

Report to: Cabinet



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Proposed Devolution Deal for Devon and Torbay

Report summary:

Cabinet received a report in July 2022 alerting members to proposals to negotiate a devolution deal with government for the Devon, Plymouth and Torbay area. This was prompted by the publication of the Levelling Up White Paper, passage of the Levelling Up and Regeneration Act and subsequent potential to progress a Level 2 deal which would result in the establishment of a Combined County Authority without an elected Mayor. A further update on progress was given at a member briefing during September 2023.

These negotiations have now concluded and the proposed offer of a deal has been published for a 6-week consultation period running until the 24th March. It is important to note that the geographical scope no longer includes the Plymouth administrative area.

This report provides an initial assessment of the key implications of the proposed Deal for the Council particularly from a resourcing and decision-making perspective. It seeks delegated authority to develop these key points in to a formal consultation response to be submitted by the requisite deadline. As part of this process it will be important to ensure that there is coordination and sharing of key message across the network of Devon Districts, particularly to try to ensure adequate representation in future decision making.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That Cabinet;

- Notes the publication of the proposed offer of a Devolution Deal for Devon and Torbay and the key issues arising from the proposals
- Gives delegated authority to the Interim Chief Executives in consultation the Leader and Portfolio Holder for Council and Corporate Co-ordination to agree a consultation response that addresses these key issues

Reason for recommendation:

To ensure that the key issues for the District are identified and fed in to the consultation exercise for the Devolution Deal and subsequent likely establishment of a Combined County Authority.

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Communications and Democracy
- Economy
- Finance and Assets
- Strategic Planning
- Sustainable Homes and Communities
- Culture, Leisure, Sport and Tourism

Equalities impact Medium Impact

The proposed Devolution Deal will affect everyone who visits, lives or works in Devon and Torbay. The proposed Deal will improve access to high quality adult education which can have a fundamental impact on the life chances of people with protected characteristics – particularly people from ethnic minority groups, disabled people, women, and older people.

The proposed Devolution Deal is accompanied by a full equalities impact assessment.

Climate change High Impact. The Devolution Deal specifically secures additional resources to progress low carbon initiatives.

Risk: High Risk; The proposals contained within the Devolution Deal have the potential to significantly affect how the Council accesses funding moving forward. The lack of formal voting representation on the Combined County Authority adds a potential additional layer of risk to how associated investment decisions are made.

Links to background information

- [EDDC Cabinet Devon, Plymouth and Torbay Devolution Deal – Update Item 16](#)
- [Plymouth withdraws from proposed devolution deal | PLYMOUTH.GOV.UK](#)
- [Autumn Statement 2023 \(publishing.service.gov.uk\)](#)
- [The proposed Devon and Torbay devolution deal published by DLUHC](#)
- [DCC Cabinet report](#)
- [Devolution Deal website \[www.devontorbaydeal.org.uk\]\(http://www.devontorbaydeal.org.uk\)](#)
- [DCC Press release](#)
- [Proposals for heat network zoning 2023 - GOV.UK \(\[www.gov.uk\]\(http://www.gov.uk\)\)](#)

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

Background and Context

1.1 The Levelling Up White Paper was published on the 2nd February 2022. The document states that levelling up will require government to;

- boost productivity, pay, jobs and living standards by growing the private sector, especially in those places where they are lagging;
- spread opportunities and improve public services, especially in those places where they are weakest;

- restore a sense of community, local pride and belonging, especially in those places where they have been lost; and
- empower local leaders and communities, especially in those places lacking local agency.

1.2 To achieve this ambition, the White Paper set out a new Devolution Framework (see Appendix A) which gave an indication of the types of powers and functions that will be considered for each of three devolution levels. Importantly Devon, Plymouth and Torbay was identified as one of nine areas that will be the focus for an initial wave of County Deals.

1.3 Within Devon, Plymouth and Torbay, partners were clear that they wished to pursue a Level 2, mid-level type deal. This focused upon the creation of a new County Combined Authority, with the new body then drawing powers and funding down from Whitehall across a suite of pre-agreed themes.

