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Date: Monday, 29 April 2024

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Dear Member

COUNCIL - TUESDAY, 30 APRIL 2024

I am now able to enclose, for consideration at the Tuesday, 30 April 2024 meeting of the Council, the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
5.	Proposed Devon and Torbay Combined County Authority and Devolution Deal	(Pages 2 - 15)

Yours sincerely

Teresa Buckley
Clerk

Appendix A: Table of Powers / Functions

Set out below is a table of the powers which the Constituent Councils are proposing are available to the Combined County Authority (CCA). The powers are those which the Constituent Councils believe are needed to enable the CCA to deliver the purposes outlined in this proposal. In considering our proposal the Government, and in particular, specialist legislative counsel, will review the table below and some of the detail set out may be required to change as a consequence of enactment of the Levelling-up and Regeneration Act, the drafting of establishment orders, and other consequential amendments to existing powers for combined authorities. The scope of powers to be available, and the broad terms of the exercise of those powers are unlikely to change; and in any event, the powers will not go beyond the scope set out in the governance section of this proposal, and the Devolution Deal.

General

Legislative Provisions	From	Concurrent exercise?	Consent	Voting
Part 1 chapter 1 Localism Act 2011 General Power of Competence	All LA's	Yes	No	Simple majority
Local Authorities (members allowances) (England) Regulations 2003 Reg 20	n/a	No	No	Simple majority

Finance, Investment, Innovation and Trade

Legislative Provisions	From	Concurrent exercise?	Consent	Voting
Local Democracy, Economic Development and Construction Act 2009 Section 69	Upper tier Councils	Yes	No, this will be reserved decision to constituent councils with a requirement to consult and seek the participation of the districts and city.	Simple majority
Crime and Disorder Act 1998 Section 17A	Upper tier Councils	Yes	No	Simple majority
Local Government Act 1972	All Local Authority's (LAs)	No (but LAs do not lose powers)	No	Simple majority

Sections 113, 142(2), 144, 145 and 222				
Local Government Act 1985 Section 88 (1) and 88 (2)	All LAs	No	No	Simple majority
Local Government and Housing Act 1989 Section 13	Applies to all powers conferred on any relevant authority by s102(7) of the Local Government Act 1972	N/a -this relates to voting right, rather than exercise of powers	No	N/A – no voting
Local Government Pension Scheme Regulations 2013	N/a - provision for pension arrangements	No- pensions are provided by pensions and the administering authority is Devon County Council	No	N/A – no voting
Local Government Act 2003 Section 31	Minister	Yes	Where exercise of power will result in financial liability of a Constituent Council, that Constituent Council must consent.	Simple majority

Skills and Education

Apprenticeships, Skills, Children and Learning Act 2009 Sections 86 and 87, 88, 90 and 100(1)	Secretary of State functions	Section 86, 87 and 88 are transferred. Sections 90 and 100(1) are exercised concurrently with Secretary of State	None specified	Simple majority
Education Act 1996 Sections 13A, 15ZA, 15ZB and 15ZC	Upper tier Councils	Yes	None specified	Simple majority
Education and Skills Act 2008 Sections 10, 12, 68, 70, 71 and 75	Upper tier Councils	Yes	None specified	Simple majority

Further and Higher Education Act 1992 Section 51A	Upper tier Councils	Yes	None specified	Simple majority
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Housing and Planning

Legislative Provisions	From	Concurrent exercise?	Consent	Voting
<p>Town and Country Planning Act 1990</p> <p>Sections 226, 227, 229, 230, 232, 233, 235, 236, 238, 239, 241</p>	LPA (Local Planning Authority) powers	Yes	Section 226 requires consent of lead member of CCA designated under paragraph 1(3) of schedule 1 whose area contains land subject to the acquisition, and of district councils and National Park Authorities in whose area the land subject to the acquisition is located.	Simple majority
<p>Housing and Regeneration Act 2008</p> <p>Sections 5, 6, 7, 8, 9, 10, 11, 12, 19, paragraphs 19 and 20 of schedule 3 and paragraphs 1, 2, 3, 4, 6, 10 and 20 of Schedule 4</p>	Homes England powers	Yes	<p>Section 9(2) requires consent of</p> <ul style="list-style-type: none"> • Lead member of CCA designated by Constituent Council whose local government area contains any part of the relevant land. • Each district council whose area contains any part of the relevant land. • National Park Authorities whose area contains any part of the relevant land <p>Where exercise results in financial liability falling on a Constituent</p>	Simple majority

