

# **Scheme for (a) the proposed amendment of the boundaries of the North East Combined Authority and (b) the creation of a new mayoral combined authority for the North of Tyne area**

## **Introduction**

- i.** This composite scheme (“the Scheme”) has been prepared jointly by Newcastle City Council, North Tyneside Council and Northumberland County Council (collectively referred to as “the North of Tyne Councils”) under the Local Democracy, Economic Development and Construction Act 2009 (as amended), which is referred to below as “the 2009 Act”. (NB: it is a composite scheme because it deals with 2 linked schemes under the 2009 Act as set out below.)
- ii.** On 24 November 2017 the North of Tyne Councils agreed a “minded to” devolution deal with HM Government under which they will benefit from £600 million of new government investment to spend on local priorities to boost growth, together with a range of devolved powers. This devolution deal is subject to the creation of a combined authority for the area of the North of Tyne Councils. The new combined authority will have an elected mayor and so will be a mayoral combined authority.
- iii.** The North of Tyne Councils are currently members of the Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority, which is referred to as the “North East Combined Authority” and “NECA” in this Scheme. The North East Combined Authority was created by a statutory order made on 14 April 2014 (which is referred to as “the NECA Order”).
- iv.** In order to establish a mayoral combined authority for their area, the North of Tyne Councils will first need to withdraw from NECA. This will be dependent on the Secretary of State making an order under section 106 of the 2009 Act to amend the existing boundaries of NECA. The creation of a new mayoral combined authority for the North of Tyne area will also be dependent on the Secretary of State making an order under sections 103 and 107A of the 2009 Act. (NB: whilst these are described as separate orders, the Secretary of State may choose to make a composite order as the proposals are so closely-linked.)
- v.** The North of Tyne Councils have therefore conducted:
  - a.** a governance review under section 111 of the 2009 Act in relation to the proposed amendment of the boundaries of NECA so as to remove the local government areas of the North of Tyne Councils from the combined area of NECA; and
  - b.** a governance review under section 108 of the 2009 Act in relation to the proposed creation of a new mayoral combined authority for the local government areas of the North of Tyne Councils, which is referred to in this Scheme as “the North of Tyne Area”.
- vi.** Having considered the findings of each review, the North of Tyne Councils have decided that these proposals (ie the amendment of NECA’s boundaries and the creation of a new mayoral combined authority for the North of Tyne area) would

improve the exercise of statutory functions as required by the relevant provisions. They have therefore prepared this Scheme:

- a. under section 112 of the 2009 Act in respect of the proposed amendment of NECA's boundaries; and
- b. under section 109 of the 2009 Act in respect of the proposed creation of a new mayoral combined authority for the North of Tyne Area.

Given that the proposals are closely-linked, the North of Tyne Councils have prepared this Scheme as a composite scheme to deal with both proposals.

- vii. It is intended that the proposals contained in the Scheme will be subject to public consultation from Thursday 14 December 2017 to Monday 5 February 2018.

## 1. **Proposed amendment of the boundaries of NECA and consequential changes**

- 1.1 It is proposed that the boundaries of NECA are amended to remove the local government areas of the City of Newcastle, the Borough of North Tyneside and the County of Northumberland. This would mean that the combined area of NECA would comprise the local government areas of the County of Durham, the Borough of Gateshead, the Borough of South Tyneside and the City of Sunderland. The constituent authorities of NECA would therefore be the County Council of Durham, the Council Borough of Gateshead, the Council of the Borough of South Tyneside and the Council of the City of Sunderland.
- 1.2 It is proposed that NECA is to continue to exercise its current statutory functions but only in respect of its amended area as described above. Accordingly, it is proposed that the Secretary of State should exercise the powers under sections 106 and 114 of the Act to amend the NECA Order and make consequential amendments to the name, membership and governance (including scrutiny) arrangements of NECA to reflect its revised area and membership.
- 1.3 As set out later in this Scheme, it is proposed that the new mayoral combined authority (referred to as "the MCA") which is established for the North of Tyne Area is to have the statutory functions which NECA currently exercises for the North of Tyne Area, together with the additional statutory functions as described in this Scheme.
- 1.4 Whilst both NECA and the MCA will be at liberty to decide how to exercise their non-transport statutory functions in their respective areas<sup>1</sup>, it is proposed that those transport functions which are currently vested in NECA will continue to be dealt with on an integrated basis across both the amended area of NECA and the North of Tyne Area. To this end, it is proposed that the Secretary of State should require both NECA and the MCA to make decisions on such functions through a joint committee (as described at section 11 of this Scheme). It is considered that these decision-making arrangements for transport are supplemental to the proposed amendment of NECA's boundaries and the creation of the MCA, and therefore within the scope of section 114 of the 2009 Act.

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<sup>1</sup> This is subject to the fact that certain functions of the MCA must be exercised by the Mayor, as set out later in this Scheme.

1.5 It is proposed that the orders which are made to give effect to the above proposals should also make provision to address the apportionment of the assets, rights and liabilities of NECA between NECA (as amended) and the MCA and also to ensure the continuing validity of any action taken by NECA prior to the amendment of its boundaries.

## **2. Proposed creation of a mayoral combined authority for the North of Tyne Area**

2.1 The following part of the Scheme sets out how it is proposed that the MCA will operate and discharge its functions. Subject to the making of the requisite statutory orders, it is anticipated that the MCA will be established as soon as practicable in the 2018/19 financial year.

### **2.2 Geography, name and election of Mayor**

2.2.1 It is proposed that the combined area of the MCA should comprise the whole of the following local government areas:

- the City of Newcastle upon Tyne
- the Borough of North Tyneside; and
- the County of Northumberland

2.2.2 It is proposed that the Council of the City of Newcastle, the Council of the Borough of North Tyneside and Northumberland County Council will be the MCA's Constituent Authorities (and "Constituent Authority" and "Constituent Authorities" will be construed accordingly).