1.4 The Levelling Up and Regeneration Act received Royal assent in October 2023. A proposed amendment to enable District Councils to become full constituent members of Combined Authorities was defeated during the legislative process. Plymouth City Council confirmed that they had withdrawn from the proposed devolution deal on the 17th November 2023. The subsequent Autumn Statement confirmed that the government was in “advanced discussions to agree a Level 2 non-mayoral deal with Devon and Torbay”.

1.5 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 the 25th January 2024. It is available on the DLUHC website and further information about the proposed deal is contained at www.devontorbaydeal.org.uk. Subsequently a report to Devon County Council’s Cabinet on the 2nd February endorsed the terms of the proposed deal, including the creation of a Combined County Authority, and agreed that a subsequent period of public consultation would run from the 12th February to 24th March. The purpose of the public consultation is to invite views from partners, stakeholders and the public on why the area is seeking to establish the DT CCA, the benefits it would deliver and how it would operate.

2. Proposed Devolution Deal

Design Principles

2.1 The powers and the transfer of Government funding included in the proposed Devolution Deal promises to bring greater control to Devon and Torbay to help tackle local priorities, including the need for: new training and retraining opportunities; improved coordination of public transport; more affordable housing and investment to support local business, green jobs to increase productivity and pay.

2.2 In order to ensure clarity and unity around devolution, the proposed Deal sets out six core principles for future governance and delivery:

Partnership – Each member (i.e. constituent, non-constituent and associate members) of the CCA will have the ability to influence devolved activity and have a say in what the CCA does.

Accountability – The constituent councils will develop a constitution and assurance framework that will confirm, clarify and formalise the intention of institutions and local leaders to continue to be transparent and accountable, work closely with local businesses, seek the best value for taxpayers’ money and maintain strong ethical standards.

Inclusivity – The CCA will operate inclusively in pursuit of its agreed outcomes.

Additionality – Members of the CCA will work together to deliver things that add value, they will only pool or collaborate on existing activity where there is shared agreement that that should be done.

Subsidiarity - The CCA will not create an additional layer of governance but bring the national level governance to the Devon and Torbay area and much closer to businesses and communities.

Place making functions will be delivered through existing local planning authority arrangements for which they are statutorily responsible.

Collaboration – Members of the CCA will collaborate and cooperate to ensure that activities are delivered and actions taken as required, both within the CCA and with other partners across the region. Members will share information, experience, materials and skills to learn from each other and develop effective working practices. This includes joint working with wider peninsula partners, including neighbours in Plymouth, Dorset, Cornwall and Somerset.

Devon & Torbay Combined County Authority

2.3 Under the terms of the proposed Deal, Government would devolve the powers and funding to a new legal body established by Parliament: the Devon & Torbay Combined County Authority (DT CCA). The membership of the proposed CCA will comprise:

- Six constituent members appointed by the two constituent councils (i.e. Devon County Council and Torbay Council), with each constituent council appointing three of their elected members. Each constituent council will appoint one Lead Member (the Leader) and two further members nominated by the Leader of each constituent council.
- Four non-constituent members, of which two will be members nominated by the District councils within the Devon area to act as District representatives.
- Two associate members as decided by the CCA. It is currently proposed that one of these members will represent the voice of business and another the skills/education sector

2.4 The statutory requirements for implementing the proposed deal include public consultation on the draft proposal to establish the DT CCA and the consent of DCC and TDC to the secondary legislation.

2.5 The CCA's decision making will be split between reserved and general matters. Decisions on reserved matters will be for constituent members only and will require a simple majority of constituent council members in favour. The proposed Devolution Deal defines reserved matters as being:

- Membership and governance (including voting rights) of the CCA
- The election of the chair of the CCA;
- Agreement of the annual budget of the CCA;
- Policy Framework;
- Associated scrutiny arrangements, including membership;
- Major investment decisions; and
- All Transport functions

2.6 Prior to the establishment of the DT CCA, there will be a transitional phase where it operates as a shadow authority to support a smooth transition to the fully established DT CCA. The shadow authority will not be a legal entity but will work collaboratively from within the constituent councils and in an advisory capacity until the DT CCA is established later this year. Once it is established, the DT CCA will be an employer in its own right and appoint officers including a chief executive, monitoring officer, finance officer. The arrangements will, as far as practicable, draw on the capacity (e.g. through secondments and sharing of staff) of the existing authorities to ensure that the DT CCA is as cost effective as possible.