			Council, the consent of the lead member of that council is required.	
Housing Act 1985 Sections 8, 11, 12, 17 and 18	City Council and District powers	Yes	Section 17(3) requires consent of: <ul style="list-style-type: none"> • Lead member of CCA designated by Constituent Council whose local government area containing the relevant land. • Each district council whose area contains any part of the relevant area. • Where exercise of 77(3) results in financial liability falling on a Constituent Council, the consent of the lead member of that council is required. • National Park Authorities whose area contains any part of the relevant land 	Simple majority

Transport

Legislative Provisions	From	Concurrent exercise?	Consent required before exercise	Voting	When?
Transport Act Part 2 2000					
Local transport plans and bus strategies (sections 108, 109 and 112) (sections 110 to 11 repealed)	A local transport authority or local transport authorities or a district council or a Passenger Transport Executive (as applicable)	The following are concurrent during the transition period: <ul style="list-style-type: none"> • 113C-123 • 123A-123X • 124-134B • 138A-143B • 151-162 • 134C-138 • 145A to 150 	In respect of all powers: <p>Where exercise of power will result in financial liability of a Constituent Council, that Constituent Council must consent – (note to ensure adequate notice periods for changes in budget setting)</p>	Unanimous for s108-113 Otherwise, simple majority.	From Establishment and on an ongoing basis.
Bus services: advanced quality partnership schemes (sections 113C to 113O)					
Bus services: quality partnership schemes (sections 114 to 123)					
Bus services franchising schemes (sections 123A to 123X)					
Bus services: advancing ticketing schemes (sections 134C to 134G)					
Bus services: ticketing schemes (sections 135 to 138)					
Bus services: enhanced partnership plans and schemes (sections 138A to 138S)					
Bus services: provision of information (section 139 to 141A)					

Bus services: miscellaneous (sections 142 to 143B)					
Financial and competition provisions (sections 152 to 159 (156 and 158 repealed)					
Supplementary (Section 160 to 162)					

Transport (continued)

Legislative Provisions	From	Concurrent exercise?	Consent required before exercise	Voting	When?
Transport Act Part 2 2000					
Chapters 2 and 3 of Part 3 (Workplace parking levy, General and supplementary) and Workplace Parking Levy (England Regulations 2009)	Not a CCA matter to remain with the constituent Local Authorities	n/a	n/a	n/a	n/a

Transport (continued)

Legislative Provisions	From	Concurrent exercise?	Consent required before exercise	Voting	When?
Highways Act 1980					
Section 6 Highways Act 1980 (Delegation etc. of functions with respect to trunk roads etc)	Public Authority Minister of Crown [or strategic highway company]	With Constituent Councils.	Only exercisable with the consent of the affected Constituent Council. Where exercise of power will result in financial liability of a Constituent Council, that Constituent Council must consent.	Simple majority voting but the agreement of the Constituent Council would be needed before vote.	From Establishment and on an ongoing basis.
Sections 8 of the Highways Act 1980 (Agreements between local highway authorities [and strategic highways companies] for certain works)	Local Authority Local highway authorities [and strategic highway companies]	With Constituent Councils.	Only exercisable with the consent of the affected Constituent Council. Where exercise of power will result in financial liability of a Constituent Council, that Constituent Council must consent.	Simple majority voting but the agreement of the Constituent Council would be needed before vote.	From Establishment and on an ongoing basis.

Transport (continued)

Legislative Provisions	From	Concurrent exercise?	Consent required before exercise	Voting	When?
Part 4 Transport Act 1985					
Passenger Transport Areas (section 57 to 62) (* - in relation to sections 65 to 71 only) Passenger Transport in other areas (sections 63 to 71) Further Provisions (sections 72 to 79) Miscellaneous (section 80 to 87)	In a nonmetropolitan county in England and Wales, the county council, a nonmetropolitan district council in England, Passenger Transport Executive for any integrated transport area, council operating a bus undertaking, public transport company or its controlling authority, a Passenger Transport Executive or a council or local authority.	Yes to run concurrent during the transition period	In respect of all powers: Where exercise of power will result in financial liability of a constituent council, that constituent council must consent.	Simple majority	From Establishment and on an ongoing basis.