2.2.3 It is proposed that the name of the MCA is to be the North of Tyne Combined Authority. The title of the MCA's elected mayor will be the North of Tyne Combined Authority Mayor and the elected mayor is referred to below as "the Mayor".

2.2.4 It is proposed that the first Mayor will be elected in May 2019. The Mayor will be elected by the local government electors for the areas of the Constituent Authorities of the MCA. As set out in the Cities and Local Government Devolution Act 2016, the Mayor is to be returned under the simple majority system ("first past the post"), unless there are three or more candidates. If there are three or more candidates, the Mayor is to be returned under the supplementary vote system.

2.2.5 It is proposed that the initial term of the Mayor will be 5 years. Each subsequent mayoral term will be 4 years.

2.2.6 The creation of the MCA will need to be reflected in the existing arrangements relating to the North East Local Enterprise Partnership ("the LEP"). It is also proposed that the Mayor should be a member of the LEP Board to ensure continued recognition of the LEP's importance in the design and delivery of local economic strategies.

### **2.3. Membership**

2.3.1 It is proposed that each Constituent Authority is to appoint two elected members to the MCA. It is expected that one member will be the leader or elected mayor of that Constituent Authority and will be a "Voting Member" of the MCA. It is expected that the second member will be the deputy leader or deputy elected mayor of that

Constituent Authority. The second member will ordinarily be a non-voting member of the MCA, save for when the leader or elected mayor of the Constituent Authority is not present and voting. In those circumstances the second member appointed by the Constituent Authority will be a “Voting Member” of the MCA.

- 2.3.2 It is proposed that each Constituent Authority will also appoint two elected members (“Substitute Members”) to act as members of the MCA in the absence of the Members appointed under 2.3.1 above.
- 2.3.3 For the purposes of this Scheme, any reference to a Member of the MCA is to be treated as including a reference to a person who is acting as a substitute for that Member pursuant to this Scheme.
- 2.3.4 For the purposes of this paragraph, an elected mayor of a Constituent Authority is to be treated as a member of the Constituent Authority.
- 2.3.5 It is proposed that each Member must act in accordance with the Order establishing the MCA, its Constitution and standing orders, and also observe its Code of Conduct for Members.
- 2.3.6 Where a Member of the MCA ceases (for whatever reason) to be a member of the Constituent Authority which appointed them, it is proposed that the Member will cease to be a member of the MCA, and the Constituent Authority will appoint a replacement member as soon as possible.
- 2.3.7 Each Constituent Authority may at any time terminate the appointment of a Member appointed by it to the MCA.
- 2.3.8 It is proposed that the Mayor of the MCA will be a Member and the Chair of the MCA. The Mayor will appoint one of the Constituent Authority Members as a Deputy Mayor. The Deputy Mayor will chair meetings of the MCA in the absence of the Mayor.
- 2.3.9 It is proposed that the LEP is to nominate one of its members to be a Member of the MCA. It is expected that the member nominated will be the Chair of the LEP. The MCA will appoint the person nominated by the LEP and that person will be a non-voting Member of the MCA (“the LEP Member”).
- 2.3.10 It is proposed that the LEP will also nominate one of its members to act as a Member of the MCA in the absence of the LEP Member. The MCA is to appoint the person nominated by the LEP to act as a Member of the MCA (“the LEP Substitute Member”) in the absence of the LEP Member.
- 2.3.11 Where the LEP Member or the LEP Substitute Member ceases to be a member of the LEP, he or she will cease to be a Member of the MCA, and the LEP will nominate a replacement Member as soon as possible.
- 2.3.12 The Members of the MCA (namely the Mayor or Interim Mayor, the Constituent Authority Members and the LEP Member) will be referred to collectively as “the Cabinet” and “Cabinet Member” is to be construed accordingly.
- 2.3.13 It is proposed that the Mayor will nominate a person to be the “Mayor’s Ambassador for Business” and the MCA will appoint such a person to that role if a

majority of the Voting Members agree to the appointment, subject to paragraphs 2.3.14 and 2.3.15. The Ambassador will attend Cabinet meetings as an observer.

2.3.14 Any person who satisfies the following conditions is eligible to be nominated for appointment as the Mayor's Ambassador for Business:

- a) The person is resident, or operates a business in the area of one of the Constituent Authorities; and
- b) The person is proposed to be the Mayor's Ambassador for Business by a recognised business organisation.

2.3.15 A person may not be appointed as the Mayor's Ambassador for Business unless they submit an application (in accordance with any application procedure and timetable determined by the MCA) and they satisfy conditions (a) and (b) in paragraph 2.3.14 at the date of their appointment.

2.3.16 It is proposed that the Mayor's Ambassador for Business will hold his/her position for as long as the Mayor holds office or the Mayor, with the support of the majority of the Voting Cabinet Members, terminates the Ambassador's appointment.

2.3.17 To assist and advise the MCA in fulfilling its responsibilities, further Mayoral Ambassadors representing sectors such as the Community and Voluntary Sector may be appointed by a majority of the Voting Members of the Cabinet.

### **Interim Mayor**

2.3.18 At its first meeting the Voting Members of the MCA is to appoint one of their number as chair. It is proposed that the MCA will thereafter appoint an Interim Mayor and that appointment will have effect between that date and the election of the Mayor in May 2019.

2.3.19 It is proposed that any person who satisfies each of the following conditions is eligible for appointment as Interim Mayor:-

- a) The person is resident in the area of one of the Constituent Authorities;
- b) The person is:
  - i. An elected member of a Constituent Authority
  - ii. An elected mayor of a Constituent Authority
  - iii. The Northumbria Police and Crime Commissioner
  - iv. A Member of Parliament or Member of the European Parliament with a constituency wholly or partly within the area of the MCA; and
- c) The person holds such elected office at the date of application for the position of Interim Mayor and on the date of appointment.