Team Devon Joint Committee and Advisory Boards

2.7 Local government responsibilities in the Devon area are split between parish & town councils, the eight district councils, Dartmoor & Exmoor National Park Authorities and Devon County Council. All the councils have a track record of working together under an informal strategic

partnership known as Team Devon that brings together the political and operational leadership to ensure a collective voice and leadership to the benefit of Devon residents. This proved highly effective during the pandemic and continues to reap benefits.

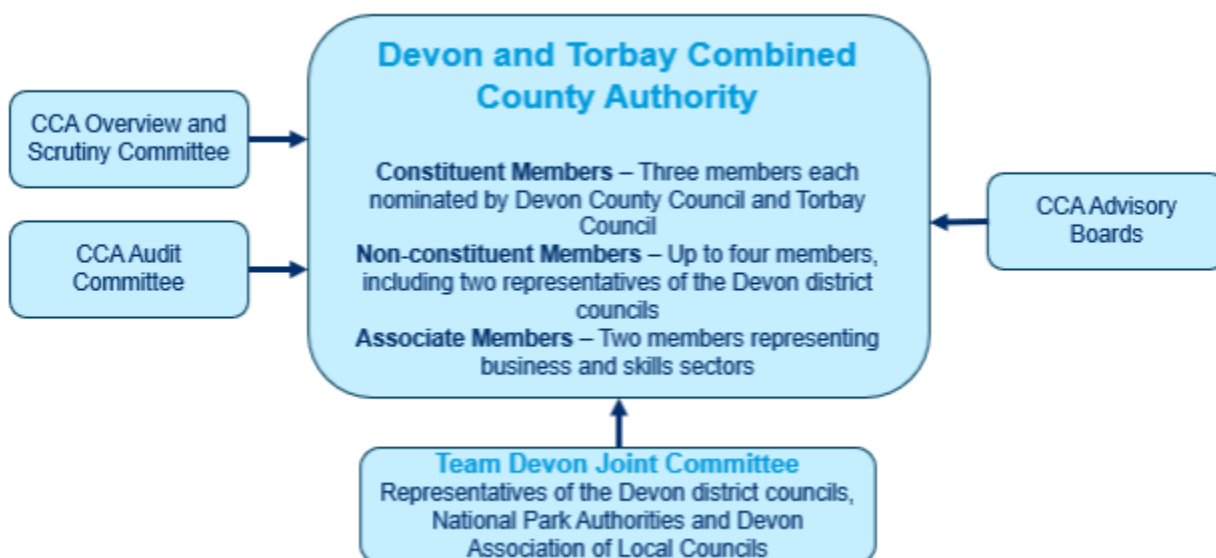
2.8 As part of the establishment of the DT CCA, the Team Devon partnership would be formalised to inform the collective strategic decision making into the DT CCA. It is intended that at the same time as the DT CCA is created, the authorities will work together to develop a Team Devon Joint Committee for the Devon area under the provisions of the Local Government Act 1972. It would have the ability to take collective and binding decisions. The agreement to join a statutory Joint Committee would be subject to individual decision-making processes of each authority.

2.9 The proposed CCA may also choose to establish advisory boards. Advisory boards would be formally constituted boards which would form part of the operation of the proposed CCA, but which have no formal decision-making powers. The CCA could consider establishing:

- Growth Board to provide advice and support to the CCA Board on business and economy matters.
- Skills and Employment Board to provide advice and support to the CCA Board on skills and employment matters.
- Housing Task Force to build on the existing Task Force and partnerships, working jointly with Homes England and the Housing Authorities.
- Environment/Net Zero Board building on the work and structure of the Devon climate change and emergency response partnerships and groups.
- Investment Board to bring key stakeholders together from across the area to take forward and provide formal advice to the CCA on funding and investment.

2.10 The CCA will consider whether additional Advisory Boards focussed on other issues are required. The role of any Advisory Boards established would be to advise the proposed CCA on the exercise of functions in their areas of expertise.

