

**THE GOVERNMENT'S DEVOLUTION AGENDA – WEST MIDLANDS COMBINED AUTHORITY POTENTIAL MEMBERSHIP**

Relevant Portfolio Holder	Cllr Margaret Sherrey
Portfolio Holder Consulted	Yes
Relevant Head of Service	Kevin Dicks
Ward(s) Affected	All
Ward Councillor(s) Consulted	None Specific
Key Decision / Non-Key Decision	Non-Key Decision

**1. SUMMARY OF PROPOSALS**

- 1.1 To set out key issues relating to the Government's devolution agenda.
- 1.2 To update the Council on the proposals to establish a West Midlands Combined Authority and the development of a devolution 'deal'.
- 1.3 To determine the position of the Council in respect of the invitation to join the West Midlands Combined Authority; subject to this decision, to consider the Governance Review and Scheme.
- 1.4 To update Council on discussions in Worcestershire about the Government's devolution agenda.

**2. RECOMMENDATIONS**

**Council is asked:**

- 2.1 To consider its response to the invitation to become a non-constituent member of the proposed West Midlands Combined Authority (WMCA).
- 2.2 To decide whether to accept or decline the invitation to become a non-constituent member of the proposed WMCA.
- 2.3 If the Council decides to accept the invitation, at 2.2 above, to endorse the Governance Review and Scheme (Appendix 2 and 3)
- 2.4 If the Council decides to accept the invitation, at 2.2 above, to become a non-constituent member of the proposed WMCA, to approve the release of balances of £25,000 for this Council's contribution to the WMCA in 2016/17 and the inclusion of £25,000 in the medium term financial plan for an ongoing financial contribution.
- 2.5 If the Council decides to accept the invitation at 2.2 above, to become a non-constituent member of the proposed West Midlands Combined Authority, to appoint 1 representative to each of the following bodies for 2016-17:
  - The WMCA Audit Committee

- The WMCA Overview and Scrutiny Committee

**3. KEY ISSUES**

**Financial Implications**

- 3.1 The £25,000 contribution to costs in 2016/17 will need to be met from balances.
- 3.2 Subject to the decisions of the Council, £25,000 be included in the medium term financial plan for an ongoing financial contribution towards the cost of the Combined Authority.

**Legal Implications**

- 3.3 The legal implications are set out in the report.

**Service / Operational Implications**

- 3.4 Combined Authorities and Economic Prosperity Boards are the primary mechanism identified by central government for the devolution of further powers and funding to local areas. They were introduced in the Local Democracy, Economic Development and Construction Act 2009, (sections 103-113). The power to set them up extends to England only. Local authorities must trigger a review process in advance of setting a combined authority up, but the power actually to create a combined authority lies with the Secretary of State, via statutory instrument. The membership and functions of the combined authority are to be specified in the Order setting it up. Local authorities are included in the Combined Authority by consent.
- 3.5 The seven Metropolitan Councils of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton have made a commitment to establish a West Midlands Combined Authority. Appendix 1 shows the original proposed scale of the WMCA. A Statement of Intent was published on 5 July 2015 setting out how a proposed West Midlands Combined Authority (WMCA) would work across the three existing Local Enterprise Partnerships of Greater Birmingham & Solihull, Black Country and Coventry & Warwickshire to deliver conditions for business to flourish, creating more skilled and better paid jobs, bringing more investment into the area, improving health outcomes and reforming public services. It sets out key objectives to increase competitiveness and productivity and be a driver for growth nationally.
- 3.6 Bromsgrove District Council was invited, in October 2015, to join the proposed West Midlands Combined Authority along with all other District and Borough Councils in the Greater Birmingham and Solihull Local Enterprise Partnership and the Coventry & Warwickshire Local Enterprise Partnership (including Hinckley & Bosworth Borough Council in Leicestershire). At that stage the Leaders of the 3 political groups agreed that there was not enough information for the Council to make a formal decision. A lot of work has now been undertaken by the Shadow WMCA and a letter has been received from the

Shadow Board Chairman, Councillor Bob Sleight, as to whether the Council would wish to consider this position again.