2.3.20 A person may not be appointed as Interim Mayor unless:-

- a) The person is eligible to be appointed under paragraph 2.3.19 (a) to (c);
- b) The person has submitted an application in accordance with any application procedure and timetable determined by the MCA;

- c) The person has been nominated by at least one Member in accordance with any application procedure and timetable determined by the MCA following consideration by the MCA of all applications for the office of Interim Mayor; and
- d) The appointment has been approved at a meeting of Cabinet by a simple majority of the Voting Members.

- 2.3.21 It is proposed that the Interim Mayor may resign by written notice served on the proper officer of the MCA and the resignation will take effect on receipt of the notice by the proper officer.
- 2.3.22 The MCA may terminate the appointment of the Interim Mayor provided that a majority of the Voting Members (excluding the Interim Mayor) vote in favour of a resolution to terminate such appointment at a meeting of the MCA.
- 2.3.23 Where a person ceases to be an Interim Mayor by virtue of paragraph 2.3.21 or 2.3.22 it is proposed that the MCA may appoint a further Interim Mayor whose appointment will have effect until the election of the Mayor of the MCA in May 2019.
- 2.3.24 On appointment, the Interim Mayor will become a Member and the Chair of the MCA.
- 2.3.25 It is proposed that the MCA may appoint one or more Vice-Chairs from among the Constituent Authority Members.
- 2.3.26 If a vacancy arises in the office of Interim Mayor the MCA may appoint a Vice-Chair as Acting Interim Mayor to exercise the functions of the Interim Mayor until an appointment of a permanent Interim Mayor can be made.
- 2.3.27 It is proposed that the Interim Mayor will not have a vote unless they are a Constituent Authority Member of the MCA. If the Interim Mayor does have a vote, they will have one vote with no casting vote.
- 2.3.28 If the Interim Mayor is not an elected member of a Constituent Authority of the MCA the Interim Mayor will be a non-voting Member of the MCA.
- 2.3.29 The MCA may only pay an allowance to the Interim Mayor if it has considered a report published by an Independent Remuneration Panel established by one of the Constituent Authorities of the MCA which contains recommendations for such an allowance, and the allowance paid by the MCA does not exceed the amount recommended by the Independent Remuneration Panel.

## **2.4. Proceedings & Voting**

### **Decisions of the Mayoral Combined Authority**

- 2.4.1 It is proposed that decisions to be made in exercise of the functions of the MCA will be made by the Constituent Authority Members and Mayor working together as the Cabinet. Such decisions will be made by a meeting of the Cabinet except:

- 2.4.1.1. Where responsibility for exercise of the function has been delegated in accordance with the Constitution of the MCA (and which may include delegation of such powers and functions of the MCA to Committees, Sub-Committees or officers as the MCA considers appropriate)
  - 2.4.1.2. Where the matter is to be considered by a Scrutiny Committee or Audit Committee of the MCA
- 2.4.2 No business of the Cabinet will be transacted at a meeting unless four Voting Members of Cabinet consisting of the Mayor and each Constituent Authority's Voting Member are present at the meeting.
- 2.4.3 Each Voting Member of the Cabinet (including the Mayor) will have one vote subject to the arrangements set out in paragraph 2.3.1. The Mayor will not have a second or casting vote.
- 2.4.4 It is proposed that the Cabinet will aim to reach decisions by consensus subject to paragraphs 2.4.5 to 2.4.6 below. If it is not possible to reach a consensus on a matter that requires a decision, the matter will be put to the vote. Any matter that comes before the Cabinet to be decided will be decided by way of a simple majority of the members of the Cabinet present and voting (whether a motion or an amendment), unless the vote is tied in which case the matter will be deemed not to have been carried.
- 2.4.5 It is proposed that the following matters (known as "Key Strategic Decisions") will require the unanimous support of all voting Constituent Authority Members of the Cabinet to be carried:
  - a. Adoption of, and any amendment to or withdrawal of, any strategic growth plan as provided for in the MCA's Constitution;
  - b. Approval of, and any amendment to or withdrawal of, growth schemes set out in any adopted strategic growth plan;
  - c. Approval of, and any amendment to, the MCA's annual budget excluding those elements of the MCA's annual budget which relate to Mayoral functions or to transport functions which are dealt with by the Transport Joint Committee (see section 11 below);
  - d. Approval of, and any amendment to or withdrawal of borrowing limits, any treasury management strategy, including reserves, investment strategy and capital budget, of the MCA;
  - e. Approval of, and any amendment to or withdrawal of, such other plans and strategies as may be determined by the MCA and set out in its Constitution;
  - f. Approval of and any amendment to the MCA Constitution.
- 2.4.6 If the Mayor does not vote with the majority of Voting Members of Cabinet the Mayor may seek a review of the decision taken by the Cabinet (a "Mayoral Review"). Such a review will cause the Cabinet decision to be re-considered by the Cabinet and the Cabinet may confirm or change its original decision. The reasons for the Cabinet's decision will be published. The opportunity for the Overview and

Scrutiny Committee of the MCA to call in a Key Strategic Decision will commence after the expiry of the deadline for a Mayoral Review or conclusion of a Mayoral Review process.