2.11 The diagram below shows the DT CCA membership and the Team Devon Joint Committee.



Scope and Resources

2.12 The proposed devolution deal is wide ranging and covers the following areas;

- Governance
- Finance and investment
- Skills and education
- Housing and land

- Transport
- Net zero and climate change
- Culture and tourism
- Digital
- Innovation, trade, and investment
- Sector development
- Public service reform
- Resilience and public safety

2.13 The proposed devolution deal includes commitments to the following;

- £16 million of new capital funding in the current Spending Review period (i.e. to March 2025) to support the delivery of local housing priorities, drive Net Zero ambitions and support green skills capacity, and accelerate wider low carbon business transition across the Devon and Torbay area. This investment is subject to agreement of business cases.
- Greater collaboration between the DT CCA and Homes England to reduce the barriers to affordable housing delivery, regeneration and housing growth – with a particular focus on rural and coastal communities. By combining skills and capacity, the DT CCA and Homes England will develop a shared development pipeline, underpinned by a clear action plan, and explore ways to support the delivery of that pipeline via current and future national housing programmes.
- Agreement from Government to discuss the recommendations of the Devon Housing Commission.
- New powers to improve and better integrate local transport, including the ability to introduce bus franchising subject to approval from the Secretary of State for transport, and control of appropriate local transport functions e.g. responsibility for an area-wide local transport plan.
- Subject to funding, policy and delivery considerations at the next Spending Review, UK Shared Prosperity Fund (UKSPF) planning and delivery at a strategic level from 2025/26. In carrying out this role, the DT CCA will engage all district councils and other local partners to ensure that the needs of residents can be effectively addressed.
- New powers to better shape local skills provisions to ensure these meet the needs of the local economy. This will include devolution of Adult Education functions and the core Adult Education Budget, Funding for Free Courses for Jobs, and the opportunity to provide input into Local Skills Improvement Plans
- The integration of the functions of the Heart of the South West Local Enterprise Partnership held by Devon County Council and Torbay Council into the DT CCA, alongside the provision of a strong and independent local business voice which informs local decision making and strategic economic planning.

3. Assessment

3.1 The UK is recognised as one of the most centralised leading economies. This reached its nadir recently through funding streams such as the Levelling Up Fund whereby local authorities have invested considerable time, effort and resources in bidding in to a centrally run process with maybe only a 10% chance of success. In this context the publication of the proposed Devolution Deal for Devon and Torbay, and the associated transfer of both powers and resources from Whitehall, is to be welcomed.

3.2 It is unfortunate that the proposed amendment to the Levelling Up and Regeneration Bill from the House of Lords that would have enabled District Councils to be full constituent members of Combined Authorities was defeated at the final stage of the legislative process. In the context of the proposed devolution deal for Devon and Torbay this means that the Devon Districts start from a position of relative weakness in terms of being junior partners, with no formal say over the

matters reserved for the Constituent Authorities. This is despite East Devon having a larger population and bigger economy than Torbay. Nonetheless it will be important for local authorities to engage positively with the new CCA and associated governance arrangements. EDDC has a particularly important leadership role this year as chair of the Devon Districts Forum.

3.3 Whilst the proposed Deal has been under negotiation for some time, a number of details have necessarily yet to be finalised. This includes the detailed terms of reference for the proposed Team Devon Joint Committee for example. From an initial assessment of the proposed Deal and a wider discussion at the Devon Districts Forum it is possible to identify three key headline areas as follows;

1) Relationship with the Design Principles

3.4 The design principles provide a useful framework against which to assess the content of the proposed deal. One of the principles is subsidiarity – essentially the importance of ensuring that specific activity happens at the lowest viable level. UK Shared Prosperity and Rural Economic Prosperity Funds have been routed directly to District Council during the period 2022 – 2025. It can be seen though that the devolution deal proposes that these funds would be routed through the new Combined Authority moving forward. From a District perspective this represents elevation rather than devolution.