- 3.7 This report sets out the key issues for Members to consider in considering this invitation including any financial implications. Discussions about devolution involving the seven local authorities in Worcestershire have also taken place and the report updates on the status of this.

**Functions of a Combined Authority / Economic Prosperity Boards**

- 3.8 A combined authority is a type of local government institution introduced in England outside Greater London by Section 6 of the Local Democracy, Economic Development and Construction Act 2009. Combined authorities are created voluntarily and allow a group of local authorities to pool appropriate responsibility and receive certain delegated functions from central government in order to deliver transport and economic policy more effectively over a wider area.
- 3.9 The Act also introduced the power to set up Economic Prosperity Boards (EPB) which are also legal entities and can have devolved powers and hold funding but with more limited scope than combined authorities e.g. there is no provision in the Act for EPBs to be given borrowing or tax raising powers, nor to have the power to issue a levy to constituent authorities, nor to retain business rates.
- 3.10 Any proposal to establish a Combined Authority or Economic Prosperity Board must meet the statutory tests set out in part 6 of the Local Democracy, Economic Development and Construction Act 2009. These tests are that a combined authority is likely to improve
- the exercise of statutory functions relating to transport in the area;
  - the effectiveness and efficiency of transport in the area;
  - the exercise of statutory functions relating to economic development and regeneration in the area;
  - economic conditions in the area.

The Secretary of State will also have regard to the need:

- to reflect the identities and interests of local communities;
  - to secure effective and convenient local government
- 3.11 Once established, a combined authority is a legally recognised entity able to assume the role of an integrated transport authority and economic prosperity board. This gives the combined authority the power to exercise any function of its constituent councils that relates to economic development and regeneration, and any of the functions that are available to integrated transport authorities. For transport purposes, combined authorities are able to borrow money and can levy constituent authorities.

- 3.12 Combined authorities should consist of two or more contiguous English local government areas. The creation of a combined authority is voluntary and all local authorities within the area must give their consent before it can be created. The geographical footprint for a combined authority should be based on a coherent functional economic area.
- 3.13 The 2009 Act enables the Secretary of State to make an order establishing a combined authority for an area which meets specified geographic conditions that:
- the area is contiguous and forms a continuous area;
  - consists of the whole of an authority. In the case of a County, this would require the agreement of the County Council and all the District / Borough Councils in the county area.

These Councils become the constituent members of the combined authority. There is also the possibility of non-constituent membership. This is relevant to District / Borough councils and Local Enterprise Partnerships.

- 3.14 The Cities and Local Government Devolution Act 2016, received Royal Assent on 28<sup>th</sup> January 2016. This may be described as enabling legislation, as it provides a legislative framework which can be applied flexibly to different areas by secondary legislation. It provides for the creation of a directly-elected mayor of a combined authority to exercise specific functions; widens the range of functions that can be conferred on a combined authority beyond economic development, regeneration and transport, and allows for public authority functions to be conferred on a Combined or local Authority.
- 3.15 The Cities and Local Government Devolution Act did also make a change to the legislation which now sees District / Borough Councils able to become a Constituent Member without securing the agreement of the County Council. At this stage no authorities other than the 7 Metropolitan Councils have decided to take up this offer although it is understood that Warwickshire County Council may do this in 12 months time.
- 3.16 The Constituent Councils of the proposed West Midlands Combined Authority carried out a public consultation, in connection with the proposals in the Scheme, to inform the Secretary of State for Communities and Local Government's decision regarding the establishment of a Combined Authority in the West Midlands.
- 3.17 As part of the devolution deal for the West Midlands Combined Authority there is a requirement that there is an elected Mayor. The Mayor would only cover the geography of the Constituent Authorities (i.e., the 7 metropolitan borough councils) and as such the power to levy a precept are only relevant to this area. There will be no influence over non constituent authorities therefore the district's sovereignty is maintained.