## **Decisions of the Mayor**

- 2.4.7 It is proposed that decisions on the discharge of a Mayoral function will be exercisable only by the Mayor unless the Mayor delegates such a function to:
- a) The Deputy Mayor,
  - b) Another Member of the Combined Authority, or
  - c) An officer of the Combined Authority
- 2.4.8 As set out later in this Scheme, it is proposed that certain Mayoral decisions will require the consent of the Voting Cabinet Member appointed by the Constituent Authority in whose area the decision will apply, including:
- a) The designation of any area of land as a Mayoral Development Area leading to the establishment, by Order, of a Mayoral Development Corporation (see paragraph 5.3);
  - b) The compulsory purchase of land or buildings by the Mayor (see paragraph 4.4)
  - c) Such other matters as may be contained in the MCA's Constitution
- 2.4.9 The Mayor will be required to consult the Cabinet on his/her policies and strategies, relating to the exercise of general Mayoral functions, which it may amend if two-thirds of the voting Cabinet Members (excluding the Mayor) agree to do so.
- 2.4.10 It is proposed that the Mayor will prepare a draft annual budget for their areas of responsibility that will be considered by the Cabinet and scrutinised by the MCA's Overview and Scrutiny Committee. The Mayor may decide to change their budget proposals following the Cabinet's consideration of the budget or recommendations received from the Overview and Scrutiny Committee.
- 2.4.11 In accordance with the Combined Authorities (Finance) Order 2017 the Cabinet will be able to amend the Mayor's budget proposals if two-thirds of the Voting Cabinet Members (excluding the Mayor) agree to the amendment.
- 2.4.12 The Mayor will have the power to issue a Council Tax Precept on behalf of the MCA in relation to their areas of responsibility. However, such a proposed precept, being part of the Mayor's budget proposals, will be subject to scrutiny and amendment if the amendment is agreed by a two-thirds majority of the Voting Members of Cabinet (excluding the Mayor).

## **2.5. Scrutiny**

- 2.5.1 The MCA will establish a Committee to exercise responsibility for the Overview and Scrutiny functions applicable to the MCA and the Mayor. This Committee (and the Audit Committee outlined at paragraph 2.6 below) is to be established and function in line with the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2016.



2.5.2 Membership of the Overview and Scrutiny Committee will consist of 3 members from each Constituent Authority, a Chair appointed pursuant to paragraph 2.5.3 below and such other independent persons as may be appointed by the MCA. The appointment of members to the Overview and Scrutiny Committee by the Constituent Authorities is to reflect political balance across the whole of the MCA's area at the time of their appointment.

2.5.3 The Chair of the Overview and Scrutiny Committee will be an "Appropriate Person" within the meaning of sub-paragraph (5)(a) of Schedule 5A of the 2009 Act and will be an elected member of a Constituent Authority but not a person who is a member of a registered political party of which the Mayor is a member. The Chair of the Overview and Scrutiny Committee will be appointed by the Committee as the first item of business of the Committee in any municipal year.

2.5.4 The Overview and Scrutiny Committee may appoint such Sub-Committees as it deems necessary to fulfil its functions.

## **2.6. Audit Committee**

2.6.1 It is proposed that the MCA is to establish a Committee of not less than 10 Members to exercise responsibility for the Audit functions applicable to the MCA.

2.6.2 Membership of the Audit Committee will consist of 3 members from each Constituent Authority and at least one independent person appointed by the MCA. The appointment of members to the Overview and Scrutiny Committee by the Constituent Authorities will reflect political balance across the whole of the MCA's area at the time of their appointment.

## **2.7. Appointments**

2.7.1 The MCA will appoint to the three statutory positions being:

- a) Head of Paid Service (section 4 Local Government and Housing Act 1989);
- b) Chief Finance Officer (section 73 Local Government Act 1985);
- c) Monitoring Officer (section 5 Local Government and Housing Act 1989).

2.7.2 Arrangements will be made for the appointment of a person to act as a Scrutiny Officer of the Overview and Scrutiny Committee.

2.7.3 These positions may be held by officers already serving in one or more Constituent Authorities save for that of Scrutiny Officer.

2.7.4 The Mayor may appoint one person as the Mayor's political adviser

## **2.8. Standing Orders**

2.8.1 It is proposed that the MCA will make standing orders for the regulation of its proceedings and business and may vary or revoke any such orders.

## **2.9. Remuneration**

- 2.9.1 It is proposed that the Mayor is to be paid an allowance as agreed by the Voting Constituent Authority Members of the Cabinet, following consideration of a report from an Independent Remuneration Panel (which performs a similar function for one of the Constituent Authorities). This panel will also consider allowances payable to the Independent Member(s) of the Overview and Scrutiny and Audit committees.
- 2.9.2 No remuneration is to be payable by the MCA to its Constituent Authority Members (other than allowances for travel and subsistence), provided always that a Constituent Authority may, on the recommendation of an Independent Remuneration Panel, pay a special responsibility allowance to any Member appointed by it to the MCA in respect of duties and responsibilities undertaken as a Member, or Substitute Member, of the MCA.

## **3. Functions, Powers & Duties of the MCA**

- 3.1 The prime purpose of the MCA is to improve the exercise of statutory functions in relation to the MCA area. In pursuit of this prime purpose, the MCA will take on those powers and functions set out in the “minded to” Devolution Deal (and those functions which were previously exercised by NECA in respect of the North of Tyne Area) which will be discharged either by the Mayor, the Cabinet or by the MCA acting jointly with NECA through the Transport Joint Committee as set out in section 11 below.

### **Mayoral Functions**

- 3.2 The MCA functions that will be Mayoral functions are:
- Designating mayoral development areas (see paragraphs 5.1 to 5.3), which will support delivery of strategic sites in the MCA area subject to the consents of those referred to in paragraph 2.4.8;
  - Compulsory purchase powers (see paragraphs 4.2 to 4.6), subject to the consents of those set out in paragraph 2.4.8 and the consent of the Secretary of State for Communities and Local Government; and
  - Power to set a precept on local Council Tax bills in relation to the funding of Mayoral functions.
- 3.3 For the purposes of the discharge of Mayoral functions the Mayor may do anything that the MCA may do under section 113A of the 2009 Act (functional power of competence).