3.5 Given that £2.8m of funds have been allocated to the District for the current three year programme this represents the loss of control over a significant funding stream. In line with government commitment to replace lost EU funding, it will be important for the consultation response to emphasise the expectation for the shared prosperity fund, or equivalent replacement funding streams in future, to be devolved from the CCA to district level by default.

3.6 A further example of where the principle of subsidiarity has not been applied fully relates to the proposal that the CCA becomes the Heat Network Zoning Coordinator. The proposals to introduce heat network zones is designed to support the roll out of district heating networks and is the subject of current consultation (see background links). This type of infrastructure underpins the large-scale delivery of low and zero carbon development in the West End of the District. Over £40m of funds have recently been awarded to support the retrofitting of a network in the central Exeter area. For Exeter and East Devon heat networks represent a very significant contributor to carbon descent activity and achieving net zero status. But they are highly unlikely to be rolled out at scale in other parts of the County or Torbay. Therefore under the current proposals it is highly likely that members with little or no experience of district heating would be taking decisions over the future roll out of networks. There is a strong argument that the CCA is not the optimum level for this specific activity.

3.7 More widely the proposed deal includes provisions in relation to housing delivery. The expectation is that the CCA will enable and accelerate delivery with and through districts and local housing associations. Much is made of the potential for a shared strategic investment pipeline with Homes England. The Districts recognise the potential for shared investment and the need for strategic conversations to achieve this. The expectation from a District perspective is that existing housing functions and groupings will be utilised in this respect – such as the Devon Housing Task Force, which covers the whole of the Devon and Torbay area (and which is currently chaired by a District Council Leader). The aims of the CCA should be to build on best practice and expertise; to provide a stronger platform and empower the excellent work being done across the Team Devon landscape, not to duplicate or add extra bureaucracy.

2) Resources

3.8 The potential to secure additional resources is a key ingredient of the proposed offer. A figure of £16m of additional capital during the current spending review period is specifically identified. This will assist with the delivery of a range of projects including in relation to housing delivery and the transition to net zero. More widely the ability to agree an investment pipeline with Homes

England should also increase the quantum of resources secured through this channel, albeit that it is not possible to quantify this at this stage. The establishment of the CCA should also put the area in a more advantageous position to access future funding streams.

3.9 There is also a significant need for investment in transport in the District. From strategic connectivity projects such as a new passing loop on the Exeter-Waterloo line to supporting the delivery of major housing and employment development arising from the Local Plan and enhancing public transport, it will be important to ensure that these priorities register in the new Local Transport Plan for the Devon and Torbay area.

3.10 There will be a need for the Districts to work collegiately to agree priority projects across relevant funding streams. This will help to maximise the degree of influence that the Districts in terms of the investment decisions that will be taken by the CCA and new Local Transport Authority.

3) Governance and decision making

3.11 District Councils will have two representatives as non-constituent members of the CCA. As highlighted above this positions the Districts as junior partners with no locus over the reserved matters. This position was inevitable given the need to comply with the provision of the Levelling Up and Regeneration Act.

3.12 In this context the proposal to constitute Team Devon as a statutory joint committee is welcome. Subject to agreeing the specific terms of reference, this committee will then be capable of taking collective and binding decisions on behalf of the constituent authorities. This potentially then becomes an important conduit in to wider decision making at the CCA level. It is however regrettable that such a workaround is necessary and paradoxical that the proposed devolution deal potentially diminishes the voice of local democratic institutions.

3.13 Further work is required to flesh out the detail of how both the Team Devon joint committee and thematic sub-groups will operate in practice. This will have a significant bearing on the mechanics of decision making going forward. It will be essential for Districts to be both involved in and engaged with the discussions around operationalising the CCA including the associated transitional arrangements.

4. Next Steps

4.1 The current consultation period runs until the 24th March. The responses will then be analysed and the findings published in April 2024. The transition to the proposed CCA is dependent on a number of factors as follows;

- The proposal being accepted by Devon County Council and Torbay Council following public consultation;
- The proposal then being accepted by Government; and
- Approval by Parliament of the necessary secondary legislation implementing the proposal.

