review will need to have shown before a governance review can be considered, that the creation of (in this case a Combined Authority) would be likely to improve:	
	a.	The exercise of statutory functions relating to economic development, regeneration and transport in the area;
	b.	The effectiveness and efficiency of transport in the area; and
	c.	The economic conditions in the area.
32.	The outcome of a governance review should, therefore, be:	
	a.	An assessment of the effectiveness and efficiency of existing governance arrangements for economic development, regeneration and transport across the area;
	b.	An analysis of the options available for making changes to these governance arrangements, such as leaving governance unchanged, strengthening or restructuring existing governance arrangements, establishing an Economic Prosperity Board and establishing a Combined Authority; and
	c.	A view as to which option is likely to be most beneficial.
33.	Stakeholders are considered to be an important source of evidence of how will the existing arrangements in the area are functioning and whether there is scope for improvements to be made. As part of the governance review, local authorities are required to identify who their relevant stakeholders are and engage with them to seek their views. This includes representatives of the business community, service providers and other delivery partners, relevant regulatory bodies and relevant public bodies, including Government advisors on the natural and built environment and rural champions. Engagement with stakeholders is part of the governance review process and the engagement exercise is addressed later in this report (paragraphs 39-42).	
34.	A copy of the Governance Review document as sent out to stakeholders is appended at Appendix 1. The document analyses the existing governance arrangements, considers the options available and concludes that a Mayoral	

	<p>Combined Authority is the preferred option with the biggest potential to:</p> <ul style="list-style-type: none"> • Enable devolution of central government functions to the sub region to ensure decision making happens closer to local people; • Optimise economic growth on a sub-regional level and create further efficiencies through Public Service Reform; • Provide the legal identity and statutory basis to be the accountable body for key decisions and functions; • Enhance the transparency and democratic accountability of sub-regional arrangements; • Integrate and streamline growth, transport and reform functions into one single body, removing potential duplication and confused accountabilities; • Enable effective engagement with businesses and other key partners; • Is recognised by central Government as a robust mechanism that allows sub-regions to speak with one voice; • Can be established in a way that meets local circumstances; • Provide the opportunity to pool existing sub regional officer capacity and make the best use of resources; and • Improve the exercise of statutory functions in the sub-region and so meets the requirements of the legislation. <p>Having taken account of the outcome of the stakeholder engagement, it is for the three councils to decide whether or not they accept this as a conclusion. This is matter for the Executive to determine.</p>
35.	A list of the stakeholders to whom the document was sent, is set out in Appendix 2.
36.	The results of that stakeholder engagement exercise will not be known until the day before the meeting so will be made available as soon as possible and reported to the meeting.
Governance Scheme	
37.	The second stage in the process of creating a new Combined Authority is the preparation and publication of a Governance Scheme for the new body. The scheme will be the basis for the creation of the new body and will contain information on the area it will cover, its membership, voting and any executive arrangements, its function and the way in which it will be funded.

	These details will be included in the statutory order that is needed to create the new body.
38.	The draft Governance Scheme (set out in Appendix 3) contains the following key elements:
	<ul style="list-style-type: none"> • A directly elected Mayor with a term of office of 4 years • A cabinet of one member from each local authority • An overview and scrutiny function • Voting to be by simple majority save on certain key matters where the Mayor will require 2/3 majority to support his / her policies • Arrangements for an interim Mayor for the period between the establishment of the CA and the first Mayoral elections with suitable constraints upon his/her exercise of Mayoral powers during the interim period • Non constituent membership will be offered to the Solent LEP, Fareham BC, East Hants BC, Eastleigh BC, Gosport BC, Hampshire CC, Havant BC, New Forrest DC, Test Valley BC, and Winchester CC
39.	Subject to the approval by the Executive, the draft Governance Scheme will now be subject to a period of public consultation.
Next Steps	
40.	Subject to the approval by the Executive of the Governance Review, and the adoption of the Governance Scheme for public consultation, following this and the Secretary of State being satisfied that the public consultation fulfils the necessary criteria under the legislation, the Government will draft the orders creating the Combined Authority.
41.	The Orders will then be passed through to each of the councils who will need to formally agree them.
42.	Orders (regulations) are then laid in Parliament as secondary legislation. Timing of how long these orders take to pass is, of course, dependent upon their content, Parliamentary timetable and other factors.
Stakeholder Engagement	
43.	Stakeholders are an important source of evidence of how will the existing arrangements in the area are functioning and whether there is scope for improvements to be made. As part of the governance review, the three local authorities have identified their relevant stakeholders, including representatives of the business community, service providers and other delivery partners, relevant regulatory bodies and public bodies. A full list of stakeholders for Southampton City Council is included in Appendix 2.
44.	In some cases, stakeholders span more than one local authority area; in these cases, a lead authority has been identified to contact that stakeholder to reduce duplication. So, for example Portsmouth City Council has contacted Solent NHS Trust, Hampshire Police Authority and Hampshire Fire and Rescue, amongst others, whilst Southampton has contacted the Hampshire Chamber of Commerce, Hampshire County Council and the LEPs. Appendix 2 includes those stakeholders contacted by Portsmouth City Council on behalf of Southampton City Council.

45.	Engagement with these stakeholders commenced on 1 st July 2016. Each stakeholder was sent a letter outlining the current proposals and asking for their views, as well as a two-page summary and the full governance review document. A number of feedback mechanisms were made available for stakeholders to provide their views: via email to 'yourcityyoursay@southampton.gov.uk', by contacting the Leader of the Council, Chief Executive or Head of Economic Development and Skills. Stakeholders were asked to provide feedback by 5 p.m. on 14 th July 2016.
46.	Mechanisms are in place to collate and analyse all the feedback received, and officers from each authority are working together to identify common questions, themes and issues and respond accordingly. Feedback will then be analysed and a verbal update provided to Cabinet and Council. Officers from each authority are also working together to develop proposals for the next stage of public consultation.

RESOURCE IMPLICATIONS

Capital/Revenue

47.	There are no Capital implications of undertaking the recommendations in this report. The revenue implications of undertaking the governance review and consulting on the Scheme will be met from within existing budgets as directed by the Chief Financial Officer (Service Director, Strategic Finance and Commercialisation).
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Property/Other

48.	None at this stage.
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LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

49.	The legislation on combined authorities can be found in sections 103-113 of the Local Democracy, Economic Development and Construction Act 2009, which has been substantially amended by the Cities and Local Government Devolution Act 2016. The power to set up a combined authority extends to England only (but not to London).
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Other Legal Implications:

50	None.
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POLICY FRAMEWORK IMPLICATIONS

51.	None.
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KEY DECISION?	Yes/No
WARDS/COMMUNITIES AFFECTED:	ALL
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Copy of the Governance Review document as sent out to stakeholders

2.	List of the stakeholders to whom the document was sent	
3.	Draft Governance Scheme	
Documents In Members' Rooms		
1.	None	
Equality Impact Assessment		
Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out?		Yes
Privacy Impact Assessment		
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out?		No
Other Background Documents Equality Impact Assessment available for inspection from the Head of Economic Development and Skills		
Title of Background Paper(s)		Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None	n/a
2.	None	n/a