### **Cabinet Functions**

- 3.4 It is proposed that all functions given or transferred to the MCA that are not exercisable only by the Mayor (which Mayoral functions are listed in paragraphs 3.2 and 3.3) will be discharged by the Cabinet save for the transport functions set out in section 11 of this Scheme which will be discharged through the Transport Joint Committee referred to below.

- 3.5 The Cabinet will exercise its powers and duties concurrently with the Constituent Authorities (where Constituent Authorities have the same functions). No Constituent Authority will cede any existing non transport functions to the MCA without its express agreement.
- 3.6 It is proposed that the Constituent Authorities, Public Authorities and the MCA will agree operating protocols for the exercise of concurrent powers and duties by the MCA where considered appropriate. These protocols will recognise the strategic role of the MCA and safeguard the role of Constituent Authorities in local decision making and delivery.
- 3.7 Notwithstanding the above, it is proposed that a Constituent Authority and the MCA may enter into arrangements under Section 101 of the Local Government Act 1972 and/or Section 9EA of the Local Government Act 2000 and the Local Authorities (Arrangements for Discharge of Functions) (England) Regulations 2012 to allow the delegation of functions from a Constituent Authority to the MCA. In all such cases, acceptance of a delegation will require the agreement of Cabinet.
- 3.8 Under Section 101 of the Local Government Act 1972 it is proposed that the MCA may enter into arrangements with a Constituent Authority to allow for the delegation of Non-Mayoral functions to a Constituent Authority. In all such cases, the decision to delegate any function will require the agreement of Cabinet.

#### **4. Housing and Land Functions**

- 4.1 In order to exercise the functions outlined in the “minded to” Devolution Deal, it is proposed that the MCA will be granted the following powers, to run concurrently with the Constituent Authorities or the Homes and Communities Agency (“HCA”) as appropriate.
- 4.2 It is proposed that the MCA will be granted devolution of the objectives and functions of the HCA under section 2(1) of the Housing and Regeneration Act 2008 (with a limitation to the MCA’s area) and the following powers contained in the 2008 Act will be exercised by the MCA concurrently with the HCA:
- a) Section 5 (powers to provide housing or other land);
  - b) Section 6 (powers for regeneration, development or effective use of land);
  - c) Section 7 (powers in relation to infrastructure);
  - d) Section 8 (powers to deal with land etc);
  - e) Section 9 (acquisition of land);
  - f) Section 10 (restrictions on disposal of land);
  - g) Section 11 (main powers in relation to acquired land);
  - h) Section 12 (powers in relation to, and for, statutory undertakers);
  - i) Paragraphs 19 and 20 of Schedule 3 (powers in relation to burial grounds and consecrated land etc.)
  - j) Paragraphs 1,2,3,4,6,10 and 20 of Schedule 4 (extinguishment or removal powers for the HCA)

These functions will be non-Mayoral with the exception of the specific HCA compulsory purchase powers in section 9 of the 2008 Act (see below).

- 4.3 The objectives in section 2(1) of the 2008 Act are to provide the MCA with the necessary powers:
- to improve the supply and quality of housing;
  - to secure the regeneration or development of land or infrastructure;
  - to support in other ways the creation, regeneration and development of communities or their continued well-being; and
  - to contribute to the achievement of sustainable development and good design.
- 4.4 The functions in this section include powers enabling the achievement of the above objectives. Such powers include the power of compulsory purchase contained in section 9 of the 2008 Act (subject to the authorisation of the Secretary of State). In order to achieve the objectives above, it is proposed that the MCA should also have the benefit of exemption from section 23 of the Land Compensation Act 1961, which is enjoyed by the HCA under section 23(3)(d) of that Act.
- 4.5 As set out above, it is proposed that the exercise of the compulsory purchase power contained in section 9 of the 2008 Act, will only be exercisable by the Mayor with the consent of the Constituent Authority for the area(s) of land to be compulsorily acquired and the Secretary of State.
- 4.6 It is proposed that the MCA should be granted the power to exercise, subject in each instance to the agreement of the Constituent Authority (or Authorities) within whose area the land is located, the functions of the Constituent Authorities to acquire land for the development of housing under section 17 of the Housing Act 1985 and the associated sections 11, 12, 15(1) and 18. The conferral of such powers on the MCA will be entirely without prejudice to the exercise of those powers by the Constituent Authorities which will exercise those powers as before. It is proposed that the power to acquire land compulsorily under Section 17(3) of the Housing Act 1985 will be a Mayoral function but will require the consent of the Constituent Authority for the area(s) of land to be compulsorily acquired and the Secretary of State.
- 4.7 It is proposed that the MCA will be considered “a local housing authority” for the purposes of Section 8(1) of the Housing Act 1985 (periodical review of housing needs) that will require the MCA as a “local housing authority” to consider housing conditions in the MCA area and the needs of the area with respect to the provision of further housing accommodation.

#### **North of Tyne Housing and Land Board**

- 4.8 It is proposed that the MCA and the Government will establish the North of Tyne Housing and Land Board which will oversee an integrated programme of housing delivery across the MCA area and advise on the best use of public sector land.
- 4.9 It is proposed that the Board will be an advisory Board making recommendations to the MCA and its membership will include representatives from Government, the Homes and Communities Agency, the MCA, the MCA Constituent Authorities and other public and private sector bodies as considered appropriate.
- 4.10 The creation of the Land Board does not require any new statutory provision.