The transition to a formal CCA during Autumn/Winter 2024 is planned to be in three stages:

Stage 1: Establishing transition arrangements

Stage 2: Working as a shadow organisation

Stage 3: Formal establishment of the CCA

4.2 Any transitional arrangements would only be considered following decisions by DCC and TDC to progress advancing the proposal for the establishment of a CCA to the Secretary of State for consideration.

5. Conclusion

5.1 The publication of the offer from Government of a Devolution Deal for Devon and Torbay and the associated proposal to create a Combined County Authority represents the biggest potential change in local government structures in Devon since the creation of the Plymouth and Torbay unitary authorities over 25 years ago. Due to the provisions of the Levelling Up and Regeneration Act, District Councils start from a position of being junior partners in these proposals. Nevertheless with the prospect of additional resources and the detail of allied governance arrangements to be agreed, notably in terms of the operation of the Team Devon joint committee, there is much to play for. It will be important for the Devon Districts to act collegiately in order to share key messages and priorities so as to maximise the degree of influence in these new arrangements and ensure that collaborative advantage is secured. The Council has a particularly important leadership role this year in this respect as chair of the Devon Districts Forum.

Financial implications:

There are no direct budgetary implications at this stage although the report does highlight areas where there are risks of the Council losing direct control on funding streams but also highlights the potential of attracting additional funding to Devon in the future.

Legal implications:

The legal issues are comprehensively covered in the body of the report.

Table 2.3 Devolution Framework

Level 3 – A single institution or County Council with a directly elected mayor (DEM), across a FEA or whole county area

Level 2 – A single institution or County Council without a DEM, across a FEA or whole county area

Level 1 – Local authorities working together across a FEA or whole county area e.g. through a joint committee

| Function | Detail | L1 | L2 | L3 |
|--|---|----|----|----|
| Strategic role in delivering services | Host for Government functions best delivered at a strategic level involving more than one local authority e.g. Local Nature Recovery Strategies | ✓ | ✓ | ✓ |
| | Opportunity to pool services at a strategic level | ✓ | ✓ | ✓ |
| | Opportunity to adopt innovative local proposals to deliver action on climate change and the UK's Net Zero targets | ✓ | ✓ | ✓ |
| Supporting local businesses | LEP functions including hosting strategic business voice | | ✓ | ✓ |
| Local control of sustainable transport | Control of appropriate local transport functions e.g. local transport plans* | | ✓ | ✓ |
| | Defined key route network* | | | ✓ |
| | Priority for new rail partnerships with Great British Railways – influencing local rail offer, e.g. services and stations | | | ✓ |
| | Ability to introduce bus franchising | | ✓ | ✓ |
| | Consolidation of existing core local transport funding for local road maintenance and smaller upgrades into a multi-year integrated settlement | | | ✓ |
| Investment spending | UKSPF planning and delivery at a strategic level | | ✓ | ✓ |
| | Long-term investment fund, with an agreed annual allocation | | | ✓ |
| Giving adults the skills for the labour market | Devolution of Adult Education functions and the core Adult Education Budget | | ✓ | ✓ |
| | Providing input into Local Skills Improvement Plans | | ✓ | ✓ |
| | Role in designing and delivering future contracted employment programmes | | | ✓ |
| Local control of infrastructure decisions | Ability to establish Mayoral Development Corporations (with consent of host local planning authority) | | | ✓ |
| | Devolution of locally-led brownfield funding | | | ✓ |
| | Strategic partnerships with Homes England across the Affordable Housing Programme and brownfield funding | | | ✓ |
| | Homes England compulsory purchase powers (held concurrently) | | ✓ | ✓ |
| Keeping the public safe and healthy | Mayoral control of Police and Crime Commissioner (PCC) functions where boundaries align [^] | | | ✓ |
| | Clear defined role in local resilience* | | ✓ | ✓ |
| | Where desired offer MCAs a duty for improving the public's health (concurrently with local authorities) | | | ✓ |
| Financing local initiatives for residents and business | Ability to introduce mayoral precepting on council tax* | | | ✓ |
| | Ability to introduce supplement on business rates (increases subject to ballot) | | | ✓ |

* refers to functions which are only applicable to combined authorities

[^] refers to functions which are currently only applicable to mayoral combined authorities