

**ANGUS COUNCIL**

**16 JUNE 2016**

**TAY CITIES DEAL - PROPOSED GOVERNANCE STRUCTURES**

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**ABSTRACT**

This report updates members on the progress made in the development of a Tay Cities City Deal proposal and in particular seeks commitment to continue to participate in the development and to establish a joint committee with Dundee, Fife and Perth & Kinross Councils to oversee the Deal development and negotiation and to be the governance body in the implementation of any agreed Deal package for the region.

**1. RECOMMENDATION(S)**

It is recommended that the Council:

- (i) note the progress made to date with the development of a Tay Cities City Deal proposal;
- (ii) agree the establishment of a joint committee to oversee the development and negotiation of the Deal package and to be the governance body for any Deal agreed with the Scottish and UK governments, a further report to be brought forward in relation to the constitution and membership of that committee;
- (iii) agree to give consideration to any further resources required to deliver a City Deal package in the preparation of the 2017/18 council budget.

**2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/COPORATE PLAN**

This report contributes to the following local outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- We have a sustainable economy with good employment opportunities.

**3. BACKGROUND**

**3.1** At its meeting in December 2015 (Report 474 refers) the council agreed participation in a partnership to promote a City Deal for the Tayside and North Fife area. The discussions were to include Angus, Dundee, Perth and Kinross and Fife Councils. Expenditure of up to £125,000 to support this initiative had previously been agreed by the Policy and Resources Committee in March 2015. The secondment of the Head of Planning and Place to represent Angus Council's interests in the joint team developing the bid proposal was also agreed.

**3.2** Over the last 5 months a joint councils' team, with the assistance of an external adviser, have worked to prepare an outline Tay Cities Deal proposal for the area. The Deal proposal is based on four principal themes:

- Investment - connected Tay
- Internationalisation - international Tay
- Innovation – innovative Tay

- Inclusive Growth – inclusive Tay

**3.3** The background to the four themes is set out in an Executive Summary document that has been made available to member in Members Hub.

**3.4** A series of stakeholder engagement events have been held across the region to develop each of the themes and in particular to assist the development a model based on “offer” and “ask” in each theme ie the “offer” through development and investment that the region is capable of making to either or both of the governments and the “ask” of either or both governments for investment, freedoms or devolved decision making that would enable the offer to be realised to the benefit of the area, Scotland or the UK as a whole.

#### **4. CURRENT POSITION**

**4.1** With the completion of the stakeholder events initial meetings have now been held with both UK and Scottish Government representatives. Both meetings were very positive and the Deal proposition was well received. It is now necessary for the Tay Cities partnership to move to the next stage of Deal development and negotiation with the two governments on matters within their respective remits.

**4.2** This next phase will require adequate resources from all four councils. It is proposed to utilise the balance of the already agreed £125,000 allocation to the end of the 2016//17 financial year to support the secondment of any staff required to service the project, or to assist with the joint funding of any external resources required. It is estimated that, based on the experience of other City Deal areas, a development and negotiation period of 18 months to two years can be expected from the stage our project has now reached. Funding and resources will therefore be required beyond March 2017 and it is proposed that this requirement is considered in the preparation of the 2017/18 council budget.

**4.3** As the project moves forward a key question is the establishment of an appropriate governance vehicle for both the development and negotiation of the Deal and subsequently the management of any Deal package agreed with the Scottish and UK Governments.

#### **5. GOVERNANCE PROPOSALS**

**5.1** In the development of the City Deal bid to date an informal decision making structure has been established, in line with the initial agreements, based on meetings of the four Chief Executives and Council Leaders. This arrangement was considered to be an appropriate structure to advance discussions with both governments and populate the financial and economic model for the proposed Deal. As the bid moves forward to approval a formal governance structure will be required. The options for a formal governance structure are set out below. A diagram giving a general indication of the emerging governance proposals is attached as Appendix 1.

Three options are possible:

- A. To work together as separate entities under written memorandum of understanding or agreement;
- B. To enter into a formal joint committee arrangement; and
- C. To create a new corporate body with its own legal personality.

##### **Option A - Memorandum of Understanding**

In this option, the authorities which form part of the Tay Cities Region, would continue to act as individual bodies. All decision making responsibility would continue to be vested in the individual local authorities, but those authorities would need to meet and work together to seek to achieve the joint goals under a memorandum of understanding or written agreement. It would be possible with this model to establish a partnership approach across the public and private sectors and include representation from government(s).

This option carries significant risks. A decision making process where every decision has to be approved and confirmed by each of the four member authorities

is likely to be cumbersome and ineffective. The potential for the authorities to fail to reach agreement, or to at least fail to reach an agreement timeously, is significant.

For that reason, it is suggested such an approach would not present a sufficiently strong governance structure, and it is unlikely therefore to meet the approval of the UK and Scottish Governments. Although it is possible to easily extend the membership to develop a 'partnership' approach, key leadership would not be in place to make the significant aspirational progress required to unlock economic growth and deliver jobs in the Tay Cities Region.

### **Option B – Joint Committee**

Section 57 of the Local Government Scotland Act 1973 permits local authorities to form Joint Committees of their Members; such committees do not have a separate legal personality and remain a committee of those authorities.

A Joint Committee would have delegated to it agreed spheres of decision making from each of the local authorities. It is likely that a significant proportion of the decision making matters could be delegated to this Joint Committee; however, this approach also enables the participating local authorities to agree that certain matters remain reserved to the individual local authorities to determine.