## **5. Mayoral Development Corporation**

- 5.1 It is proposed that the Mayor will have the power to designate an area a Mayoral Development Area (“MDA”) and so create a Mayoral Development Corporation (“MDC”) to help drive regeneration and expedite housing delivery on complex schemes in the area. The advantage of MDCs is that they have most of the powers of an Urban Development Corporation but are controlled locally rather than by the Secretary of State.
- 5.2 In order to achieve the objectives set out in Paragraph 5.1 it is proposed that Part 8, Chapter 2 of the Localism Act 2011 be modified so that references to the GLA, Greater London and the London Mayor would include the MCA and the Mayor. This would enable the MCA to have functions for its area corresponding to the following functions contained in the Localism Act 2011 that the Mayor of London has:
- (a) Section 197 (designation of Mayoral development areas);
  - (b) Section 199 (exclusion of land from Mayoral development areas);
  - (c) Section 200 (transfers of property etc to a Mayoral development corporation);
  - (d) Section 202 (functions in relation to town and country planning);
  - (e) Section 204 (removal or restriction of planning functions);
  - (f) Section 214 (powers in relation to discretionary relief from non-domestic rates);
  - (g) Section 215 (reviews);
  - (h) Section 216 (transfers of property, rights and liabilities);
  - (i) Section 217 (dissolution: final steps);
  - (j) Section 219 (guidance by the Mayor);
  - (k) Section 220 (directions by the Mayor);
  - (l) Section 221 (consents);
  - (m) Paragraph 1 of Schedule 21 (membership);
  - (n) Paragraph 2 of Schedule 21 (terms of appointment of members);
  - (o) Paragraph 3 of Schedule 21 (staff);
  - (p) Paragraph 4 of Schedule 21 (remuneration etc: members and staff);
  - (q) Paragraph 6 of Schedule 21 (committees); and
  - (r) Paragraph 8 of Schedule 21 (proceedings and meetings).
- 5.3 It is proposed that the Mayor’s power to designate an area a MDA under Section 197 of the Localism Act 2011 will require the agreement of the Constituent Authority Member(s) of the MCA whose local government area contains any part of the MDA.
- 5.4 It is further proposed that the Mayor’s power to exclude land from a MDA under Section 199 of the Localism Act 2011 will require the agreement of the Constituent Authority Member of the MCA whose local government area contains any part of the area to be excluded from the MDA.
- 5.5 It is also proposed that the London Mayor’s power under section 202 of the Localism Act 2011 to decide that a MDC should have certain planning functions in relation to the whole or part of a MDA should be modified in relation to the Mayor so that the Mayor can only exercise this power with the consent of the Constituent Authority Member(s) for the local government area concerned and (where appropriate) the Northumberland National Park Authority.

## **6. Inclusive Growth – Education and Skills**

- 6.1 It is proposed that the MCA will be given devolved powers to control the Adult Education Budget from the academic year 2019/20, having been granted the power to vary the block grant allocations made to providers, within an agreed framework, for the academic year 2019/20.
- 6.2 It is proposed that the MCA will have the duties under Sections 15ZA, 15ZB, 15ZC, 17 and 18A(1)(b) of the Education Act 1996 and the powers under section 514A and 560A of that Act that relate to duties and powers concerning the provision of education and training for persons over compulsory school age.
- 6.3 It is proposed that the MCA will have the responsibilities and functions of a “local authority” under Sections 10 and 12 of the Education and Skills Act 2008 to ensure that its functions are exercised so as to promote the effective participation in education and training of relevant persons in its area aged 16 and 17 years.
- 6.4 It is also proposed that the MCA will have the responsibilities and functions of a “local authority” under Sections 68, 70, 71 and 85 of the Education and Skills Act 2008 to make available to young persons and relevant young adults such support services as it considers appropriate to encourage, enable and assist the effective participation of such persons in education and training.
- 6.5 The MCA will have the responsibilities and functions under Section 13A of the Education Act 1996 to ensure that their education and training functions are exercised with a view to promoting high standards, fair access to opportunity for education and training, and the fulfilment of learning potential.
- 6.6 The MCA will have the responsibilities and functions under Section 51A of the Further and Higher Education Act 1992 to require relevant institutions in the further education sector to provide appropriate education to specified individuals aged between 16 and 18 years.
- 6.7 It is proposed that the MCA should have responsibilities and functions under sections 86 (education and training for persons aged 19 or over and others subject to adult detention), 87 (learning aims for persons aged 19 or over: provision of facilities), 88 (learning aims for persons aged 19 or over: payment of tuition fees), 90 (encouragement of education and training for persons aged 19 or over and others subject to adult detention), 115 (persons with special educational needs) of the Apprenticeships, Skills, Children and Learning Act 2009 .’
- 6.8 Should the MCA be given the functions set out in this Section 6, then it is proposed that, for the purposes of data sharing, the MCA should be treated as a “Local Authority” for the purposes of Section 122 of the Apprenticeships, Skills Children and Learning Act 2009 and Section 72 of the Welfare Reform and Pensions Act 1999 (Supply of information for certain purposes) so that the MCA can supply and receive information related to employment or training of persons in the North of Tyne Area.
- 6.9 The above functions will be exercisable concurrently with the Constituent Authorities and the Secretary of State or both, as applicable.

## **Inclusive Growth Board**

- 6.10 It is proposed that the MCA will establish an Inclusive Growth Board with the aims of:-
- a) Improving the marked disparities in educational attainment that exists within the MCA area;
  - b) Increasing attainment in Science, Technology, Engineering and Mathematics (STEM) subjects;
  - c) Deepening the approach to careers information, advice and guidance through the adoption of the Good Career Guidance benchmarks; and
  - d) Achieving excellence in teaching, leadership and school governance.
- 6.11 The Board will be responsible for advising on the better coordination of employment, skills and health services across the MCA area with the aim of increasing the number of people moving into work.

