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**To:** Cabinet, 29 June 2023

**Subject:** Devolution Position Statement

**Classification:** Unrestricted

**Summary:** This paper seeks Cabinet support for KCC to work with strategic partners across Kent and Medway to submit an Expression of Interest to the Secretary of State to secure a devolution deal for Kent and Medway. It lays out the background to the devolution agenda from a national and local perspective and sets out why changes emerging from the Levelling Up White Paper and the Levelling Up and Regeneration Bill required KCC to reconsider its policy position on devolution.

**Recommendation(s):**

Cabinet is asked to:

- (1) Consider whether to develop and submit an Expression of Interest to Government to begin negotiations for a Kent and Medway devolution deal.

**1. Executive Summary:**

1.1 The Levelling Up and Regeneration Bill, currently in its final stages in Parliament, builds on the legislative framework so that all local areas can seek a devolution deal that would enable greater local control over a range of powers and funding currently held by central government, and builds on the Levelling Up White Paper published in 2022.

1.2 Kent County Council has been engaged in the devolution policy issue for many years, both through its direct relationship with Government, collectively via the County Council Network (CCN) and through debate and discussions with Medway Council and the Kent District and Borough Councils via Kent Leaders meeting and Joint Kent Chief Executives Group.

1.3 It has always been recognised that devolution to a geographically, economically, and politically diverse sub-region such as Kent and Medway does pose some considerable challenges. These challenges, particularly regarding the governance arrangements necessary to secure a devolution deal relative to the direct benefits a devolution deal may provide, have led political Leaders across Kent to take a wait and see approach to devolution, to be able to assess whether the resources, powers, and policy levers are substantive enough to support the Levelling Up agenda in Kent and Medway.

1.4 Whilst a cautious approach has been an appropriate policy position to date, especially whilst the Government's focus was primarily on devolution to city-regions, establishment of metro mayors and supporting the 'northern powerhouse', the Leader of the Council now considers it the right time to review the policy position on devolution and consider submitting an Expression of Interest to Government for a devolution deal.

1.5 The council's Strategic Statement, *Framing Kent's Future*, sets as its priority the ambition to 'Level Up Kent', aligning strongly to the aims and objectives set out by the Government in its Levelling Up White Paper. If the county is to achieve its strategic priorities, then it must seek all the available resources and powers on offer both today and in the future to achieve this, whilst also being mindful of the risk that those areas more advanced in the devolution agenda risk pulling away from Kent in terms of their economic competitiveness, attractiveness to inward investment and quality of life provided to Kent residents.

1.6 The purpose of this report is for Cabinet to consider whether now is the right time to develop an Expression of Interest (EOI) to Government, to open a dialogue for a devolution deal for Kent and Medway.

1.7 It is important to emphasise that this report is about gaining agreement to develop an Expression of Interest only. Any potential devolution deal offered by Government would require formal public consultation and formal decision making. If development and submission of an EOI is agreed, once it has been submitted to Government a process of negotiation taking approximately three to six months is anticipated to develop a formal devolution proposal for public consultation and consideration by partners.

1.8 Whilst there are provisions in the Levelling Up and Regeneration Bill to only require the top-tier local authorities to agree a devolution deal, which emphasises the importance of the working relationship with Medway Council as the other upper tier authority in Kent, the ambition for KCC will be to engage and seek the support of District and Borough Councils for any EOI, given their importance as key partners in the Levelling Up agenda for both their local communities and for Kent as a whole. Any agreed devolution deal covering the whole of the county area would benefit all Kent's Districts and Boroughs.

1.9 It is important to note that there is a clear distinction between the necessary governance changes needed to secure a devolution deal with Government, and the issue of local government reorganisation (the creation of single-tier, all-purpose, local councils in two-tier council areas). Devolution and local government reorganisation are distinct issues and are now considered as such by Government.

1.10 The policy position of the County Council on local government reorganisation remains unchanged. Whilst it is noted that unitary local government structures are the Government's preferred model for local government and would bring benefits in terms of cost savings and closer integration between planning and infrastructure decisions, it would risk impacting on the strategic scale and capacity that many KCC services, particularly social care and infrastructure services require to be sustainable and viable. The transition to unitary councils in Kent would be politically contested, expensive, unfunded, disruptive and potentially delay a devolution deal for Kent and Medway. It is critical that the issue of devolution and unitarisation considered

separately. For this reason, and as set out *Framing Kent's Future* the Council Business Plan, devolution is the opportunity the County Council is prioritising.