**Implications of becoming a non-constituent member**

- 3.18 Joining as a non-constituent member does not mean that the Combined Authority area is extended to include the areas of the non-constituent councils. Therefore the extent of the Combined Authority's powers remains limited to the area of the 7 constituent members and, if Bromsgrove District Council became a non-constituent member, the Council would remain independent retaining all of its current powers. The WMCA would not be able to impose decisions on the Bromsgrove area and would not be able to take decisions in relation to any functions for which the District Council is responsible. Nor, as a non-constituent member, would the Council's functions come under the remit of the future West Midlands Mayor (due to be elected in May 2017).
- 3.19 It is open to the combined authority (Constituent Members) to determine locally how the non-constituent members are involved in decision making via the CA constitution. It is also open to authorities to delegate functions to other authorities, which includes a combined authority or Economic Prosperity Board, under s101 of the Local Government Act 1972. This could be in the form of a Joint Committee. The WMCA's current draft constitution (Version 4) sets out the voting arrangements. In summary:
- (i) Each constituent authority has the right to appoint 2 members (14 in total)
  - (ii) Each non-constituent authority has the right to appoint 1 member (currently 8)
  - (iii) All members have one vote each (where they are eligible to vote)
  - (iv) The quorum for WMCA meetings is at least one member from 5 separate constituent councils
  - (v) There is no casting vote
  - (vi) All WMCA decisions require a 2/3 majority of the constituent members present and voting. The intention however is for consensus
  - (vii) Some decisions require the unanimous consent of the constituent members present and voting – set out in Appendix 5.
  - (viii) The matters on which the WMCA has decided the non-constituent members will be able to vote are set out in Appendix 6.
  - (ix) Decisions of the WMCA can be called-in by 5 constituent members (from 5 different councils) of the overview and scrutiny committee
- 3.20 The requirement for a 2/3 majority of the constituent members would still apply to those matters on which the non-constituent members can vote. The non-constituent members would not be eligible to vote on other matters outside of this list however there are speaking rights for all members on all matters at WMCA meetings. This provides non-constituent members with the ability to influence, if not vote, on all matters under discussion.
- 3.21 Under the WMCA constitution, each non-constituent authority has the right to be represented by at least one member on any overview and scrutiny committee established as part of the WMCA governance arrangements. The majority of members of the overview and scrutiny committees must come from the constituent authorities.

- 3.22 The WMCA's audit committee also provides for non-constituent representation on the audit committee which will comprise 4 constituent member representatives and 3 non-constituent representatives.
- 3.23 The recommendations in this report propose that if the Council decides to become a non-constituent member of the Combined Authority, that representatives are appointed to the two committees at the meeting. Appointment to the Board is a Cabinet issue and if the Council becomes a member of the Combined authority, the appointment will be placed on the agenda for the Cabinet meeting on 6<sup>th</sup> July.

**Functional Economic Area**

- 3.24 The Heseltine Review of economic growth in the UK outlined a policy agenda that put increased emphasis on the role of Functional Economic Areas (FEAs) in securing increased economic productivity and prosperity. To strengthen FEAs, Lord Heseltine recommended that Government should 'remove all legislative barriers that are preventing local authorities from collaborating within FEAs' including legislation relating to CAs and EPBs as part of a wider agenda on local growth and fiscal devolution'.
- 3.25 In its White Paper response to the Heseltine review, the Government set out a "view of a future where local authorities put economic development at the heart of all they do; collaborating, including with private sector partners across a FEA". This consultation outlines that the Government regard the amendment of legislation relating to CAs and EPBs as a key policy in enabling local authorities within FEAs to create 'opportunities for greater collaboration and increased economic development'.
- 3.26 A combined authority must reflect the area's economic geography and provide a collective voice and enable collective decision making by the local authorities that make up the combined authority.
- 3.27 Attached at Appendix 2 is the statutory governance review that needed to be undertaken in order to prove that a Combined Authority should be formed for the West Midlands Combined Authority. The study analysed 3 areas:
- Travel to work areas (TTWA) as an effective definition of the local labour market;
  - Migration data as a tool for analysing the local housing market, and;
  - Industrial specialization.
- 3.28 With regard to travel to work patterns if the WMCA covers the geographic footprint of the 3 LEP's the self containment ratio rises to 90% from 85% (if focused purely on the 7 metropolitan areas). The migration data broadly replicated the pattern of the Travel to Work Analysis. The industrial specialisation data demonstrated that the area has a particularly strong representation in the manufacturing, wholesaling and automotive sectors. There is therefore more

than a compelling case for forming a CA over the geographic footprint of the 3 LEP's.

- 3.29 Attached at Appendix 4 shows the detailed Functional Economic Market Analysis (FEMA). Contained within that document are the detailed travel to work patterns for Bromsgrove which show that there is a net outflow of 7,216 commuters. This is made up of 18,892 inflow with the top 3 areas being Bromsgrove, Birmingham and Stratford upon Avon. The outflow of commuters totals 26,108 with again the same top 3 areas in the same order.
- 3.30 Also contained within the FEMA at Appendix 4 is the migration figures which show 5,062 inflow – primarily from outside the UK and secondly from Birmingham. The outflow of 4,718 is primarily to Birmingham.
- 3.31 There is therefore more than a compelling case for forming a CA over the geographic footprint of the 3 LEP's and for Bromsgrove being part of it.

**Proposal to establish a West Midlands Combined Authority (WMCA)**

- 3.32 The seven metropolitan authorities of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton have made a commitment to establish a West Midlands Combined Authority. The seven metropolitan authorities published a Statement of Intent on 5 July 2015. The Statement identifies an ambition for the WMCA to encompass a much wider and important geography across the three Local Enterprise Partnership areas (Greater Birmingham and Solihull; Black Country; and Coventry & Warwickshire). The WMCA would also incorporate the functions of the existing West Midlands Integrated Transport Authority.
- 3.33 The rationale for a 3 LEP combined authority covering some 20 local authorities is that it is a much more coherent functional economic market area. Evidence to support this includes a much higher self-containment ratio across the 3 LEP area than any individual LEP. Self-containment ratio means the percentage of people who live and work in a given geography. The self-containment ratio for the proposed WMCA (3 LEP area) is 90% whereas the same measure for each LEP is as follows: Black Country LEP (71%), Coventry & Warwickshire LEP (77%) and Greater Birmingham & Solihull LEP (77%). 90% is at the higher end of most proposed or established combined authorities to date. What this means is that if the 3 LEP's join the proposed WMCA, then this body could directly relate to 90% of the resident working population.
- 3.34 At the time of drafting the constitutional documents, the Combined Authority consisted of 15 members. This was comprised of 7 constituent authorities (listed above) and the following 8 non-constituent authorities/bodies;
- Cannock Chase District Council
  - Nuneaton and Bedworth Borough Council
  - Redditch Borough Council

- Tamworth Borough Council
- Telford and Wrekin Council
- Black Country LEP
- Coventry and Warwickshire LEP
- Greater Birmingham and Solihull LEP

3.35 Since that time, Stratford-on-Avon District Council, Shropshire Council and Warwickshire County Council decided to join the WMCA as a non-constituent member. We understand the West Midlands Police and Crime Commissioner and the West Midlands Fire Service hold observer status.

3.36 The Statement of Intent identified five early delivery priorities for the WMCA:

- Developing an overarching Strategic Plan for the West Midlands
- Access to a Finance and Collective Investment Vehicle
- Getting the transport offer right for the long term
- Creation of an economic policy and intelligence capacity
- A joint programme on skills

3.37 The Statement also proposes to establish three major new independent commissions to help shape the future of the Combined Authority. It will be seeking support from government to deliver these commissions. They are:

- The West Midlands Productivity Commission
- The West Midlands Land Commission
- The West Midlands Commission on Mental Health and Public Services

Additional details regarding the early delivery priorities and commissions can be found within the Statement of Intent (see Background Papers below).

3.38 The three key steps for the creation of a combined authority are:

- A review of existing governance arrangements for the delivery of economic development, regeneration and transport. The conclusion based on evidence must be that there is a case for change as it will bring about real improvement that could not otherwise be delivered.
- Drafting a Scheme which sets up the WMCA and contain issues such as membership, funding, functions and executive arrangements.
- The Secretary of State will consider the scheme and the consultation that has been undertaken. If he is satisfied with the outcome and persuaded that the improvements are likely to be delivered, a draft Order will be laid before both Houses of Parliament for adoption. The timetable (and summary update on WMCA) is attached at Appendix 8.

Any changes to the membership of a CA need to undergo the same process of consultation by the Secretary of State. If Council agree to join the WMCA as a non-constituent member, then it should also recommend approval of the Governance Review and draft Scheme which are attached as Appendix 2 and 3.

**Relationship with existing Local Economic Partnerships**

- 3.39 Local Enterprise Partnerships will continue to operate alongside any combined authority that is established. The Chairs of the Greater Birmingham & Solihull LEP, the Black Country LEP and the Coventry & Warwickshire LEP have written in support of the proposal to establish a WMCA and look forward to jointly creating “.. an economy that is the strongest outside London and contributes fully to the Government’s vision of a wider Midlands Engine for Growth”.
- 3.40 If the Council determine not to join the emerging West Midlands CA, it still remains as a full and proactive member of the Greater Birmingham and Solihull LEP and also of the Worcestershire LEP. The three LEP’s identified (Greater Birmingham & Solihull LEP, the Black Country LEP and the Coventry & Warwickshire LEP) above have decided to join the WMCA as non-constituent members. This does not mean that District / Borough Councils who are part of a LEP would be automatically committed to non-constituent membership through LEP membership of the CA. LEPs can only be non-constituent members of a combined authority. The longer term role of the three LEPs may need to be reviewed in light of any approval given to establish a West Midlands CA.

**Devolution ‘Deal’ & Public Sector Reform**

- 3.41 The WMCA devolution deal is part of the first wave of devolution deals following the 38 bids received by the Government in September 2015. The first phase for the West Midlands is the non-mayoral arrangement. The deal for this phase (‘Devo 1’) was agreed on 17th November 2015 and has three main strands;
- The additional £36.5m pa over 30 years allocated to the WMCA to support investment and contribute towards a £8bn investment programme
  - Devolved budgets from Government to the WMCA for transport of circa £100m pa of existing money largely from the West Midlands Integrated Transport Authority and constituent member maintenance budgets which will be consolidated to enable local decisions to be made around maintenance and infrastructure schemes
  - New powers enabling the WMCA Mayor, with the agreement of the relevant LEP Boards, to raise income by creating supplementary business rates up to a cap within the mayoral geography and through the power of the mayor to precept for mayoral functions and within the mayoral geography only.
- 3.42 Appendix 7 is a WMCA document which sets out the key points of the devolution agreement. The agreement is subject to ratification by all 7 constituent members and the appropriate Order being approved by both Houses of Parliament under the Cities and Local Government Devolution Act 2016 (which came into force on

28th March 2016) and then the Order formally being made by the Secretary of State. Upon the signing of the Order by the Secretary of State, the new combined authority will formally come into existence.

- 3.43 We understand that the constituent member Councils will all have approved the WMCA devolution deal so that the Order would be laid before Parliament during May to enable the WMCA to be in place from early June 2016, which is the WMCA's published launch date. This Order will not include provision for the agreed elected mayor. This will be the subject of further negotiation between Government and the WMCA and will be implemented via a further Order at a later date with a view to mayoral elections taking place in May 2017.
- 3.44 The second part of the statutory process relates to the mayoral arrangements. We understand that a draft scheme for a mayoral WMCA is being worked up now and this will be the subject of consultation by the DCLG over the summer period. The scheme sets out the functions and powers of the mayor and will ultimately require approval of both Houses of Parliament. All constituent and non-constituent members of the WMCA will be named in the mayoral scheme. The introduction of a mayoral model will also require formal approval of the Mayoral Order by both Houses of Parliament in due course and for the Secretary of State to sign the Order. This enables the mayoral elections to take place and must be done at least 6 months before the elections which are expected in May 2017.
- 3.45 We have been told that as a result of this timeframe, 10th June 2016 is the deadline which has been given for the WMCA Shadow Board to consider additional membership prior to the mayoral scheme going out to consultation. A decision after this date would be too late to enable the membership details in the draft scheme to be amended in time for the consultation. The timeframe the WMCA is working to is based on the expectation that all relevant approvals (of the scheme and the mayoral order) by both the Government and the constituent members will be in place before the end of 2016 to enable the mayoral elections to take place in May 2017.
- 3.46 As set out above, Devo 1 has been already agreed. However the devolution agenda is moving at a fast pace and with its increasing membership and Devo 1 implementation plans in progress, the WMCA has been invited by HM Treasury to plan for and prepare its Devo 2 requirements, including what additional elements of devolution, potentially involving greater fiscal powers, could be negotiated with Government. The Government's expectation is that each 'Devo Deal' will generate further 'deals' over time, each building on the last one as a progressive process. The Government has already indicated its commitment to continue working with the West Midlands into the future on other aspects of devolution (including policing, mental health, troubled individuals and youth justice); the intention being that these would be included in any Devo 2 negotiations. Consideration of Devo 2 is running in tandem with the statutory process to create a mayoral combined authority.

