

REPORT OF THE LEADER OF THE COUNCIL

INTERIM ROLES TO PROGRESS THE EAST MIDLANDS COMBINED COUNTY AUTHORITY PROPOSALS

Purpose of the Report

1. To seek approval to establish six interim roles, hosted by Nottinghamshire County Council and funded through Government capacity funding, to provide local authorities with the initial capacity and capability needed to prepare for and meet the Government's requirements for an East Midlands devolution deal.

Information

Background

2. A [£1.14 billion devolution deal](#) was agreed between the four "Constituent Councils" (Derby City Council, Derbyshire County Council, Nottingham City Council and Nottinghamshire County Council), and the Government, on 30 August 2022. The signing of this deal marked the start of a journey that, subject to the progression of legislation and further approvals, will lead to significant additional investment across Derby, Derbyshire, Nottingham and Nottinghamshire.
3. The deal includes:
 - £38m per year allocation of investment funding over thirty years (50% capital, 50% revenue), to be invested by the EMCCA to drive growth and take forward its priorities over the longer term
 - £17m for the building of new homes on brownfield land in 2024/25, subject to sufficient eligible projects for funding being identified
 - £18m capital funding in this Spending Review period to support the delivery of housing priorities and drive Net Zero ambitions in the East Midlands area. This investment is subject to the agreement of the relevant business cases.
4. Following approval from Full Council in November 2022, Nottinghamshire County Council, Derbyshire County Council, Derby City Council and Nottingham City Council undertook statutory consultation on a Proposal to establish the East Midlands Combined County Authority ("EMCCA") across Nottinghamshire, Derbyshire, Derby and Nottingham. This consultation ran from 14 November 2022 to 9 January 2023. Full Council approved the

Proposal to create the EMCCA for submission to the Secretary of State, together with relevant delegations to the Chief Executive on 30 March 2023. Further information on the Proposal, the consultation findings and next steps are detailed in the 30 March 2023 Full Council report.

Government requirements for creation of EMCCA

5. Central government have outlined in the deal the conditions and deliverables they require prior to the EMCCA being created. These include:
 - Developing a full implementation plan covering each policy agreed in the Deal, to be completed ahead of implementation and approved by Government.
 - Developing a Local Enterprise Partnership (LEP) Integration Plan, outlining how the new East Midlands MCCA will take on the functions and roles of the D2N2 LEP in line with the published guidance.
 - Creating an investment strategy for the fully devolved funding programme, covering all budgets for devolved functions (the “East Midlands Investment Fund”).
 - Developing an East Midlands MCCA Assurance Framework in line with Government requirements.
 - Work to meet the Government’s readiness conditions for devolving the Adult Education Budget (AEB) from academic year 2025/26 – it is estimated that the devolved AEB for our region will be approximately £50 million.
 - Developing a pipeline of housing sites across the MCCA area, supported by £918,000 of capacity funding in 2023/24 and 2024/5, in order to identify eligible projects for the £16.8 million of devolved capital funding in 2024/25 allocated to support the building of new homes on brownfield land.
 - Developing a provisional area-wide local transport plan.
6. The Department for Levelling Up, Housing and Communities (DLUHC) confirmed in writing on 17 May 2023 the early release of an initial £250,000 capacity funding in 2023-2024. The funding is being provided to support local partners in creating joint capacity and capability to implement the devolution deal, prior to the establishment of the EMCCA, and in anticipation of the Levelling Up and Regeneration Bill (LURB) receiving Royal Assent. The letter specifically references the expectation that funding can be used for the interim recruitment of relevant skills and expertise and interim structures for the engagement of local partners.
7. Collaborative working at this scale requires resources. Over the last year, partners across councils have been working collaboratively to support the significant work required to drive forward a devolution deal. Aside from a coordinating programme team, officers across councils working on the programme are doing this on top of their existing day to day responsibilities and resources are stretched. As we move into the next phase of the programme, constituent councils increasingly need dedicated support to be able to maintain momentum and meet Government’s requirements.
8. Six interim roles are proposed to provide the capacity and capability required by constituent councils to prepare for a new EMCCA and meet Government’s readiness requirements. These are:

Interim Senior Leadership role (title tbc): This post will work alongside Leaders and Chief Executives to provide clarity, strategic direction, vision and leadership to drive forward the work to prepare the ground for EMCCA working across the constituent councils, the wider partnership, the region and with government.

Interim Director (Devolution): This role will be responsible for leading the work required to establish a new county combined authority and meet the requirements of Government set out in the deal document. This will include leading colleagues from the constituent councils to deliver the work required.