This option, therefore, creates a solid decision making process, but at the same time allows individual member authorities to retain control of specific identified spheres. A Joint Committee is a creation of the local authorities and, therefore, it is open to those participating authorities to change the remit of the Joint Committee should it be considered prudent or necessary.

A Joint Committee would have its own Standing Orders and it would be open to the authorities to agree and determine, through those Standing Orders, matters such as its makeup, quorum and procedures to be followed at such meetings.

The 1973 Act permits non Councillors to be appointed as members of Council Committees (and so Joint Committees). The Act simply provides that at least two thirds of the Committee must be elected members. Such a Joint Committee would require to be supported by other bodies, such as a Chief Executives Group and a wider stakeholder forum. The involvement of business and academic representatives in the governance of the Deal is felt to be a high priority and this was confirmed in the stakeholder engagement events. This could be achieved in this model by both the co-option of members to represent the business and academic communities and through the stakeholder group.

Councils in the Tay Cities Region are familiar with such an approach to joint working through Tayside Contracts, the former Police and Fire Boards, the regional planning authority (Tayplan) and the Regional Transport Partnerships (TACTRAN and SESTRAN).

This approach is the principal approach adopted by the Clyde Valley City Deal and the Edinburgh & South East Scotland City Deal and clearly, therefore, is capable of being acceptable to both Governments as the Deal governance structure.

### **Option 3 – New Legal Body**

There are two possible sub-options for the creation of a new Legal Body:

#### ***Arm's Length Business Models.***

Many Local Authorities are now using Arm's Length Organisations (ALEOs) for the provision of their functions and services. These include corporate bodies such as limited companies, LLPs and charitable trusts. There is no evidence that such ALEOs have ever been used as an implementation vehicle for a City Deal. It is noted that both Governments are anxious to ensure that the City Deal governance is not only robust, but is vested very much in accountable local leaders. The creation of an ALEO such as a limited company, an LLP or a charitable trust, would

create a distance between the new decision making body and the local authorities, and could be seen to weaken that local accountability. Moreover, each of the models has its own intricacies in terms of governance which further weaken the appropriateness of their use:

### **Joint Boards**

The Local Government (Scotland) Act 1973 does allow a further possibility of a separate legal entity being formed by Local Authorities. Section 62A of that Act provides that where two or more relevant authorities from a Joint Committee to discharge any of their functions jointly, they may apply to Ministers to incorporate that Joint Committee (or proposed Joint Committee) as a Joint Board.

There is a statutory process to seek incorporation which includes advertising the proposal and providing opportunity for representations to be made. The Order would delegate to the Joint Board specific functions and authority. It would also delegate the following matters:

- a) The constitution and proceedings of the Joint Board;
- b) Matters relating to the membership of the Joint Board;
- c) The transfer to the Joint Board of any property rights and liabilities of the relevant authorities;
- d) The transfer to the Joint Board of any staff of the relevant authorities; and
- e) The supply of services or facilities by the relevant authorities to the Joint Board.

The Joint Board would be a Body Corporate. The decision making authority is clear and there is no requirement for the Joint Board to seek any further authorities from member councils for any matter within its remit. Any changes to those functions and authorities must be made via a further Order made by Ministers.

- 5.2** It is apparent that a Joint Board has much more autonomy and this creates a certainty in its decision making process; however, it is considered to have less flexibility than a Joint Committee as any changes to its authorities or functions require to be approved via an Order made by Ministers.

### **5.3 Evaluation and Recommendation**

It is recommended that as Option A (MOU) is likely to be cumbersome and prove an ineffective governance model it is discarded. Option C - a Joint Board - does offer strong decision making options, but its lack of flexibility is considered to be potentially problematic. That lack of flexibility in itself may even create difficulties in achieving political approval both of the concept of a Joint Board as an appropriate governance vehicle and also agreement as to what functions and vires should be delegated to it.

By contrast, a Joint Committee model described in Option B – Joint Committee - provides certainty and can more easily accommodate changes that may be necessary or expedient during the evolution of the City Deal arrangements. The council can be reassured that it has been seen to be an acceptable model in the Clyde Valley City Deal and Edinburgh and South East Scotland City Deal. While it should be noted that any final decision on governance will be subject to feedback from the UK and Scottish Governments, this is the recommended model for adoption. If agreed the legal services teams of the four partner councils will be tasked with preparing the necessary documentation for further consideration and agreement by each council as required.

## **6. FINANCIAL IMPLICATIONS**

The council has already made provision up to a maximum of £125,000 for the preparation of a City Deal proposal. Requirements beyond March 2017 will need to be considered in the preparation of the 2017/18 budget. It is difficult to be precise about the ongoing costs of Deal implementation. It should be noted that much of the work required to implement schemes and initiatives within any agreed Deal will be, in effect, the “day job” of relevant council departments. Having said this, the operation of the Joint Committee will require some support

as will leadership and management arrangements across the region and the four principal Deal workstreams. Further reports will be brought forward in this regard.

## **7. OTHER IMPLICATIONS**

There are risks associated with continued participation in the bid process. Participation gives rise to a relatively significant financial requirement which may not lead to any tangible outcome if ultimately the conclusion of the bid is unsuccessful. If the submission is successful it is likely that the local economy of Angus will benefit from significant funds targeted at the bid area over the lifetime of the Deal.

## **8. CONSULTATION**

The Chief Executive, the Executive Management Team, Heads of Corporate Improvement and Finance, Legal and Democratic Services and Planning and Place have been consulted and are in agreement with the contents of this report.

**NOTE:** No background papers, as detailed by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

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