## **7. Incidental Provisions**

- 7.1 It is proposed that the following provisions are to have effect as if the MCA were a “local authority” for the purposes of the functions therein which the MCA will exercise concurrently with the Constituent Authorities:-
- a) Section 113 of the Local Government Act 1972 (the power to place staff at the disposal of other local authorities);
  - b) Section 142(2) of the Local Government Act 1972 (the power to arrange for publication of information etc relating to the functions of the MCA);
  - c) Section 144 of the Local Government Act 1972 (the power to encourage visitors and provide conference and other facilities);
  - d) Section 145 of the Local Government Act 1972 (the power to provide and support cultural activities and entertainments);
  - e) Section 222 of the Local Government Act 1972 (the power to prosecute and defend legal proceedings); and
  - f) Section 69 of the Local Democracy, Economic Development and Construction Act 2009 (duty to prepare an assessment of economic conditions).
- 7.2 It is proposed that such functions of the Constituent Authorities that are exercisable for the purpose of economic development and regeneration in reliance on the general power of competence under section 1 of the Localism Act 2011 will also apply to the MCA in relation to those functions. This general power of competence, which will be a non-mayoral function, will be in addition to the powers given to the MCA under Section 113A of the Local Democracy, Economic Development and Construction Act 2009.
- 7.3 It is proposed that the MCA will have the power to exercise any of the functions described in subsection (1)(a) and (b) of section 88 of the Local Government Act 1985 (research and collection of information) whether or not a scheme is made under

that section. For the purposes of section 88(1) of the Local Government Act 1985 references to “that area” are to be taken as a reference to the MCA area.

- 7.4 Section 13 of the Local Government and Housing Act 1989 (voting rights of members of certain committees) will have effect in relation to the MCA.
- 7.5 It is proposed that the MCA will be included in Part 2 of Schedule 3 (pension funds) to the Local Government Pension Scheme Regulations 2013.

## **8. Miscellaneous**

- 8.1 Any transfer to the MCA, or to the Mayor, of existing powers or resources currently held by the Constituent Authorities must be by agreement with the relevant Constituent Authorities.
- 8.2 It is proposed that on establishment the MCA will be a body specified for the purposes of Section 33 of the Value Added Tax Act 1994. This will entitle the MCA to claim refunds of Value Added Tax charged on supplies to, and acquisitions or importations by the MCA

## **9. Funding the Mayor and Mayoral Combined Authority**

- 9.1 Section 107G of the Local Democracy, Economic Development and Construction Act 2009, allows the Secretary of State to make an Order to make provision for the costs of a Mayor for the area of a Combined Authority that are incurred in, or in connection with, the exercise of Mayoral functions to be met from precepts issued by the MCA under section 40 of the Local Government Finance Act 1992.
- 9.2 Scrutiny of the Mayoral Budget (and any Mayoral Precepts) will fall within the remit of the Overview and Scrutiny Committee of the MCA. The Budget may be amended by a two-third majority of the members of the MCA (excluding the Mayor), as set out in paragraph 2.4.11.
- 9.3 In order to enable the MCA to invest in economically productive infrastructure , Regulations should be made pursuant to section 74 of the Local Government Finance Act 1988 to enable the MCA to issue a levy, or levies, to its Constituent Authorities, to meet the expenditure of the MCA that is reasonably attributable to the exercise of non-mayoral functions. Constituent Authorities will be able to pay an agreed contribution to meet the cost of mayoral functions.
- 9.4 Regulations should be made pursuant to section 23 (5) of the Local Government Act 2003 to give the MCA borrowing powers for priority infrastructure projects, including but not limited to: transport, highways, housing, investment and economic regeneration, as relevant to the exercise of its functions, both Mayoral and non-Mayoral, within agreed limits.
- 9.5 Provision should also be made for the Constituent Authorities to meet the costs of the MCA and how the costs are to be apportioned between the Constituent Authorities.



## **10. Information Sharing**

10.1 It is proposed that sections 17A and 115 of the Crime and Disorder Act 1998 should be amended to give the MCA the same standing as a Local or Public Authority for the purpose of information sharing.

## **11. Transport Functions**

11.1 On the amendment of the existing boundaries of NECA and the establishment of the MCA, each combined authority will become the Local Transport Authority for its respective area under the Transport Act 2000. However, it is proposed that NECA and the MCA will be obliged to prepare a joint Local Transport Plan for their areas and the requirements of section 108 of the Transport Act 2000 will be amended accordingly. For the avoidance of doubt, it is not proposed that either NECA or MCA should acquire any functions which their constituent authorities may have as highway authorities.

11.2 it is proposed that all transport functions and responsibilities which are currently held by NECA in respect of the MCA's area will transfer to the MCA. For the avoidance of doubt this will include (but not be limited to):

- the functions and responsibilities formerly vested in the Tyne and Wear Integrated Transport Authority and which were transferred to NECA by Article 6 of the NECA Order;
- the transport functions and responsibilities transferred to NECA from Northumberland County Council by Article 8 of the NECA Order (ie the functions of County Councils under Parts 4 and 5 of the Transport Act 1985 and the functions of County Councils as Local Transport Authorities under Part 2 of the Transport Act 2000); and
- the power to issue 2 separate levies under section 74 of the Local Government Finance Act 1988 in respect of the costs of the MCA's transport functions, namely one levy in relation to the area of Northumberland County Council and one levy in relation to the areas of Newcastle City Council and North Tyneside Council.

11.3 All property, rights and liabilities transferred to NECA by Article 6 of the NECA Order on the abolition of the Tyne and Wear Integrated Transport Authority (and any other such property, rights and liabilities which have accrued to NECA since that date in connection with its transport functions) will be held jointly by NECA and the MCA, and will be their joint responsibility. For the avoidance of doubt, the Tyne Tunnels (consisting of the vehicular, cycle and pedestrian tunnels and associated landholdings) will be transferred from the ownership of NECA into the joint ownership of NECA and the MCA. The management of the Tyne Tunnels will be undertaken through the Transport Joint Committee described below.

11.4 The Tyne and Wear Passenger Transport Executive ("Nexus") is the passenger transport executive for NECA for the purposes of the Transport Act 1968 and an Executive Body of NECA for the purposes of Part 5 of the Local Transport Act 2008 and Part 6 of the Local Democracy, Economic Development and Construction Act 2009. Nexus will continue in these roles but should in addition also be the passenger transport executive and an executive body of the MCA.

- 11.5 Nexus will be treated as if it is an officer of the MCA in the application of Section 101 of the Local Government Act 1972.
- 11.6 It is proposed that the MCA is to become a Constituent Authority of Transport for the North ("TfN") and that the proposed regulations which are to be made under the Local Transport Act 2008 to create TfN as a Sub-National Transport Body for the North of England will be amended accordingly.
- 11.7 Given that transport functions of NECA and the MCA are to be exercised by way of the Transport Joint Committee described below, it is not proposed that the Mayor should be able to exercise the bus franchising powers in the Bus Services Act 2017 which are otherwise exercisable by elected mayors of combined authorities. For these purposes only, the MCA is to be subject to the legislative requirements and processes applicable to non-mayoral combined authorities.
- 11.8 All functions and responsibilities referred to in this Section 11 will be exercisable only by the Transport Joint Committee described below. The property rights and liabilities referred to in paragraph 11.3 will also be managed through the Transport Joint Committee.

### **Transport Joint Committee**

- 11.9 On the amendment of the current boundaries of NECA and the establishment of the MCA, it is proposed that a new Transport Joint Committee ("TJC") will be established by order between NECA and the MCA, and NECA and the MCA will be obliged to discharge all their transport functions described above through the TJC.
- 11.10 The TJC will therefore effectively replicate the decision-making arrangements currently in place within NECA and so ensure that strategic and operational transport responsibilities continue to be closely integrated across the wider North East region. The creation of the TJC will enable and support continuing partnership working on a regional footprint and maintain the status quo in terms of the provision of transport across the Tyne and Wear transport area, particularly in relation to the provision of the Tyne and Wear metro, bus services and the Shields Ferry. In particular, the TJC will maintain the existing approach to transport levies across the current NECA region. The TJC will therefore be responsible for determining:
- a. the transport levy which NECA is to issue to Durham County Council;
  - b. the transport levy which NECA is to issue to Gateshead Council, South Tyneside Council and Sunderland City Council;
  - c. the transport levy which the MCA is to issue to Newcastle City Council and North Tyneside Council; and
  - d. the transport levy which the MCA is to issue to Northumberland County Council.

For the avoidance of doubt, the levies set out at (b) and (c) are to be calculated on the same basis for the whole of the former Tyne and Wear area.

- 11.11 The TJC will have the power to delegate operational transport functions to Durham County Council and Northumberland County Council in relation to their respective areas (as currently exists within NECA) and will have the power to establish Sub-Committees as it considers appropriate for the effective discharge of the transport functions and responsibilities. The TJC will also have the power to delegate to an officer of (i) NECA, (ii) the MCA or (iii) one of their constituent authorities the discharge of its functions.

- 11.12 The TJC's functions will include the responsibilities currently held by NECA for the funding, management, oversight and direction of the transport functions discharged by Nexus.
- 11.13 The TJC will comprise seven members ("TJC Members"). NECA will appoint four TJC Members.
- 11.14 The MCA will appoint three TJC Members. The Mayor of the MCA will be one of these TJC Members unless the Mayor agrees otherwise. The remaining two TJC Members will be appointed by the MCA from the MCA Constituent Authority Members in accordance with the MCA's Constitution. If the Mayor chooses not to be a TJC Member, the MCA will appoint as its TJC Members three of the MCA Constituent Authority Members.
- 11.15 NECA and the MCA is to appoint a substitute member ("Substitute TJC Member") in respect of each of their TJC Members to act in the absence of that TJC Member. A Substitute Member will have the same decision-making authority and voting rights as the person whose place they are taking and references to a TJC Member are to include a TJC Substitute Member acting in that capacity.
- 11.16 No business of the TJC will be transacted at a meeting unless at least one TJC Member appointed by NECA and one TJC Member appointed by the MCA are present.
- 11.17 The TJC will aim to reach decisions by consensus but, subject to paragraph 4.18 below, any matter that comes before the TJC will be decided by way of a simple majority of the members present and voting (whether a motion or an amendment), unless the vote is tied in which case the matter will be deemed not to have been carried. Each Member of the TJC will have one vote and no TJC Member will have a second or casting vote.
- 11.18 Decisions relating to the following matters will require a unanimous vote in favour by all 7 voting Members of the TJC to be carried:
- adoption of, and any amendment to or withdrawal of, the Local Transport Plan or Strategy;
  - approval of, and any amendment to or withdrawal of; the transport budget;
  - setting of transport levies;
  - allocation of Local Transport Plan funding to an individual authority and Nexus, and the approval of all other capital and revenue matters relating to the transport budget;
  - delegation by the Joint Committee of any of its functions to (i) NECA, (ii) the MCA (iii) one of their constituent authorities, or (iv) an officer of one of these bodies
- 11.19 Joint arrangements between NECA and the MCA will be established to provide for the scrutiny and audit of the responsibilities of the TJC. The joint arrangements will provide for an Overview and Scrutiny Committee and an Audit Committee comprising elected Members from the constituent authorities of both NECA and the MCA.