The Interim Senior Leadership role and Interim Director (Devolution) will be supported by the following roles:

Interim Investment Strategy Lead: will be accountable for developing the wider investment strategy and investment plans for the proposed EMCCA.

Interim Transport Plan Lead: will be accountable for the design and development of the proposed EMCCA transport function, including the development of a combined Local Transport Plan and a proposed transitional plan for Public Transport functions.

Interim Operations and People Lead: will be accountable for the development of the draft operating model and transition plan for the proposed EMCCA,

Interim Strategy and Delivery Lead: will be accountable for the design and development of a draft EMCCA overarching strategy and corporate business plan, based on its vision and mission to deliver on its priorities as set out in the proposal document. This draft deliverable would then be considered and adopted or amended by the Mayor and any permanent team established once the EMCCA is in operation.

9. The constituent councils agreed in May 2023 that Nottinghamshire County Council is best placed to act as the host organisation and be the employing body for any interim roles required by the constituent councils until the EMCCA is established as a legal entity, following royal assent.
10. It is proposed that six interim roles are established until 31 May 2024. Pay scales will be determined in accordance with the County Council's job evaluation scheme. These posts are being established to support constituent councils with the necessary preparatory work for a new EMCCA to government timescales and requirements and ensure the deliverables set out in the deal documentation are achieved. However, there is no expectation that these roles will transition into the new authority following royal assent being granted. The Mayor and the new EMCCA would develop its own organisational structure and recruit its own team in due course.
11. Nottinghamshire County Council will procure a preferred recruitment agency to support the recruitment activity. A flexible resourcing approach to securing the best field of candidates has been adopted and the opportunities made available either as fixed term interim appointments or as secondments. The intention is to appoint to all posts by early Summer 2023.
12. External secondment arrangements will be put in place for successful candidates applying from other Local Authorities or partnership agencies who apply with us directly. In the case of an individual securing a dedicated role as a secondment, that person's contract, terms and conditions would remain with their existing employer. Any increase in salary conditions would be managed by the employing organisation and invoiced by the existing employing organisation.

13. For any individuals securing an interim position via a procured recruitment agency, they will be employed by the agency and the rate of pay will be shaped by the job evaluation outcome, market conditions and availability of candidates.
14. A recruitment agency will be selected through a procurement process to support the recruitment and sift CVs from the market. Shortlisting of CVs and assessments will be undertaken by agreed panels.
15. Delivering on a successful devolution deal and preparing for a new EMCCA will be a complex undertaking. The posts required will be subject to review as the programme progresses to ensure there is appropriate resource in place to achieve the identified objectives of the programme and that changes to the anticipated progress of the LURB are reflected in the resources in place and work being undertaken. Any future resourcing requirements will be considered through the appropriate route.
16. Positive discussions are taking place with Government regarding the progression of the LURB and securing the release of further capacity funding ahead of Royal Assent. Contracts will be structured on a flexible basis to allow for scaling up and increasing resource to reflect available funding and scaling down or termination within a short time scale, minimising the risk on the constituent councils should the devolution programme not move forward and/or legislation fall away.

Other Options Considered

17. The constituent councils have considered whether it would be possible to continue resourcing the programme of work from within constituent councils. However, this option is not sustainable in the short and medium term because resources and capacity to deliver identified programmes of work are not sufficient. This option was therefore rejected as all councils have agreed to progress joint working at pace. Early collaborative work and preparation for a devolution deal has stretched existing resources and demonstrates the need for additional capacity.
18. Consideration has also been given to different resourcing models. A flexible model is considered to be most appropriate to allow scaling up and scaling down of resources quickly. This enables resources to be appointed and flexed to reflect the work required and emerging timescales as the LURB progresses through Parliament and once it achieves royal assent. This approach mitigates potential risk for the constituent councils as resources can be adjusted to match available government funding. It would also enable termination of contracts quickly if the LURB does not receive royal assent or is significantly delayed.
19. Having determined the need for additional resources, a range of resourcing strategies have also been considered to appoint to these roles. Constituent councils do not have sufficient in-house capacity to recruit to these posts at the pace required to gain maximum benefit from the roles. Furthermore, the nature of some of the roles and operating context will require specific knowledge skills and experience. Therefore, it has been determined that a recruitment agency will be best placed to undertake this work at pace and ensure appropriate capability and capacity is available to meet government timescales and requirements.

20. In order to ensure local opportunities are maximised and draw on local knowledge, skills and experience, for the lead roles in particular, recruitment to the roles will be available as secondments for employees of constituent councils, other local authorities and the partnership as well as on an interim basis. This blended approach will ensure maximum flexibility and access to the range of knowledge, skills and experience required. It will provide potential development opportunities and also help enhance and embed understanding about the programme of work and EMCCA across the partnership as secondees return to their organisations at the end of the secondment. Consideration was given to recruiting to all of the roles on an interim basis, but a blended approach is more beneficial.