Transport (continued)

Legislative Provisions	From	Concurrent exercise?	Consent required before exercise	Voting	When?
Part 5 Transport Act 1985					
<p>[* - in relation to section 88 only]</p> <p>Expenditure on public passenger transport services (sections 88 to 92)</p>	<p>Any authority responsible for expenditure on public local transport, any local authority or any two or more local authorities acting jointly, Passenger Transport Executive, a county or district council operating any public passenger transport service, a parish council or community council, the Secretary of State</p>	<p>The following are concurrent during the transition period:</p> <ul style="list-style-type: none"> • s88 to 92 • s93-101 • s103-105 • s106 and 106A 	<p>In respect of all powers:</p> <ul style="list-style-type: none"> • Where exercise of power will result in financial liability of a Constituent Council, that Constituent Council must consent <p>In addition:</p> <ul style="list-style-type: none"> • during transition period s88 only exercisable with consent of Constituent Council. 	<p>Simple majority</p>	<p>From Establishment and on an ongoing basis.</p>
<p>* Travel Concession Schemes (sections 93 to 101 (102 repealed))</p>					
<p>Travel concessions apart from schemes (sections 103 to 105)</p>					
<p>Grants for transport facilities and services (sections 106 and 106A)</p>					

Transport (continued)

Legislative Provisions	From	Concurrent exercise?	Consent required before exercise	Voting	When?
Traffic Management Act 2004					
Part 3 Permit Schemes Section 33 Section 33A Section 36	Local Highway Authorities	Concurrent and continuing.	Only exercisable with the consent of the affected Constituent Council(s). Where exercise of power will result in financial liability of a constituent council, that constituent council must consent.	Simple majority	From Establishment and on an ongoing basis.
Part 6 (Civil Enforcement of Traffic Contraventions) and paragraph 10 (designation of civil enforcement areas for moving traffic contraventions) of Schedule 8 (civil enforcement areas and enforcement authorities outside Greater London)	Enforcement Authority	Concurrent and continuing.	Only exercisable with the consent of the affected Constituent Council(s). Where exercise of power will result in financial liability of a Constituent Council, that Constituent Council must consent.	Simple majority	From Establishment and on an ongoing basis.

Record of Decisions

Devolution – Deal for Devon and Torbay

Decision Taker

Cabinet on 25 April 2024.

Decision

That Cabinet recommends that the Council:

- (a) Thanks all those who responded to the consultation, for the time they gave in considering the draft proposal and in preparing responses to it;
- (b) Considers the analysis of the responses (Appendix A) on the draft proposal for the Devon and Torbay Combined County Authority showing the variety, breadth and range of views expressed;
- (c) Approves the proposal (Appendix B) for the Devon and Torbay Combined County Authority (DT CCA) for submission to the Secretary of State for Levelling Up, Housing and Communities, taking into consideration and having due regard to the consultation responses and the Public Sector Equality Duty;
- (d) Delegates authority to the Chief Executive, in consultation with the Leader of the Council, to consent to the making of the necessary Regulations to create the Devon and Torbay Combined County Authority thereby implementing and giving effect to the proposal, subject to those Regulations reflecting the principles in the proposal document and this report;
- (e) Notes that, subject to the approval of the proposal and making of Regulations, the Council will give consideration to a draft constitution for the DT CCA in September 2024; and
- (f) Notes that Devon County Council will be asked to support the establishment of the Team Devon Joint Committee and with the proposed terms of reference being considered by Devon County Council in September 2024.

Reason for the Decision

To enable the next steps towards the establishment of the Devon and Torbay Combined County Authority to be undertaken.

Implementation

The recommendations of the Cabinet will be considered at the Extraordinary meeting of Council being held on 30 April 2024.

Information

The proposed devolution deal for Devon and Torbay was announced by the Secretary of State for Levelling Up, Homes and Communities and published by the Department for Levelling Up, Housing and Communities (DLUHC) on 25 January 2024.

At its meeting on 2 February 2024, the Cabinet agreed to support the proposed Devon and Torbay devolution deal and resolved to carry out a joint public consultation with Devon County Council (as the Constituent Councils) on the draft proposal to establish the Devon and Torbay Combined County Authority (DT CCA).

The Levelling-up and Regeneration Act requires that prior to submitting a proposal for a CCA to the Secretary of State, the Constituent Councils (i.e. Devon County Council and Torbay Council) must undertake a public consultation on the proposal in the proposed area. The Constituent Councils are obliged to carry out the consultation across the proposed area and consider the results. It was recommended that the proposal for the DT CCA be agreed by the Council for submission to the Secretary of State for Levelling Up, Housing and Communities.

At the meeting Councillor David Thomas proposed and Councillor Chris Lewis seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

An alternative option would be not to submit the final proposal to the Secretary of State. If this option was to be adopted, then there would be no guarantee that a DT CCA and associated devolution deal with the potential associated powers and funding would be available to the area in the same way in the future.

Is this a Key Decision?

Yes

Does the call-in procedure apply?

No

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None.

Published

29 April 2024

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet