

From: Paul Carter, Leader of the Council
David Cockburn, Corporate Director for Strategic & Corporate Services and Head of Paid Service

To: County Council – 14 July 2016

Subject: **Devolution Position Statement**

Classification: Unrestricted

Summary: The paper sets out the position of Kent County Council to the current devolution agenda. It outlines the policy and legislative background; the deal-making approach to devolution taken by the Government; KCC's response and concerns regarding this approach; the progress being made in preparing a devolution bid for Kent and Medway; the impact of the EU-referendum result, and the ongoing joint work across sub-county partnership in East, West and North Kent around enhanced two-tier working and devolution within Kent.

Recommendations:

County Council is asked to:

- a) NOTE the background and context to the national devolution agenda, including the impact of the Cities and Local Government Devolution Act 2016
- b) NOTE the position taken by Kent Leaders not to currently submit a devolution bid to the Government given the impact of the EU referendum result
- c) NOTE the ongoing work with partners across East, West and North Kent on devolution and better two-tier working at sub-county level
- d) NOTE the ongoing work stream to formalise the sub-county devolution work with West Kent District Councils through a joint committee under the Local Government Act 1972.

1. EXECUTIVE SUMMARY:

1.1 Kent County Council has long been an advocate of the devolution of functions and powers held by the central government to democratically elected local councils. High-performing local authorities, such as KCC, have a track record in delivering innovation and efficiency in local services and are best placed to understand the needs of local residents. After six years of financial austerity, local government has proved its capability and readiness for devolution.

1.2 Devolution offers the opportunity for further financial savings to the Treasury, but also to redesign how public services are delivered in local areas. It can both improve the quality of service and value for money we deliver to our residents and secure financial sustainability as we prepare for a full business rate retention funding model. The opportunity for Kent &

Medway is even greater given we have a population base and economy larger than many UK city-regions; are a clearly defined functional economic area, and our public services are coterminous within the historic county boundary.

1.3 Whilst there are a number of significant issues with the approach taken by Government to delivering devolution in England, by far the most significant are its policy to transpose a new, and largely untested and untried, governance model of a Combined Authority and directly elected Mayor on top of existing local government structures. This might be appropriate for metropolitan areas with unitary councils with similar sized budget and functions, but it is not appropriate in two-tier areas where each of the tiers provides very different functions, and county councils already provide the strategic tier of governance and service delivery. This issue presents a fundamental barrier to many counties, including Kent, agreeing on a devolution deal, as currently proposed by the Government.

1.4 To date, KCC has charted a deliberately cautious and careful approach to the devolution agenda, mindful of both the opportunities and risks involved. We are committed to working with our partners in District Councils to develop a devolution proposal to Government which is ambitious without the need for additional bureaucracy. We have made significant progress with West Kent Districts regarding enhanced joint working, co-commissioning and devolution of decision-making across a range of services, and are keen to make further progress with North Kent and East Kent Councils.

1.5 However, the Government's focus on organisational structures and boundaries has included Ministers suggesting that local government reorganisation may be an alternative to a Mayoral Combined Authority in securing a devolution deal. Such mixed messages from Government have promoted division in many counties at the expense of co-operation, and risks fragmenting and disrupting the delivery of countywide services at a time when the financial challenges on all councils are severe.

1.6 KCC has a track record of defending the two-tier model that has served Kent well. It is absolutely vital that we do not throw away a governance model that works for a devolution deal that, in practical terms, may have limited value and benefit for the residents of Kent. Post the EU referendum result, the Prime Minister's resignation, the formation of a new Government with different Ministers, and a likely focus in Whitehall on Brexit negotiations in the medium-term, this all means the future direction devolution agenda is now uncertain.

2. BACKGROUND & CONTEXT

Devolution developments before the General Election 2015

2.1 KCC has instinctively always advocated devolution to local government. In the Local Government Association's (LGAs) report – 'Closer to People and Places' (2006) the late former Leader of KCC Sir Sandy Bruce-Lockhart wrote – "*Central government must learn to give up the ingrained habits of decades. It must shift the balance of power and policy-making to locally based government; so that such power can be exercised with and for local people. The time is right, not for small steps, but for bold and radical reform*".

2.2 This argument was further promoted in 'Bold Steps for Radical Reform' (2010), which proposed "*a new bi-lateral contract between central and local government*" and the devolution of spatial planning, transport, infrastructure, economic development and skills to sub-national government based on city regions and historic county/shire boundaries – "*cities*

and counties, districts and boroughs, towns and parishes (clustered together and working with their city/county where appropriate) would all be empowered, driving decision-making much closer to the resident”.

2.3 The current devolution agenda can track its fundamental characteristics back through previous Governments attempts to rebalance the economy and increase economic growth at a regional and sub-regional level. The last Labour Government attempted this through Regional Development Agencies and Regional Assemblies. The Coalition Government focussed on the development of Local Enterprise Partnerships (LEPs) and agreeing City Deals to promote economic growth, given the evidence that many UK cities underperform relative to their international peers.

2.4 The most significant and important ‘deal’ was with the ten metropolitan boroughs that make up Greater Manchester city-region. Greater Manchester Leaders signed the first ‘devolution deal’ in November 2014 in return for forming a Combined Authority with a directly elected ‘metro’ Mayor. The deal was held up by the Government as a model of how devolution could work, and formed the basis of the Chancellors strategy for creating a Northern Powerhouse to drive economic growth, and further city-region devolution deals with Sheffield (December 2014) and Leeds (March 2015) were agreed before the General Election 2015, with a subsequent flurry of further devolution deals signed after the election in the run up to the Spending Review in November 2015 (signed devolution deals are set out in Appendix A).

2.5 Promoting economic development and growth is at the core of the city-region devolution deals agreed on either side of the 2015 General Election. In summary, the core of each devolution deals is focussed around:

- a 30-year infrastructure fund – £30m per year for 30 years – only guaranteed for first 5 years
- an education, training, skills and employment commitment e.g. Chair of Area review of Further Education
- an agreement on transport e.g. bus franchising
- a land and planning package – including sub-regional spatial planning framework
- agreement to create a Mayoral Combined Authority – only Cornwall is the exception
- increased housing numbers beyond existing Local Plans, emphasis on Starter Homes
- in some deals, intermediate body status for EU funding
- where service boundaries align to the Combined Authority – transfer of PCC and Fire Authority powers to the Mayor.

2.6 It is important to remember that it is a precondition of most of the devolution deals to create new governance structures, with the current deals not fully implemented until the creation of directly elected Mayors for the Combined Authorities in May 2017. As such, there are four fundamental characteristics of the Governments devolution policy:

- volunteerism, in that local areas are not forced to engage in devolution discussions
- a primary focus on cities and city-regions, and ensuring that city-region growth is not unbounded by administrative boundaries
- devolution as a formally structured ‘deal’ through negotiations with Ministers and Civil Servants

- new governance to deliver devolution, preferably in the form of Mayoral Combined Authority.

2.7 The Conservative General Election Manifesto subsequently promised to place the Greater Manchester deal on a statutory footing, formally creating a 'metro Mayor' and deliver an expanded version of the 'City Deals' to be renamed 'Growth Deals' for all local councils.

Devolution developments post General Election 2015

2.8 Following the General Election in May 2015 and the Summer Budget in July the Government re-emphasised the importance of both Cities and Directly Elected Mayors to the Treasury's plans for devolution - *"The government has therefore been clear that devolution of significant powers will rest on cities agreeing to rationalise governance and put in place a mayor to inspire confidence"*. Announcing the Spending Review on 21 July 2015, the Treasury said that enhanced devolution deals would be subject to a defined timetable, and confirmed they would be conditional – *"City regions that want to agree a devolution deal in return for a mayor by the Spending Review will need to submit formal, fiscally neutral proposals and an agreed geography to the Treasury by 4 September 2015"*. This 'deadline' left very little time for areas to develop and agree proposals.

2.9 Kent Leaders considered the Governments proposal but there was no appetite for a directly-elected Mayor and no appetite for a Combined Authority. The position was complicated by the fact that Kent had submitted a compelling case for a Kent and Medway LEP which it was hoped might be a suitable devolution governance vehicle in its own right. In mid-August 2015, KCC received notification from Government that no LEP boundaries or arrangements would be changed. In late August 2015, KCC officers were lobbied by civil servants to submit a unilateral devolution proposal ahead of the 4th September deadline.

2.10 On balance, KCC chose not to submit a devolution proposal by the 4th September deadline for two reasons. First, there was no mandate for KCC to do so unilaterally. The position at Kent Leaders had been clearly against a Mayor and a Combined Authority, and the Government's stated position had been that only those areas willing to accept a Mayor and Combined Authority should submit proposals. There was very limited time left in which to prepare a proposal and almost no time for any proposal to be considered by all fourteen Leaders in Kent and Medway. To have submitted unilaterally would have caused significant damage to our relationship with District Councils. Second, KCC had been pressurised by Government into rushed arrangements to create a South East England Local Enterprise Partnership (SELEP) with Essex and East Sussex in 2010 against our collectively agreed proposal for a Kent and Medway LEP. SELEP, whilst ambitious, has clearly not worked as intended, and being forced into a rushed unilateral devolution proposal by Government felt like a re-run of the rushed decision to create SELEP.

2.11 Thirty-eight devolution bids were submitted by 4 September 2015, although a number of these included overlapping bids from different councils covering the same geographic area. The vast majority of proposals either rejected the concept of a directly elected Mayor or parked the governance question as a matter to be considered in negotiations with Ministers at a later date. The number of proposals submitted came as something of a surprise to the Government, however the more substantive outcome was for the Government to tell a number of areas, in particular, Derbyshire and Nottinghamshire and

Norfolk and Suffolk that their single county submissions were too 'small' and that combined county devolution proposals with neighbouring counties should be developed.

3. THE CITIES AND LOCAL GOVERNMENT DEVOLUTION ACT 2016

3.1 As noted earlier, the Cities and Local Government Devolution Act (originally titled The Cities Devolution Bill) received royal assent in January 2016 and provides the legislative basis for the current devolution agenda. It amends the Local Government, Economic Development and Construction Act 2007 which allowed for the creation of Combined Authorities, and provides the statutory basis for the creation of directly-elected Mayors for Combined Authorities. Importantly, it did not amend the complicated legislative hurdles (including a formal governance review, public consultation, formal consent and laying necessary Orders in Parliament) that areas must go through in order to create a Combined Authority or a Mayoral Combined Authority.

3.2 Throughout its passage the Bill grew in scope as the potential powers and functions of a Mayoral Combined Authority were extended in line with the growing scope of devolution being offered to Greater Manchester, in particular the agreement that Greater Manchester would have health devolved to it to create a £6billion integrated health and social care budget. A detailed summary of the Act is set out in Appendix A, but it broadly it covers five areas:

- Combined Authorities and Directly Elected Mayors
- Mayors and devolved policing powers
- Health devolution
- Local government reorganisation
- Sub-national Transport Bodies (STBs).

3.3 Critically, during the final stages of the Bill's passage through the House of Commons, the Government inserted amendments which radically altered the meaning of the several key clauses. Initially, the Bill required principal councils in two-tier areas (i.e. both County Councils and District Councils) to operate by consensus, in that neither a county council nor a district council could seek to create or join a Combined Authority without the others consent.

3.4 The last-minute Government amendments at Third Reading and Report Stage removed the principle of consensus, and instead permitted District Councils to either join a Combined Authority outside their county boundary without the consent of their County Council or create a Combined Authority for their area without the County Council. It also included discretionary powers for the Secretary of State to transfer functions, including budgets, commissioning and decision-making powers, over economic development and transport from a County Council to either a Mayor or a Combined Authority. The amendments also removed the right of a veto from a County Council if a District Council wished to pursue unitary status (and vice versa), and gave the Secretary of State a new 'fast-track' route through he can agree on local government reorganisation if proposals were submitted before 2019.

3.5 The rationale for the amendments was to support some District Councils, notably those in Derbyshire and Nottinghamshire, which bordered the Sheffield City Region and wished to join its Combined Authority given their strong association with the city through travel to work and learn patterns. Whilst the Secretary of State committed that the powers

would be used in extremis, significant concern was expressed by the County Councils Network (CCN) that the new clauses would open discussions about local government reorganisation and that as agreed, they presented a threat to integrity of historic county boundaries and the delivery of countywide strategic services.

4. THE IMPACT OF THE CITIES AND LOCAL GOVERNMENT DEVOLUTION ACT

Local Government Reorganisation

4.1 Almost immediately the amendments to the Act did open up consideration around local government reorganisation in a number of two-tier areas that would have been unthinkable before the legislation, especially given the Coalition Government's previous position that all structural reorganisation was 'off the table'. Moreover, the Government's instance that all devolution bids, including those preferring reorganisation to a Mayoral Combined Authority, should be bottom-up, with no central guidance on what is or wasn't acceptable, gave the impression that anything is possible, irrespective of financial viability and service sustainability.

4.2 Across the country a number of District Councils immediately explored the new unitary option. In **Kent**, East Kent District Councils at the beginning of 2016 circulated a scoping paper exploring the option of three unitary councils across Kent, with a pan-Kent combined authority sitting above them. This proposal was quickly rejected by KCC and other District Councils in Kent, and to their credit, East Kent Leaders listened and quickly removed the proposals in favour of exploring other options for devolution and collaboration. However, this mature approach in Kent has not been replicated elsewhere:

- In **Oxfordshire**, although Oxfordshire District councils have now abandoned a proposal to form four unitary councils working across county boundaries with councils in Gloucestershire and Northamptonshire, they are continuing to look at options for reform. These include a single, county-wide unitary, a 'doughnut' option of one unitary covering the Oxford City area and one covering the rest of the county, and three unitary councils.
- In **Hampshire**, there is a devolution bid for the councils that make up the Solent area - Portsmouth and Southampton city councils, Isle of Wight Council, Eastleigh, Fareham, Gosport, Havant Borough Councils, and East Hampshire District Council to form a Combined Authority and break away from the Hampshire County Council area. The County Council wishes to pursue a single county unitary solution.
- There are also similar issues in **Buckinghamshire**. Four Districts (Chiltern, South Bucks, Aylesbury Vale, and Wycombe) have rejected a proposal from Buckinghamshire County Council for a single unitary authority. Districts have decided to commission an independent review looking at governance structures in Buckinghamshire. Buckinghamshire County Council has already commissioned its own review.

4.3 These issues have led the House of Lords 'Select Committee on the Constitution' to state in their recent report *'The Union and Devolution'* that *"there appears to be a lack of consideration given to how [devolution deals] might affect the overall governance of England in the longer term"*, and that there is *"no clear vision in government of where the process might lead"*. Professor Tony Travers, Director of the London School of Economics and prominent expert and commentator on local government, has joined the Leader of Hampshire County Council and the Leader of Kent County Council in calling for a

commission on local government, stating that *“Some council Leaders are now arguing for the government to set up a review or commission to avoid the emergence of a random patchwork of sub-national government in England. They are surely correct”*.

County deals announced in the Budget 2016

4.4 Whilst it is important to recognise that the Act created significant tension and difficulty and tensions for many two-tier areas, some were able to progress devolution negotiations with Government despite it. Three further devolution deals were announced in Budget 2016 - East Anglia, Greater Lincolnshire and the West of England (which strongly aligns to the old Avon County Council area). Upon agreeing the devolution deal, all the areas accepted a Mayoral Combined Authority model as the governance arrangement for delivering deals, although it is interesting to note that a number of them entered those negotiations arguing against the Mayoral model.

4.5 However, the deals ran into difficulties quite rapidly. The East Anglia deal had brought together at the behest of Ministers Norfolk and Suffolk, but also at the last minute Cambridgeshire and Peterborough. After signing the deal, Cambridgeshire County Council rejected it on the grounds that the deal wasn't good enough, and Cambridge City Council refused to sign the deal as they felt it contradicted key components of their original City Deal. The West of England devolution deal has seen North Somerset Council vote against it.

4.6 In response, the Government has agreed to split the East Anglia 'deal' into two deals, one for Cambridgeshire and Peterborough, and one for Norfolk and Suffolk. However, it is uncertain whether these deals will now go forward in time to allow Mayoral elections in May 2017. Some councils in Suffolk and Norfolk remain concerned about the nature of the devolution deal offered, it is not clear who the Secretary of State might be to agree the deals by the legislative deadline in October, and it is unclear whether the parliamentary timetable will be able to accommodate votes on the necessary legislative orders.

5. CONCERNS WITH THE CURRENT APPROACH:

5.1 Despite the latest countywide devolution deals announced in the Budget 2016, there remain fundamental concerns with the approach and scope of devolution deals to date around the following:

- **The content and scope of devolution deals:** concerns have been expressed regarding the content and scope of devolution deals as initial deal proposals are very limited. For example, there is little fiscal devolution in deals. Despite the rhetoric of £900m infrastructure fund over 30 years, this only equates to £30m infrastructure funding per year and is only guaranteed for 5 years (as no Parliament or Government can bind its successor). In practice, the infrastructure fund is negotiated at the very final stages with the Treasury and is the mechanism that maintains their control over the deal-making process. Despite the rhetoric that deals are 'bespoke' to a local area's needs, increasingly deals are largely standardised and uniform, using a Treasury standard template, which raises the question about why deal negotiations of such length and complexity are actually needed. The focus on economic development and growth, including housing, planning and infrastructure has excluded other public services, such as health and social care integration, welfare reform and criminal justice from being included in most deals. This limits any deals ability to drive the public service reform

necessary to making services more effective, resilient and financially sustainable at a local level.

- **The focus on cities and city-regions:** As stated earlier, there has been clear policy preference towards cities and city-regions at the expense of non-metropolitan areas, with a preference for ensuring city growth at the expense of historic county boundaries, treating many county areas as hinterland which may be given up to unbound city geography for further development and economic growth. For example, a focus on a Greater Brighton which has been promoted by Government could conceivably see the break-up of the historic West and East Sussex County area. More fundamentally, it undermines existing governance and services delivered by County Councils and weakens coterminosity which is the building block for effective public service reform.
- **The focus on Mayors:** The push for Mayoral model of governance through devolution is not surprising. During the Coalition Government referendums on local authority directly elected Mayors that were held in eleven cities in May 2012, all but one area (Bristol) said no. Some have questioned whether Mayoral Combined Authorities are a mechanism to bring in Mayors by the 'back door' as referendums are not required for the creation of Mayoral Combined Authorities. Certainly, the preference for Mayors is clear, with the Government increasingly differentiating between what powers can be devolved to a Mayor over other governance arrangements such as Council Leaders and Cabinets. For the Government to continue to link the option of increasing business rates (once devolved) and the obtaining bus franchising powers to having a directly-elected Mayor. However, there are many reasons why the Mayoral Combined Authority approach does not transpose well into county areas. In cities and city-regions, many of whom lost their strategic tier of governance when Metropolitan County Councils were abolished in the 1980s, Mayoral Combined Authorities are putting back a tier of strategic governance and service delivery that is not in place. In two-tier areas that strategic tier of governance is already delivered by County Councils, and imposing a Mayoral Combined Authority above County Councils would duplicate their role and add a further layer of unnecessary governance (with potentially five levels in two-tier areas - a Directly Elected Mayor, Combined Authority, County Council / Unitary Authority, District/Borough Councils, Town and Parish Councils).
- **Public engagement:** The nature of the devolution deal negotiations means they are a confidential discussion between local council leaders, officers, civil servants and Ministers. There is no directly public involvement or engagement before signing a devolution deal, and although technically there is a requirement in legislation for local areas to consult local residents to create a Mayoral Combined Authority, the Secretary of State must only have 'regard' to that consultation, and can choose to ignore the finding if local councils continue to support the deal. This despite deals potentially leading to the reorganisation of council structures, changing service delivery arrangements and creating additional council tax precepting arrangements. The House of Lords Select Committee on the Constitution has highlighted that not enough has been done with regard public engagement of the 'devolution deals' that have been signed, concluding that *"There should be a requirement for informing and engaging local citizens and civil society in areas bidding for and negotiating 'devolution deals'"*.

6. THE POSITION IN KENT:

6.1 The position taken by Kent Council Leaders, namely that there was little appetite for either a directly elected Mayor or a Combined Authority, places greater emphasis on the need for Kent authorities to collectively show existing two-tier arrangements can work as well, in terms of the improvement in delivery of services at lower cost, as alternative governance arrangements such as combined authorities or unitary councils. This has been critical to the devolution debate in Kent and the position taken by the County Council.

Developing a Draft Kent and Medway Devolution Bid:

6.2 Recognising the importance that any devolution bid from Kent and Medway would be stronger and more persuasive if supported by all councils in Kent and Medway, the development of a draft devolution bid has been carefully focussed on ensuring that all partners could support and sign-up to all proposals.

6.3 At the core of the latest draft considered by Kent Leaders on the 27 June, are five key principles:

- 1) Kent and Medway is the right geography on which a devolution agreement should be based
- 2) Local leadership and decentralisation to Kent's districts and sub-county areas are integral to our proposals
- 3) We will work better together with Greater London and the rest of the South East, recognising our symbiotic economic relationship and the impact of and opportunities for growth
- 4) Our proposals are based on a clear analysis and understanding of the specific opportunities and challenges that Kent and Medway face
- 5) We take a pragmatic approach to governance, ensuring that the form of governance follows the practical functions that we seek to devolve or change.

6.4 The following proposals in the latest draft devolution bid were developed from discussions with various Kent Leaders and Kent Chief Executives meetings over recent months:

- Creation of Statutory Spatial Plan for Kent and Medway
- Establish a Housing, Planning and Infrastructure Commission, independently chaired and with Government participation
- A new strategic transport partnership for the South East and a Standing Conference on Growth in the South East
- Support for regulatory change to devolve the setting of planning fees to the Kent and Medway new deal on the use of the Local Growth Fund
- Establishment of a Greater Thames Estuary Infrastructure Finance Review
- Carry out a review of the case for bus franchising
- The potential for designation of a Key Route Network with the potential to share maintenance budgets with Highways England
- Secure more formal status for the Kent and Medway Skills Commission
- Seek devolution of commissioning powers over 16-19 funding
- Seek devolution of the Adult Skills Budget
- Devolution of any future Skills Capital funding

- Advanced Learner Loan facility is effectively marketed for qualifications where there is an economic demand
- Devolution of the funding for the Careers Enterprise Company
- Devolution of the Apprenticeship Grant for Employers
- Co-design the delivery of the new Work and Health Programme
- Consolidate our direct business finance schemes into a Kent and Medway Business Finance Programme
- Seek Government support for new Enterprise Zone designations where there is a clear sector focus and potential for high-value business growth.

6.5 At the Kent Leaders meeting on 17 May 2016, it had been agreed that we would seek to submit a bid to Government before the summer parliamentary recess in July 2016. However, at the Kent Leaders meeting on the 27 June 2016, there was unanimous agreement that now was not the appropriate time for Kent and Medway to submit a devolution bid to the Government.

6.6 Leaders were of the opinion that whilst a transfer of powers and freedoms from Central to Local Government was highly desirable and might eventually bring great benefits to local residents, the current pressures on Government, not least from the need to focus on EU exit negotiations, means that devolution is unlikely to be a priority for it in the short-term. Kent Councils are wholly focussed on the delivery of good services to the communities they serve and feel strongly that reorganising local government at this time could be a significant distraction, particularly if resources and support from Government were limited. Kent Council Leaders believe that many of the services they provide can be delivered smarter, and more efficiently, within the existing local government framework. The question of whether to submit a devolution bid from Kent and Medway will be reconsidered by Kent Leaders once the Government's position becomes clearer.

Emerging sub-county devolution arrangements:

6.7 At the same time work has been ongoing on the development of a Kent and Medway devolution bid, work has been ongoing within the three sub-county partnerships in Kent, about improved joint working and devolution arrangements between the council within Kent, including what might be devolved, decentralised or co-commissioned. As well as potentially moving service downwards to be delivered more locally, it is clear that this can and will involve moving some services upwards to be delivered or commissioned on a bigger spatial scale.

6.8 These sub-county discussions are not dependent on the devolution of powers from central government and indeed, it is felt that this work can and should now continue apace. At the moment, each of the sub-county partnerships is at different stages, as set out below.

6.9 **West Kent** (Tonbridge and Malling, Tunbridge Wells and Sevenoaks): West Kent councils have been keen to work with KCC to improve outcomes and use of resources whilst maintaining the sovereignty of the individual councils. The four Leaders first met on 4 January 2016, at which point they identified a number of potential work streams which they tasked the Chief Executives of the three Districts plus the Director of Growth, Environment and Transport (Barbara Cooper) to take forward and examine opportunities for devolution, co-commissioning and joint-working. The workstreams are:

- Highways & Street scene, including soft landscaping
- Housing-related support & Supporting Independence

- Public Health preventative services
- Economic Development
- Community Safety
- Sports Development
- Property & Assets.

6.10 Significant work and progress has been made on these work streams by officers of all four authorities and is ongoing. Much of this has been learning about the detailed commissioning and contract delivery arrangements and timetable for services and how this impacts on opportunities for devolution and co-commissioning. However, in order to allow full opportunities to be considered, KCC has undertaken to postpone, where possible, any tendering, commissioning, or contract letting whilst opportunities are identified.

6.11 The work is currently being overseen by a shadow board of Leaders provisionally named the West Kent Integration Board, but it is agreed that a formal Joint Committee (created under Local Government Act 1972) comprising the three West Kent Districts and Kent County Council should be established in the future. Further work is needed to specify what responsibilities of the Joint Committee would be (indeed this is being taken forward as a joint work stream of all four authorities in its own right) and the creation of any joint committee would have to be authorised via each authority's democratic processes. However, we envisage the role of the joint committee being to:

- Develop an agreed strategy for the future of local government service delivery in West Kent, including wider public sector services
- Performance monitor the providers of existing services under its remit within West Kent (whether those services are provided either in-house or are provided externally)
- Commission the services and functions within the Joint Committee's remit, including approving business, commissioning and procurement plans as necessary
- Identify opportunities for further integration of public services within West Kent

6.12 **East Kent** (Canterbury, Thanet, Shepway, Dover and Ashford): East Kent Council Leaders have been taking part in a series of discussions about options for closer collaboration between the five East Kent district councils. This work is in response to the Government's devolution agenda, financial challenges facing local government and the opportunity to drive improvements and growth. These discussions are in the very early stages and have led to a consensus to explore the potential benefits and savings that could be achieved through the merger of the five East Kent district councils into a single district authority. At this stage, East Kent Leaders are seeking approval for a 'statement of intent' which then allows the councils to start exploring the options, through a business case evaluation. Any proposal to merge District Councils is a matter for the District Councils themselves. There is agreement that KCC will be fully engaged by any consultants appointed by the East Kent Districts to develop the business case evaluation. Concurrent to this proposal, East Kent Leaders have opened discussions with KCC about which services might be devolved or commissioned differently in East Kent along the same lines as the emerging West Kent arrangements.

6.13 **North Kent** (Dartford, Gravesham, Maidstone, Swale, and Medway Council): Over recent months North Kent authorities have been engaged in discussions about their own priorities for devolution and the development of a North Kent offer. As such, they commissioned KPMG to support them in developing a North Kent prospectus, which has been iteratively developed and shared with KCC. There was significant and strong

alignment between the proposals in the North Kent prospectus and the proposals that were emerging for the Kent and Medway devolution bid, and had the Kent and Medway devolution bid proceeded, the offer from North Kent would have played a significant part in any final document. North Kent Leaders are also keen to begin discussions on which services might be devolved or commissioned differently.

7. RECOMMENDATIONS:

7.1 County Council is asked to:

- a) NOTE the background and context to the national devolution agenda, including the impact of the Cities and Local Government Devolution Act 2016
- b) NOTE the position taken by Kent Leaders not to currently submit a devolution bid to the Government given the impact of the EU referendum result
- c) NOTE the ongoing work with partners across East, West and North Kent on devolution and better two-tier working at sub-county level
- d) NOTE the ongoing work stream to formalise the sub-county devolution work with West Kent District Councils through a joint committee under the Local Government Act 1972.

BACKGROUND DOCUMENTS: NONE

APPENDICES:

- Appendix A – Map of signed devolution deals in England
- Appendix B - Cities and Local Government Devolution Act 2016 Summary

REPORT AUTHORS:

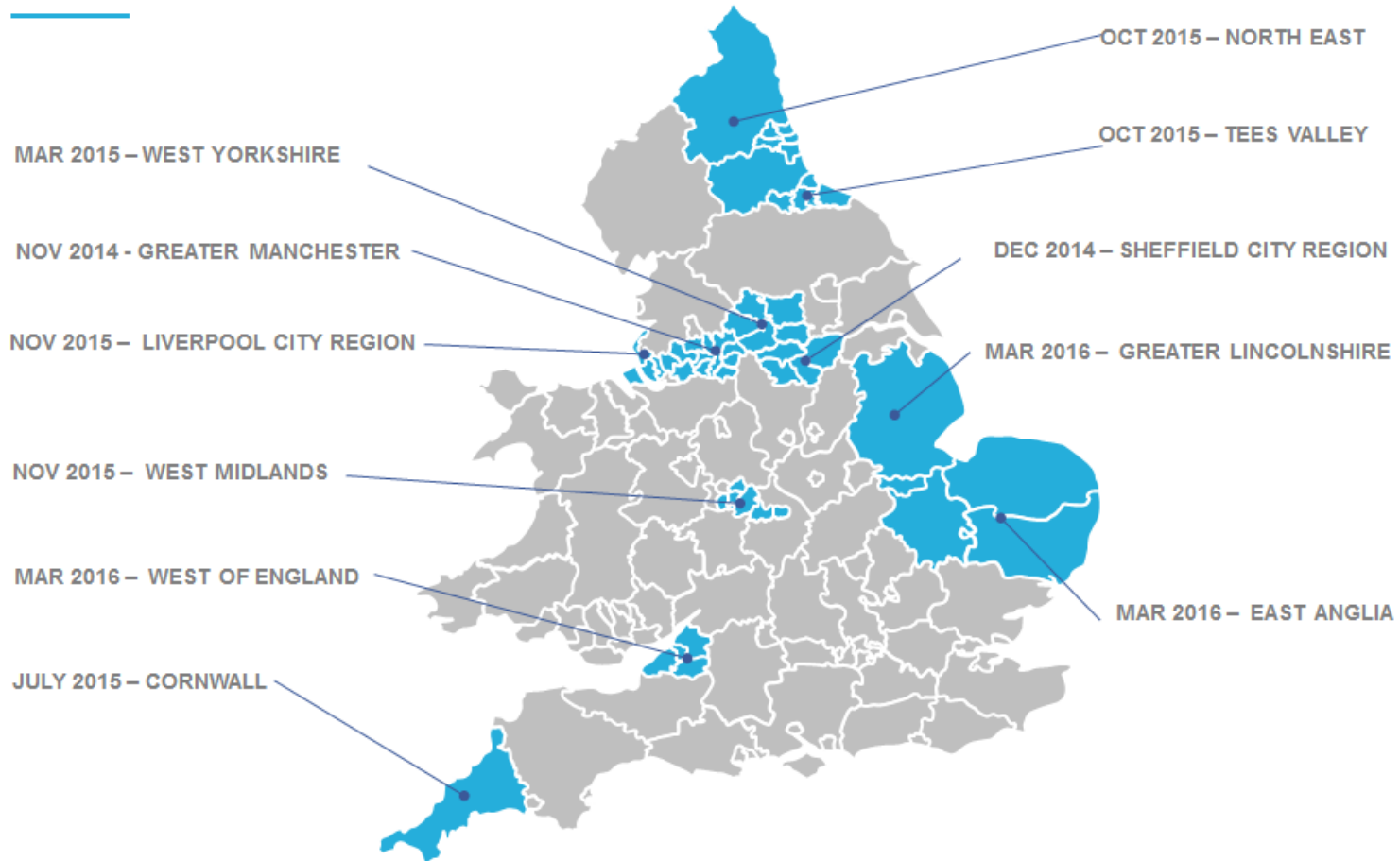
David Whittle
Director of Strategy, Policy, Relationships and Corporate Assurance
david.whittle@kent.gov.uk

Edward Thomas
Policy Adviser - Strategy, Policy, Relationships and Corporate Assurance
edward.thomas@kent.gov.uk

Appendix A – Signed Devolution Deals

Devolution Deals

Date of deals first being agreed between local areas and central government



Appendix B - Cities and Local Government Devolution Act 2016 Summary

Mayoral Combined Authorities

- The Act gives the Secretary of State the power to allow a Combined Authority area to elect a Directly Elected Mayor, even if one or more constituent councils disagree, but at least two councils consent.
- Combined Authorities who adopt a Directly Elected Mayor, could gain a set of 'devolved' powers from central government. In support of this, the Act allows a Combined Authority to take on broader responsibilities, other than Economic Development, Regeneration and Transport.
- The Act also allows the Secretary of State to transfer public authority functions to a Combined Authority, and eventually a public body could be abolished completely. The Act prohibits regulatory functions exercisable by a 'public authority' being conferred on a Combined Authority, or local authority.
- Scrutiny and Audit: Combined Authorities will be required to establish Overview and Scrutiny Committees, and they will also be required to have an Audit Committee.

Directly Elected Mayors

- A 'Metro Mayor' would cover more than one local authority area. A 'Metro' Mayor is significantly different to a Local Authority Mayor, which generally only covers one local authority area like a Council Leader does. It is stated that a Directly Elected 'Metro' Mayor would be the ultimate decision maker within a Combined Authority. However, a Combined Authority would, in theory, have to agree to a Mayor exercising a function on behalf of a Combined Authority - which could curtail the permissive powers of a Directly Elected Mayor. Although in practice, due to the 'soft power;' of a Directly Elected Mayor, this is unlikely to happen.

Mayors & Policing

- The Secretary of State can also confer the powers of a Police and Crime Commissioner (PCC) for a Combined Authority area on a Directly Elected Mayor. In the future - a Mayor's powers could also extend to Fire & Rescue.
- A Mayor would be able to appoint a Deputy Mayor from within a Combined Authority, and delegate to them as a 'Deputy Mayor for Police and Crime'. But they would be restricted from carrying out particular PCC functions, such as issuing or varying a 'Police and Crime Plan'.

Health devolution

- Any future devolved health arrangements will have to continue to uphold the current statutory duties held by the Secretary of State, NHS England, and Clinical Commissioning Groups (CCGs).

- Combined Authorities and Local Authorities are added to the list of organisations which can exercise the functions of NHS England. However, arrangements for delegating the commissioning functions of NHS England must include a CCG.
- Additionally, the Minister for Community and Social Care, Alistair Burt, has said that *“although health service functions are capable of being devolved to local authorities and to groupings of local authorities, the main responsibility and overriding duty of the Secretary of State for the NHS is not affected by these arrangements and he remains accountable for them”*. As a result, the Secretary of State would be able to revoke health devolution deals without consent from councils.

Local government reorganisation

- The Act introduces the potential to alter existing local government structures. Councils on the periphery of a Combined Authority will be allowed the *“permission to request”* to join a Combined Authority with the consent only of the council concerned, an existing Combined Authority, and a Mayor. This could also include the transfer of associated powers.
- The Act potentially ushers in the ability of councils to become new unitary councils. The provision removes the right of a veto from a County Council if a District wishes to pursue unitary status. Conversely, a County Council would not need to ask permission from District Councils.

Sub-national Transport Bodies (STBs)

- A Sub-national Transport Body (STB) would be able to direct constituent authorities on the implementation of a ‘Transport Strategy’ across a pan-local government area. An STB could consist of a range of council groupings: two or more Combined Authorities, a Combined Authority and a unitary council, two or more Counties, or an Integrated Transport Area (ITA) and another authority – for example a Combined Authority or a County Council.