## **2. Introduction & Background**

2.1 Whilst the aim to improve regional and sub-regional economic growth has been a consistent national policy issue for successive Governments for many decades, using devolution as a policy mechanism to promote economic growth through a 'deal' led approach dates to 2012 with the 'City Region' agenda adopted by the coalition Government. The first phase of devolution deals had four key characteristics:

- Volunteerism, in that local areas are not forced to engage in or accept devolution deals.
- A primary focus on cities and city-regions, with a strong focus on areas largely covering the old Metropolitan County Council areas.
- Devolution as a legally structured 'deal' through negotiations with Ministers and Civil Servants.
- Creation of new governance structures to deliver and be formally accountable for devolved powers, the creation of which requires parliamentary approval through secondary legislation.

2.2 Central to the Government's policy was that to agree a devolution deal one of two options for deal governance had to be met. Either the area as whole (including all local authorities within the local area) accepted the introduction of a directly elected Metro-style Mayor and Mayoral Combined Authority alongside the existing local authority structures, which was the Government's preference. Or a devolution deal may be struck with newly created unitary local authorities as part of local government reorganisation. The Cities and Local Government Devolution Act 2016 subsequently set out further legislative provision for devolution through Metro Mayors and Mayoral Combined Authority and through local government reorganisation.

2.3 In debates inside Kent and nationally across shire counties, local political leaders raised concerns about the introduction of Metro Mayors and the Mayoral Combined Authority model in two-tier areas. Concerns were expressed about the suitability of directly elected Mayors in two tier areas, and the complexity of creating an added tier of local government in county areas which already consisted of county, unitary, district, and in many areas also parish councils.

2.4 Whilst some county areas have pro-actively explored and then implemented local government reorganisation (e.g., North Yorkshire, Cumbria, Dorset, Somerset) there was no significant appetite within Kent for local government reorganisation, and increasingly Government policy has moved towards separating the complex issues of devolution and local government reorganisation.

2.5 Recognising that the Metro Mayor and the Mayoral Combined Authority model was a significant obstacle for county areas to consider a devolution deal, the position that an MCA should be the default governance for any deal began to shift once the first phase of devolution deals to City Regions was complete. The Conservative manifesto for the 2017 General Election explicitly ruled out the development of MCAs for rural counties. The 2019 Conservative manifesto formalised a commitment for a White Paper on English Devolution which would contain a 'devolution framework'

setting out the powers available through various tiers of devolution deal to create more suitable options for county areas.

2.6 Understandably, the devolution agenda went through a hiatus during the Covid-19 pandemic, although it is also clear that the economic and social legacy of the Covid-19 has meant the need to successfully deliver the Levelling Up agenda, and a determined focus on dealing with economic and social disparities within and between local communities, has only become more important.

2.7 In July 2021, as the country emerged from the Covid-19 pandemic, the then Prime Minister Boris Johnson gave a speech committing the Government to creating 'County Deals', which was an explicit pivot from the devolution agenda being primarily focussed on cities and metropolitan areas. Although it is worth noting that the expectation was that the first phase of County Deals would be focussed on areas outside the South/South East of England which are perceived as having more pressing economic concerns.

2.8 Subsequently, the Government announced in February 2022 that County Deals would be negotiated with Cornwall; Derbyshire and Derby; Devon, Plymouth, and Torbay; Durham; Hull and East Yorkshire; Leicestershire; Norfolk; Nottinghamshire and Nottingham; and Suffolk. It is important to note that whilst County Deals with these areas have been agreed with Government and published, ongoing negotiations with Government and results of public consultation exercises have meant there are changes to both the substance of the deals agreed and potentially the governance arrangements for them with the requirement remaining that for a Level 3 deal, some form of directly elected Mayoral model is required.

### **3. The Levelling Up White Paper:**

3.1 The Levelling Up White Paper, published in February 2022, and the Levelling Up and Regeneration Bill currently being considered by Parliament which makes provisions for the implementation of many of the White Paper's proposals, provide the framework for the current devolution policy and the decisions that will be required by elected members about their appetite and willingness to secure a devolution deal. It is also worth noting that the delays that have prevented the Levelling Up and Regeneration Bill from completing its journey to the statute book have primarily related to the provisions on local planning and housing rather than those relating to devolution.

3.2 Cabinet considered the Levelling Up White Paper at its meeting on 3 March 2022. It is a significant policy paper with huge ambition for significant structural reform of central-local relations, national and local policy making and institutional arrangements. But specifically on the devolution agenda, the White Paper contained three policy changes that are directly pertinent to the Cabinet's consideration of whether to seek a devolution deal for Kent.

- a) **Devolution Framework:** Reproduced in Appendix 1, the White Paper contained the long-awaited devolution framework that had first been promised by the Government in 2019 which transparently links the powers available through a devolution deal with the new governance arrangements a local area is willing to accept. The framework sets out three 'levels' of devolution. Level 1

constitutes informal joint working between authorities, Level 2 is a single institution without an elected mayorality, and Level 3 is a single institution with a directly elected mayorality. The framework is explicitly clear that Level 3 bodies will be able to access the broadest range of powers. Underpinning the devolution framework was a commitment from Government that all areas that want a devolution deal could have one by 2030.

Powers available only in Level 3 deals include a consolidated transport budget; key route network of roads; brownfield funding; an investment fund; employment support programmes; Mayoral Development Corporations; Police and Crime Commissioner responsibilities; a public health duty on new Combined Authorities; and the power of new Combined Authorities to set a precept on council tax and a supplement on business rates. Bus franchising, the Adult Education Budget, compulsory purchase powers, a role in resilience, and planning of the UK Shared Prosperity Fund are available in both Level 2 and Level 3 deals. It is important to note that none of the powers set out in the Devolution Framework are new, and all had previously been included in one or more of the earlier devolution deals for City Regions.

- b) ***Directly Elected Leader (DEL) and Mayoral County Combined Authorities (MCCA)***: The White Paper sets out alternative forms of governance to achieve a devolution deal at Level 3 other than just a Metro-Mayor and Mayoral Combined Authority. These include a Directly Elected Leader (DEL) of a County Council (provision for which has existed since the Local Government Act 2001) and a Mayoral County Combined Authority (MCCA) which is an amended form of the Mayoral Combined Authority arrangement covering county areas where there are also neighbouring unitary local authorities. Critically, both models require the governance to set at either a “sensible functional economic area and/or a whole county geography”. There are some significant differences between an MCA and a CCA which are discussed in the commentary and analysis section below. Alongside this, the Government confirmed that devolution deal areas must have a population above 500,000.
- c) ***Trailblazer Devolution Deals***: The White Paper also committed to further ‘trailblazer’ devolution deals for Greater Manchester and the West Midlands that would act as a future blueprint for other areas to follow. These further deals were subsequently negotiated and announced in the Budget on 15 March 2023. This allows Greater Manchester and the West Midlands to deepen and strengthen their responsibilities for transport, skills, housing, net zero and retrofitting in their areas. However, perhaps the most significant aspect of the Trailblazer deals is the move towards greater fiscal devolution to the areas. To overcome the funding system that the Government acknowledges is “*fragmented, overly reliant on centrally administered funds and lacks clear, lean and proportionate accountability structures*” as part of the Trailblazer deals the government will move to a single funding settlement for the West Midlands and Greater Manchester MCA’s, which will see them treated similarly to Government Departments, receiving a single funding settlement covering a whole spending review period.

The intention is for this to reduce reporting requirements to Government Departments and give local leaders greater long-term certainty and flexibility to reallocate money in line with local needs and priorities. Although specific details of the funding available for the single allocation has not been provided, analysis by the Institute for Government suggest that had the single funding settlement arrangement been in place for 2022/23 then Greater Manchester MCA would have received £736m and the West Midlands £704m.

3.3 These three significant policy changes have fundamentally altered the devolution equation on which the 'wait and see' approach previously adopted by Kent's political leadership was agreed. As such, now is the right time for the devolution question to be reconsidered to assess these new opportunities.

#### **4. Analysis and Commentary:**

4.1 The *realpolitik* has been that devolution was initially focussed on City Regions, and latterly has been focussed on devolution to areas outside of the South/South East of England. Those decisions by central Government were beyond the council's control. The question that must now be considered is whether by engaging in devolution and submitting an EoI to Government, KCC would be in a better position to achieve its strategic priorities if it was to secure a devolution deal. In doing so, KCC must consider a number of key points:

- KCC's ability to act as a strategic authority, and in particular deliver Levelling Up and economic development ambitions for the county, is increasingly challenged by both the continued financial and demand led pressures on social care services, and the increasing shift of central Government to prioritise new funding streams and policy initiatives to areas with a devolution deal.
- That under the current Government, and most likely future governments, the Mayoral Model will be central to achieving a substantive devolution deal, and further devolution deals in later years.
- That the County Combined Authority model has been designed to specifically support non-metropolitan areas covering both county and neighbouring unitary councils achieve Level 3 devolution governance, and brings significant benefits compared to the Metro Mayor / MCA model. In practical terms, it is a viable devolution governance option for Kent and Medway. Whilst the Government is accepting proposals for Level 2 devolution deals it is prioritising its capacity and resources to negotiating devolution deals with those areas willing to consider Level 3 deals.
- That significant devolution deals, including fiscal devolution and the development of a strategic financial relationship with Government as set out in the recent Trailblazer devolution deals, risks creating a have/have not split in local government between those with devolved powers and funding at a scale, and those that do not have them. This risks permanently inhibiting Kent's capacity, capability and influence relative to other areas / authorities with devolution deals.
- The prioritisation of Level 3 deals by the Government, and the desire to introduce more Trailblazer deals for those areas who already have a deal in place, raises the stakes for those area not currently engaged in the devolution agenda, and risks

creating a two-tier policy and financial system between those local areas with devolution deals and those who do not.

### **Strengthening Kent's strategic capacity:**

4.2 Over recent years KCC has maintained a strategic relationship with Government over a range of policy issues, including border infrastructure, unaccompanied minors, asylum, and immigration, whilst also securing additional resources and responsibilities through schemes such as the Bus Services Improvement Partnership (BSIP) and pathfinder status for Family Hubs. However, the capacity of the County Council to act as strategic authority for Kent has been undoubtedly impacted by significant increase in demand for social care services across both adults and children, and the consequential and detrimental impact that this has had on the overall financial position. This issue is not exclusive to KCC and impacts many County Councils and upper tier authorities with social care statutory duties.

4.3 Yet, as set out in Priority 1 of *Framing Kent's Future* which sets a priority to Level Up Kent, if KCC is to achieve its leveling up objectives on issues such as economic development, highways, transport and skills then it is going to have find way of not only attracting additional resources into the county, but also ensuring that there is the capacity to deliver them. As such, there is significant attractiveness in the powers and resources available under Level 3 of the Devolution Framework published in the Levelling Up White Paper. The core of most Level 3 devolution deals published to date includes:

- A 30-year investment fund without Whitehall strings attached. Other devolution deals suggest that this could be worth £35-40 million a year to Kent and Medway
- Combining funds for transport and highways funding into a single pot and multi-year funding agreements - meaning better value for money and more ability to plan
- More powers over local transport, in particular bus and rail
- More powers over adult education and skills. The West Midlands has shown how local control can transform the local skills offer
- Devolution of other funding streams, powers in areas such as environment, work with government bodies such as Homes England to deliver regeneration.

4.4 Whilst what might appear to be an additional tier of local government would not be the starting point for governance for many two-tier areas, there is benefit in having a new local government structure which is not weighed down the inherent financial and service challenges of social care being able to solely focus on delivering Levelling Up ambitions and priorities. To deliver KCC's ambitions for the people of Kent set out in *Framing Kent's Future*, there simply must be more strategic capacity and resources available to meet both the demand-led challenges facing people-based services, at the same time as developing and delivering coherent place-based agenda focused on economic development, skills, infrastructure, and transport. Currently, the County Council is being required to trade off one priority against another due to financial constraints, when both people-based services and the place-based agenda are equally important to improving the quality of life for Kent residents. A new, separately funded Combined Authority is a means to provide the strategic capacity Kent requires.

4.5 There are also wider benefits from devolution beyond the initial devolution deal. Whilst the core of many devolution deals may be similar, almost all contain a wider set of asks and commitments, either in this the first or subsequent deals, to address specific local priorities and issues. A range of additional 'asks' in terms of funding and powers to deal with many of the unique challenges facing the county as the Gateway to Europe would undoubtedly be a critical part of any devolution deal for Kent and Medway. It is also undoubtedly the case that Whitehall is increasingly shaping its interactions with local areas on the assumption that devolved governance will be in place. Priority for new national programmes and funding streams is increasingly being given, in the first instance, to areas with devolution deals, in some cases, areas with devolved governance do not have to bid for specific Government funding but are given pro-rata allocations.

4.6 One of the biggest single benefits of devolved governance is the ability to strengthen the Kent and Medway voice with Ministers and national government. It is undoubtedly the case that the City-Regions have found from the Mayoral Combined Authority model is that they preferential and easier to access Ministers and civil servants, placing them in an enhanced position to lobby for both policy change and additional devolved powers and resources. All Metro-Mayors have successfully lobbied for, negotiated and agreed further devolution deals following the first, which are invariably quicker to agree and implement because the governance structure for devolution already exists. As such, once a devolution deal and governance is in place it inevitably builds momentum for further devolution.

#### **A Mayoral Model is necessary to secure a *significant* devolution deal:**

4.7 Whilst the devolution framework sets out a tiered approach, with the possibility for a devolution deal to be agreed without the need for a directly elected Mayor, there is a sharp political reality that there is a marked difference in the powers available between Levels 1 & 2 and Level 3 in the devolution framework. This makes the rationale for seeking a devolution deal at either Level 1 or 2 a comparatively high cost-low reward endeavour compared to seeking a deal at Level 3. This goes some way to explain the Government's practical application of the devolution framework, in that their stated position is to prioritise negotiating where areas are accepting Level 3 governance, with a directly elected Mayor of either of the County Council, a CCA or an MCA.

4.8 The embedding of the Mayoral model within local political governance is now widespread, with an increasing element of national cross-party acceptance of the Mayoral model and the benefits it brings. The Mayoral model in City Regions is increasingly a highly visible leadership role which goes beyond the remit of the devolved powers, also acting as a convener of local public services, providing a focus point for public service reform and integration and a strong voice for the local area at national level with Ministers. This point is acknowledged in the Levelling Up and Regeneration Bill, which mandates that where Mayoral authority boundaries align with those of an existing Police and Crime Commissioner (PCC) the role of the PCC will transfer to the mayor, with the Government's ambition that Mayors will take on greater role and responsibility for wider public services in their local areas.

4.9 This wider public service rationale for a devolution deal is significant when considering the devolution equation for Kent. Kent has both significant strategic advantages and challenges that would benefit from a more cohesive and integrated approach to public services. The Kent and Medway area is a recognised functional economic area, a distinct sub-region with historic civic identity, but most importantly, a sub-region within which most public services are delivered at, or within, the administrative boundaries of Kent and Medway. The alignment and coterminous nature of public services across Police, Fire, Health, FE and HE is a rare advantage compared to many other county areas and provides an opportunity through devolution for a stronger and more cohesive strategy, coordination, commissioning, and delivery of public services.

4.10 Moreover, it is self-evident that Kent and Medway have specific challenges not faced by other parts of the UK, given our position as the Gateway to Europe and the inherent challenge of being the primary point of entry to the UK for goods and people. Kent's needs should not be crowded out of discussion at national level merely for the lack of a Mayoral voice.

### **The MCCA model is a viable form devolution governance – but not the *preferred* model**

4.11 It should be stated up front that KCC does not consider that it should be necessary for new forms of governance to be created to secure a devolution deal. The track record of KCC, and the effective working relationships that we have built with our strategic partners over many years, has proven our capacity and capability to be trusted to deliver services and use monies and powers effectively and proportionately. Our preferred model of devolution governance is through existing local authority structures, with devolved powers and monies coming directly to local authorities. However, that is not the position of the Government, and willingness to *consider* a Mayoral model is the effective starting price for negotiations for a devolution deal with Government to begin. In any case, the creation of a separate body, such as a Combined Authority, would be essential to sustain the strategic autonomy and capacity of the area, keeping it separate from the pressures of adults and children's services.

4.12 Under the current policy set by the Government mandating a threshold size of 500,000 residents to agree a devolution deal, the reality for Kent and Medway is that only a Mayoral Combined Authority or a County Combined Authority model would be a suitable form of Level 3 governance. Whilst it would be technically possible for the County Council to argue for devolution deal under the Directly Elected Leader (DEL) model, that deal would only cover the KCC area and not the Medway Council area, with Medway under the population threshold necessary to agree a devolution deal under current Government policy. Moreover, where some two-tier county areas are considering a DEL model it has exacerbated tensions with District and Borough Councils. Moreover, it is Kent and Medway that is the functional economic area, and Kent and Medway at which the strategic scale can be leveraged across wider public services. A County Council Mayor would be in a less advantageous position to drive the wider public service agenda that is possible across the whole Kent and Medway geography. A joint approach to devolution is therefore in the best interests of both KCC and Medway Council as the two upper tier councils in Kent.

4.13 The Mayoral County Combined Authority model provides the opportunity to create a mayoral model that is more suited, and more focussed on the needs of Kent and Medway than the Metro Mayor model found in an MCA. The MCCA model has two advantages for two-tier county areas. An MCCA cannot be devolved powers to create a statutory spatial plan. This has removed one of the fundamental concerns raised by Districts and Borough Councils in two-tier areas, that the creation of a Mayoral Combined Authority might see their planning responsibilities transferred to the Mayor. By removing spatial planning from CCA model, it has been possible for the Government to both limit constituent authority membership of CCA's to upper-tier local authorities, and reassure District and Borough Councils that there are no proposed changes to their planning responsibilities through devolution (a point further reinforced through recent amendments to Section 31 of the Levelling Up and Regeneration Bill requiring consent of an authority before functions are transferred or altered within devolution governance).

4.14 The structure of an MCCA is also explicitly designed to allow for constituent authorities to be able to share responsibilities and transfer functions into the MCCA if they wish to do so for the purposes of economy and/or effectiveness in support of delivering devolved powers. This is because the intention of creating the CCA is to devolve more of the powers, responsibilities, and functions in a devolution deal to the Combined Authority itself, rather than primarily to the mayor, which stands in contrast to the Metro Mayor and MCA model where devolved powers and responsibilities are primarily assigned to the Metro Mayor.

4.15 This simple, but understated switch in emphasis between the MCCA and MCA models will allow upper tier local authorities in two-tier areas greater control and influence over delivery of devolved functions and any mayoral priorities and strategies than would be the case in metropolitan areas. It would formalise the joint working between KCC and Medway Council that has taken place over many years but working through and alongside a directly elected Mayor for benefit of all Kent and Medway residents.

#### **The *significant* risk and opportunity to Kent from Trailblazer devolution deals:**

4.16 Whilst devolution deals do come with some capacity funding to support the creation of new County Combined Authorities, and thus provide some capacity funding for areas that devolution will cover, such as economic development and transport (and thus replacing some of the capacity lost across all local authorities through recent years through austerity) the most significant financial opportunity, and consequently risk from failure to participate, comes from the recently announced fiscal and policy freedoms in the Trailblazer devolution deals for the West Midlands and Greater Manchester.

4.17 KCC's ability to act as a strategic authority has been hampered by the limitations on the council's fiscal position, the need to bid for additional funding streams, with the bidding process meaning that funding and resources are inherently focused on priorities decided at the national rather than the local level. As far back as 2004, when the Council piloted the Public Service Agreement (PSA) model with

Government, KCC has consistently pressed successive Governments for greater fiscal and policy flexibilities.

4.18 Whilst there were several reasons why political leaders in Kent did not engage in earlier rounds of devolution, one important reason was that the end point of devolution in terms of the additional powers and finances available did not justify the risks, cost, and disruption of creating a new and additional governance for a devolution deal. Given Kent and Medway's strategic position, size and scale, local political leaders envisaged devolution to mean the type of fiscal and policy freedoms that are now being provided to Greater Manchester and the West Midlands, and which the Government have set out to be a blueprint for other areas.

4.19 This is where Kent and Medway's size and scale becomes a strategic opportunity. The Institute for Government has calculated that Greater Manchester single allocation for 2022/23 would have been £736m for a population of 2.1 million residents. Whilst a pro-rata correlation can only be highly indicative (given the funding calculations for grants contained in the single allocation will favour metropolitan areas) with a population of across Kent and Medway of 1.85 million residents, a single grant allocation for Kent would be in the hundreds of millions of pounds.

4.20 In short, the trailblazer devolution deals are the type of ambitious fiscal and policy devolution that would significantly benefit the Kent and Medway. However, to secure such a trailblazer deal, we have to start the devolution journey and go through the stages of agreeing and successfully delivering a number of devolution deals to build trust with Government.

4.21 For the same reason, it is also important to understand that the Trailblazer devolution deals present a risk to Kent and Medway. The gap in terms of powers and finances between areas with a Level 3 devolution deal and an area without one, is certainly noticeable, but the gap between areas with a Trailblazer deal and no devolution deal in place risks creating a two-tier system of local government and governance in England. If more areas gain the fiscal freedoms and policy flexibilities set out in Trailblazer devolution deals, they risk accelerating away from the Kent and Medway.

## **5. Engagement with Government and other strategic partners:**

5.1 Recently there has been considerable engagement with partners regarding the devolution issue in Kent and Medway. From discussions with Government at various levels it is clear they would like to receive an EoL from Kent and Medway. Government recognises the important position of Kent given its size and strategic geographic location, and that the county faces a range of unique challenges as the Gateway to Europe.

5.2 Informal engagement with Kent MPs and Kent Leaders has also been undertaken. The latter has inevitably been very recent, given the number of new Council Leaders elected in May, and is viewed by the Leader of the Council as a first step in what will be an important dialogue. Whilst some concerns have been raised over the necessity to consider an additional layer of local government overlaid on top of existing councils, and the suitability of the mayoral model in Kent, there is a general acceptance of the need for the engagement with Government on devolution at

this time. There is widespread support for the principle that we should seek to maximise resources and powers available to Kent and Medway, and that decisions about local priorities and funding better rests with local, rather than national, government. Whilst the formal structure of a Mayoral County Combined Authority model provides no formal role for District and Borough Councils in the governance of the MCCA the Leader of the County Council is committed to ensure the benefits of devolution are felt across all Kent's Districts and Boroughs.

5.3 Engagement with other non-local government strategic partners in the public sector has identified a general understanding of the rationale for engaging with devolution agenda given the opportunity and the circumstances, as well as general support. Understandably there is some nervousness that the devolution agenda does not detract from some of the wider system and service issues that the county council is grappling with on a day-to-day basis with partners such as health and police, and a desire to be involved in the discussions on devolution as they develop so they can assess and understand the impact on their own services and governance.

5.4 Engagement with partners representing businesses have tended to be the most positive about devolution. There has been enthusiastic support for the KCC's engagement in the devolution agenda, a desire to increase resources and investment into Kent and Medway rapidly to support economic growth and achieve Levelling Up ambitions, and an understanding of the role a mayor might play in positioning and representing Kent nationally in support of inward investment into the county.

5.5 What is clear from all discussions to date across all sectors is a clear desire to be involved, be kept informed and to have the opportunity to input into any emerging devolution proposals for Kent and Medway, even if they are not directly involved in specific negotiations or directly impacted by new governance for a devolution deal. It will be a priority for KCC to continue a strong level of engagement with all partners. Kent and Medway is stronger when it speaks with a collective voice to Government, and our aim is to keep all partners engaged, throughout the negotiation process.

## **6. Submitting an Expression of Interest and developing a devo prospectus:**

6.1 A formal Expression of Interest to Government can take many forms including a simple letter to the Secretary of State. However, most areas develop a devolution prospectus which sets out the core rationale for what powers and flexibilities the area would ask for under a devolution deal. From one perspective, it could be argued that the development of a devolution prospectus is now unnecessary given the Devolution Framework sets out the powers available relative to the type of governance an area is willing to accept.

6.2 However, a devolution prospectus is useful for other purposes. Co-designing and co-producing the devolution prospectus can secure buy-in and support from across a wide range of strategic partners and provide Government with assurances that there is strong joint working and a level of support for the devolution deal. Perhaps more importantly however, the prospectus can set out the level of ambition that the area has in regard to future devolution agenda, including appetite and pace to achieve further devolved powers and flexibilities. In essence, the prospectus lays down a marker with Government not for the devolution deal being negotiated, but for second and subsequent devolution deals.

6.3 Whilst a prospectus would only have to be formally agreed by the constituent authorities for a Kent and Medway MCCA (i.e. KCC and Medway Council) given the importance of the devolution agenda to all local authorities in Kent, and our wider strategic partners, our aim will be to consult and as far as possible co-produce a devolution prospectus through engaging as wide a range of stakeholders as possible. Whilst not technically constituent authorities, full engagement and discussion with Kent District and Borough Councils through existing channels will take place before submission of any prospectus to Government. Without prejudice to the discussions which will occur with partners, it is envisaged that a devolution prospectus for Kent and Medway would cover the following themes:

- Skills and employment
- Economic development
- Strategic planning and infrastructure
- Borders
- Transport
- Net zero and adaptation

6.4 For each theme, the prospectus would set out our vision for Levelling Up, the proposals and requirements from Government, and the value this will deliver for Kent and Medway, the wider South East region and the whole of the UK.

## **7. Process and next steps:**

7.1 It is important for Cabinet to recognise that the submission of an Expression of Interest is only the first stage of what can be a lengthy process in securing a devolution deal. There is a detailed process which must be followed set out below:

- ↓ Upper-tier local authorities make an Expression of Interest to Secretary of State
- ↓ Negotiations with Government
- ↓ Undertaking of a Governance Review (outlining why governance change for devolved powers is necessary and consideration of options)
- ↓ Secretary of State considers/accepts the Governance Review findings.
- ↓ In principle Devolution Deal announced with Government
- ↓ Formal public consultation on devolution deal and governance changes
- ↓ Final Secretary of State decision post consultation
- ↓ Constituent Authorities formally resolve to agree governance of the devolution deal (Full Council decision required)
- ↓ Draft Order laid before Parliament for approval
- ↓ Creation of CCA in shadow form
- ↓ Election of Mayor and go live date for CCA

7.2 As can be seen from the above, the process is extensive and detailed. Whilst some parts of the process can be shortened, depending on the level of agreement across partners, others cannot. For example, it is possible for the Secretary of State to waive the requirement for a Governance Review if all constituent authorities agreed on the need and form of new governance arrangements for devolution. It is also not yet clear, given one doesn't yet exist, whether there will be a requirement to create a CCA in shadow form before it goes live.

7.3 Other parts of the process however are mandatory. For example, it is not possible for the public consultation on the deal and the deal governance to be shortened or skipped, it is a statutory requirement and desirable in securing public consent for the required new governance arrangements for a devolution deal. Other parts of the process, particularly aspects where negotiation with Ministers or Civil Servants are required, are in the gift of Government and can be as short or as long as they determine is necessary. Departmental capacity has previously been suggested as a reason by only a small number of devolution deals can be progressed concurrently by the Government. It is not unusual, based on the creation of combined authorities for previous devolution deals for the process to take 24 months.

## **8. Recommendation(s):**

8.1 Cabinet is asked to:

(1) Consider whether to develop and submit an Expression of Interest to Government to begin negotiations for a Kent and Medway devolution deal.

## **Appendices:**

- Appendix 1: Devolution Framework (taken from Levelling Up White Paper, HMG, January 2022).

## **Background Documents:**

- Levelling Up – The UK White Paper, KCC Cabinet, 3 March 2022
- Devolution Position Statement, Kent County Council, 14 July 2016

## **Report Author & Relevant Director:**

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## Appendix 1: Devolution Framework - Levelling Up White Paper, HMG, January 2022

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

\* refers to functions which are only applicable to combined authorities

<sup>^</sup> refers to functions which are currently only applicable to mayoral combined authorities