Reasons for Recommendations

21. To ensure the Council and its partner constituent councils have sufficient capacity and capability to drive forward the preparatory work and ensure government requirements are delivered at pace with sufficient flexibility to mitigate risk. The devolution programme is vital to the future economic prosperity of the County and work needs to progress at pace.

Statutory and Policy Implications

22. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability, and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Legal Implications

23. The Levelling Up and Regeneration Bill seeks to establish a new type of combined county authority. This is distinct from a combined authority that can be created under the Local Democracy, Economic Development and Construction Act 2009. Whilst the Constituent Councils agreed a devolution deal with Government and have since undertaken public consultation on a draft Proposal and obtained approval to submit a final Proposal, the creation of a new combined county authority remains subject to the passage and coming into force of the combined county authority provisions in the Bill, and the consent of the Constituent Councils affected to relevant secondary legislation to establish an East Midlands Combined County Authority.

24. The passage of the LURB through Parliament is not subject to the control of the Constituent Councils. Significant delay to the enacting of the Bill may affect timescales and could lead to increased costs for the Constituent Councils.

25. It is possible that the LURB may not receive Royal Assent or that the provisions upon which the Proposal relies are amended. The Proposal cannot be progressed unless the Bill passes with substantially similar provisions. The four Constituent Councils will remain in close dialogue with Government to understand any potential impacts and to ensure that the Councils are in the best position to respond to them as the Bill progresses.

Financial Implications

26. The legislative framework linked to the LURB is still to be enacted with associated powers and funding. There will be an ongoing need for enabling activities from the Constituent Councils to continue pending Government approval and receipt of capacity and other funding. Government have committed to provide capacity funding to Constituent Councils in 2023-24 and 2024-25 to support implementation of the deal. The table below summarises the capacity funding available:

	2023/24 £m	2024/25 £m
Mayoral Capacity Funding	0.5	1.0
Capacity funding for pipeline of housing sites *Assumed equal split across 2023/24 and 2024/25 – to be confirmed.	0.459	0.459
Provisional area wide local transport plan funding	0.5	0.5
Total	£1.459	£1.959

Government is therefore providing constituent councils with capacity funding totalling £1.459m in 2023-24 (assuming an equal split over years of the housing site pipeline allocation).

27. A multi-track strategy for gap funding capped at £1.459m is proposed including the actions set out below.
28. Government's release of capacity funding has previously been dependent on the LURB receiving Royal Assent. Following constructive discussions with the Department for Levelling Up, Housing and Communities (DLUHC), it was agreed in May 2023 that £250,000 of the £500,000 Mayoral Capacity Funding for 2023-2024 will be released imminently. A further payment of £250,000 will then be made later in 2023-24 subject to the ongoing viability of the deal and satisfactory progress with the development of the local assurance framework
29. The £250,000 funding is provided by Government to support local partners in creating the joint capability needed to implement the devolution deal, prior to the establishment of an EMCCA, and in anticipation of the LURB receiving Royal Assent. The letter specifically references that funding can be used for the interim recruitment of relevant skills and expertise and interim structures for the engagement of local partners.
30. Discussions continue between chief executives and Government officials to consider an accelerated timescale for the release of the remaining capacity funding allocated for 2023-2024.
31. Section 151 officers for the constituent councils have met and discussed the potential incremental risk, should royal assent not be achieved or delayed. Section 151 Officers agreed in principle to a four-way share of risk, equalling £364,750 each. This is based on capping funding for a dedicated interim resource, alongside other work Government expects to be funded through the capacity funding, at £1.459m, equal to the capacity fund. Nottinghamshire County Council will allocate £364,750 from contingency reserves to cover its share of this risk. Further to this in principle agreement, it is proposed that the four constituent councils will seek

approval to enter into a memorandum of understanding or other protective measures to formalise the risk sharing approach.

32. It is expected that going forward the joint S151 officer group will play a stronger role in the budget management process in monitoring and limiting the spending to ensure we contain the funding within the £1.459 envelope – assuming that there is no delay to the LURB.
33. Other actions would require consideration to mitigate risk if the bill is delayed – including stopping spending, with the understanding of how to do this and the implications of doing so which could be applied to limit the financial risk below the £364,750 or even limit it to just the grant of £250k already announced. The flexible resourcing strategy set out in the report supports the effective management and mitigation of financial risk as the staffing resources can be scaled up or down and ceased quickly if required.
34. Any capacity funding from Government will be received into Derbyshire County Council through their role as the nominated accountable body, with Nottinghamshire County Council submitting invoices for incurred costs. This will require Nottinghamshire County Council, in its role as host organisation, to cashflow spend in advance of the receipt of funds. The success of this arrangement is dependent on all councils entering into a formal risk sharing agreement as described in paragraph 31.
35. It is likely there will be further costs in establishing EMCCA which are yet to be quantified such as election costs. Further work is required on these areas at the relevant point in time.

Human Resources Implications

36. The resourcing strategy to ensure that the constituent councils have access to the necessary capacity and capability and rationale behind the approach is set out in the body of the report. The strategy and recruitment approach balances flexibility in the need for and range of resources and mitigation of risk for the constituent councils. Recruitment and hosting arrangements will be carried out in accordance with Nottinghamshire County Council's HR policies and procedures.

Data Protection and Information Governance

37. There are no data protection or GDPR issues arising from this report as all the information contained is generic and cannot be attributed to individual employees.

Public Sector Equality Duty Implications

38. The County Council's agreed HR policies and procedures were the subject of Equality Impact Assessments at the point of development and agreement. Recruitment to the interim roles will be in accordance with the Council's HR policies. A detailed Equality Impact Assessment was undertaken for the development of the EMCCA Proposal.

RECOMMENDATION

It is recommended that Cabinet approves:

- 1) The establishment of 6 temporary roles and recruitment to the roles as set out in the body of the report to prepare for and ensure government requirements are met for the subsequent creation of EMCCA, subject to the Levelling Up and Regeneration Bill receiving royal assent.
- 2) £364,750 from contingency (if applicable) to cover the Council's proportion of financial risk should there be any delay or change to Government capacity funding.

**COUNCILLOR BEN BRADLEY MP
LEADER OF THE COUNCIL**

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Constitutional Comments (HD 09/06/2023)

39. The Cabinet has the authority to determine the recommendations within the report. The proposal for a risk based approach to the expenditure of funds to support the necessary preparatory work outlined by Government in the devolution deal enables flexibility and early termination in the event that the LURB does not receive royal assent or the work otherwise needs to be reduced, paused or ceased, including the potential for limiting the spend to the initial capacity funding of £250,000.

Finance Comments (NS 5/6/2023)

40. The report sets out financial risk and mitigations in addition to the requirement of underwriting from each council.

41. In essence the risk to each authority is proposed to be minimised to avoid any additional costs above the overall cap of £1.439m. The strategy proposed as outlined in the report is to provide funding support if needed with the following potential risk:

- If the criteria for the Mayoral capacity funding is not met and this funding is not received- each authority would potentially need to contribute £125,000 towards the budget
- If the transport funding is not provided- each authority would potentially need to contribute £125,000 towards the budget.
- If the housing funding is not provided- each authority would potentially need to contribute £114,750 towards the budget.

42. The full risk if all 3 of the grants are not provided is £364,750 to each authority.

43. However, the report indicates the first tranche of capacity funding of £250,000 Mayoral Capacity Funding for 2023-2024 will be released imminently. Consequently, any delay in the enabling legislation will require other potential actions as set out in the report, including limiting spend to this capacity funding of £250,000.

44. Nottinghamshire County Council, in its role as host organisation, will cashflow spend in advance of the receipt of funds dependent upon all councils entering into a formal risk sharing agreement.

HR Comments (HG 08/06/2023)

45. As set out in the report, capacity and capability is needed to prepare for a new EMCCA and meet Government's readiness requirements. The letter from DLUHC specifically references that funding can be used for the interim recruitment of these relevant skills and expertise and interim structures for the engagement of local partners.
46. The recruitment to the 6 proposed interim posts will be undertaken in partnership with a recruitment agency, who will be appointed through a procured tender process. Assessments will be undertaken by representatives across the four constituent councils and appointments will be made on an interim basis until 31st May 2024.
47. The blended approach to recruitment described in the body of the report enables us to appoint through an agency or on a secondment basis. Any secondees will remain on their own terms and conditions with pay rates being determined on appointment. These will be determined through Nottinghamshire County Council's job evaluation scheme, market factors and candidate availability as these are fairly unique roles.
48. The interim post holders will not automatically transfer into any new roles that may be created as part of any permanent structure within the EMCCA.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- [Report to Full Council 30 March 2023 – Devolution Deal – Consideration of Consultation Responses and Submission of the East Midlands Combined County Authority Proposal to Government](#)

Electoral Division(s) and Member(s) Affected

- All