- 3.47 This effectively means that the Council now has a short window of opportunity to be included in the draft scheme, enabling us to take part in Devo 2 negotiations, if the Council chooses to do so.

**How could Bromsgrove / Bromsgrove District Council benefit from membership of the WMCA?**

- 3.48 As can be demonstrated from the Functional Economic Market Area information contained in Appendix 4 the District has significant economic linkages and interdependencies as part of the city region area and has a significant outflow of its working residents to Birmingham. Bromsgrove and its businesses have felt to have benefitted from membership of the Greater Birmingham & Solihull LEP. The proposed combined authority can be seen as a further development building on the achievements and relationships built up over the last five years. The ambition of the proposals is to work across the functional economic area of the 3 LEPs. The economic geography of the District goes beyond the administrative boundaries of local government and it is these factors that should be central to any Council decision to join WMCA as a non-constituent member or not.
- 3.49 In the recent meeting with the Secretary of State he made it clear that in future significant powers and funding will be devolved to the West Midlands Combined Authority. This presents a significant opportunity for Bromsgrove.

**Consultation**

- 3.50 In order to seek the views of the general public with regard to the possibility of joining the WMCA a consultation exercise was undertaken – this is included at Appendix 9. It should be noted that this doesn't ask a yes / no question due to the potential confusion around the referendum where we have received very clear guidance from the Electoral Commission. The analysis of the consultation exercise will be provided to members before the Council meeting.

**Devolution discussions in Worcestershire**

- 3.51 Council considered a report at its meeting on 18<sup>th</sup> November 2015 with regard to a potential devolution deal for Worcestershire. Council supported the direction of travel as set out in the summary document which outlined its six main themes (all underpinned by improved data sharing):
- Public Estates
  - Connecting People
  - Health and Social Care Reform
  - Infrastructure and Investment
  - Skills and Innovation
  - Environment.

- 3.52 A delegation from Worcestershire went to see Lord Heseltine on 20th April 2016 to pursue a devolution deal for Worcestershire. It is understood that Lord Heseltine was genuinely impressed that Worcestershire is working so well and in a joined up way. No issues were raised about our economic performance or public sector reform however, it is clear that Government are now working on larger geographic footprints than single counties without a mayoral model.
- 3.53 The Worcestershire Leaders met recently to consider next steps and it was agreed that many of the things contained in the devolution document can and should continue to be pursued. Therefore it has been agreed (by the Leaders Board) that partners will continue to work together to see what can be done without a devolution deal and assess whether a different configuration or arrangement could achieve our desired outcomes whilst continuing to monitor the progress of those deals already agreed and the evolving position of the Government on deals outside of the City Mayor model.

**Customer / Equalities and Diversity Implications**

- 3.54 None at this stage

**4. RISK MANAGEMENT**

- 4.1 Given the sensitivities around the potential involvement of the Council in the WMCA there may be reputational and relationship risks to all concerned as a result. This risk can best be mitigated by making sure of continuous communication between all of the sub regional authorities potentially involved but this Council will need to be alert to signals of fall out and any consequences.

**5. APPENDICES**

Appendix 1	Scale of WMCA
Appendix 2	WMCA Statutory Governance Review
Appendix 3	WMCA Scheme
Appendix 4	Functional Economic Market Area
Appendix 5	WMCA Unanimous Voting
Appendix 6	WMCA Non Constituent Voting
Appendix 7	WMCA Devolution Deal
Appendix 8	WMCA Summary Update
Appendix 9	WMCA Consultation

**6. BACKGROUND PAPERS**

Cities and Local Government Devolution Bill  
WMCA Statement of Intent

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