

Sandwell Metropolitan Borough Council

21 July 2015

Regional Devolution – A Combined Authority for the West Midlands (Key Decision Ref. No. L010)

1. Summary Statement

- 1.1 Members will be aware that the leaders of the seven West Midlands authorities have announced their intention to pursue the potential for the creation of a Combined Authority as a reflection of their ambition to accelerate economic growth and public sector reform across the region.
- 1.2 The purpose of this report is to update the Council on the progress of the work to potentially create a Combined Authority through the stages of proposing, negotiating, securing and delivering a devolution deal for the region and to approve, in principle, the creation of a Combined Authority for the West Midlands based on an 'Economic plus' model.
- 1.3 Such a model requires regional devolution at the right scale and an accompanying deal with Government which contains the necessary freedoms and flexibilities to deliver accelerated growth and reform.
- 1.4 To date, the seven West Midlands Metropolitan and City councils of Sandwell, Birmingham, Coventry, Dudley, Solihull, Walsall and Wolverhampton, together with a number of district and county councils and Local Enterprise Partnerships from across the region, have been involved at various stages in exploratory conversations about the implications of a Combined Authority for a growth and reform strategy across the West Midlands.
- 1.5 The new Government is making its ambitions and intentions for devolution across England and Wales very clear and it is pledging to devolve more powers and resources at a large scale and at a pace in order to improve economic growth and productivity.

To this end, the Chancellor of the Exchequer, the Secretary of State for Communities and Local Government, the Minister for Local Government and Lord Heseltine met with the leaders of the councils and representatives of the Local Enterprise Partnerships, on 1st June 2015. Within that meeting, there was universal commitment to make a real difference for the people and business of the region and, in turn, the country as a whole.

- 1.6 The Chancellor supported the emphasis on the added value to be gained in terms of jobs, skills, investment and transport from working together. The clear message to the West Midlands was that it should be highly ambitious and that ministers would match that ambition. The Chancellor encouraged the authorities to be the vanguard of the devolution deals that will be agreed by the Government.
- 1.7 The process to establish a Combined Authority has three main steps:
- First, a review of existing governance arrangements for the delivery of economic development, regeneration and transport. This must lead to the conclusion that there is a case for changing these arrangements based upon real improvements.
 - Second, drawing up and consulting on a scheme for the new body upon which the authorities are required to engage to secure support amongst stakeholders. All constituent councils are required to approve the scheme for submission to the Secretary of State for Communities and Local Government.
 - Finally, the Secretary of State will consider the scheme and undertake a formal consultation. If satisfied with the proposals, a draft order will be laid before both Houses of Parliament for adoption by affirmative resolution.
- 1.8 The purpose of the first main step, a review of strategic governance is to determine:
- Whether the area covered by the local authorities participating in the combined authority, can properly be seen as constituting a functional economic market area for the purpose under consideration in the review; and
 - Whether the existing governance arrangements for strategic economic development, regeneration and transport are effective or would benefit from changes.

- 1.9 The methodology for the governance review is detailed at paragraph 6.12 below. The full strategic governance review is yet to be finalised, however, after evaluating the current evidence, the conclusion from the review is to recommend a Combined Authority model. This would give legal form to the close working relationships that already exists between the seven local authorities, the West Midlands Integrated Transport Authority and the Local Enterprise Partnerships by creating a sub-regional body with legal personality and a governance mechanism that can act across the combined area.
- 1.10 A strong Combined Authority would be able to bring together key decision making powers into a single body, exercising appropriate strategic transport and economic development and regeneration functions. It would provide a visible, stable and statutory body which could act as the accountable body to attract further funding to the West Midlands to support economic growth, alongside additional powers which may be devolved from Government.
- 1.11 The indication of commitment by the Government to the development of a Combined Authority and the progress of negotiations between the councils and partners, together with the outcomes from the strategic governance review are such that, should all parties indicate their ongoing commitment, the most effective way to deliver on the three main steps referred to in 1.4 above would be to establish a Shadow Combined Authority Board to drive forward its development of the Combined Authority at pace. The timing of the establishment of the Shadow Board is yet to be determined but in order to ensure the Council is in a position to respond quickly, approval is now being sought to the establishment of a Shadow Board at the appropriate time and to authorise the Leader and Chief Executive to agree all matters required to progress the development of the Shadow Board, including the Council's representation on that Board.
- 1.12 Once the Shadow Board is established, the Leader will need to commit the Council to joint decisions made by the Board on behalf of the constituent councils and Council is requested to authorise the Leader to determine such matters on behalf of the Council where they do not already fall within his executive authority as Leader of the Council. In view of the pace of development, it is intended to use the Cabinet as the decision making body for any significant formal decisions required, however, the ongoing commitment of the Council to a combined authority will be assessed at each of the three key stages of development referred to below and reserved to the Council for determination:

- (a) firstly, approval to take the findings of the governance review, including the conclusion of the preferred option of a Combined Authority and Scheme, and to undertake engagement with stakeholders, which Council is now requested to approve;
- (b) the second approval around September 2015 following consultation on the governance review and the preferred option and Scheme, and ahead of any submission to Government;
- (c) the third and final opportunity around April 2016 when final approval is required to become a constituent member of a potential Combined Authority.

1.13 Cabinet will consider the proposals at its meeting on 15th July, 2015 and its recommendations will be reported to the Council at the meeting.

Further details are attached for your information

2. **Recommendations**

- 2.1 That the continued pursuit of the Council's interest in the creation of a Combined Authority for the West Midlands be endorsed;
- 2.2 That in order to progress the Council's interests in the creation of a Combined Authority, approval be given to the establishment of a Combined Authority Shadow Board and that the Leader of the Council and the Chief Executive be authorised to agree all matters appropriate to their respective position, that are required to progress the development of a Shadow Board, including the Council's representation on that Board;
- 2.3 That upon establishment of the Shadow Board referred to in 2.2 above, and where those powers are not already vested in the Leader as the Executive Leader of the Council, the authority of the Council be vested in the Leader of the Council to determine and commit the Council to joint decisions required to be made by the Shadow Board as necessary to secure the delivery of a combined authority, subject to recommendation 2.4 below and to those final decisions in each of the three main stages (findings of and engagement on the governance review, including the conclusion of the preferred option of a Combined Authority and Scheme, submission to Government and final approval to become a constituent member of a potential Combined Authority), being reserved to the Council;

- 2.4 That in relation to recommendation 2.3 above, any key decisions required to secure the delivery of a combined authority which are not reserved to full Council, be considered and determined by the Cabinet;
- 2.5 That the Leader of the Council and the Chief Executive be authorised to agree the content of the strategic governance review for the West Midlands, the role of the Combined Authority and the draft scheme for the establishment of the Combined Authority as the basis for ongoing discussions and for the purposes of undertaking engagement with stakeholders;
- 2.6 That subject to 2.5 above, approval be given to undertake engagement on the proposals for a Combined Authority; including the hosting of Sandwell based engagement events;
- 2.7 That should it prove necessary in order to meet the timescales for the submission of proposals to the Secretary of State, the Chief Executive, in consultation with the Mayor, be authorised to call an extraordinary meeting of the Council for the purpose of receiving the final version of the strategic governance review and determining if, in principle, the Council should become a constituent member of the Combined Authority.

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3. Strategic Resource Implications

- 3.1 Each of the seven West Midlands Metropolitan councils have already contributed £50,000 toward the joint appraisal work for a Combined Authority and are now proposing to increase this by a further £250,000. There is sufficient funding available in the Corporate Management budget to meet this additional contribution.
- 3.2 The development of a combined authority naturally carries risks which members need to be aware of.
- 3.3 There is a risk that the West Midlands cannot close the gap in economic performance to England. This will be mitigated by proposing the establishment of a Combined Authority to draw together strategic work across economic development, transport, housing and employment and skills and to potentially access additional funding from Government.
- 3.4 There is a risk that the proposal to create a Combined Authority may not have local stakeholder support. This will be mitigated by consulting on the review of strategic governance and potential operation of a combined authority, with stakeholders, to collect their views.
- 3.5 There is a risk that the potential establishment of a Combined Authority is seen as a 'Super-Council'. This will be mitigated by establishing a clear approach to the communication strategy between the councils and partners explaining precisely what the potential Combined Authority could and could not do.

4. Legal and Statutory Implications

- 4.1 A Combined Authority is created pursuant to an order by the Secretary of State once conditions under section 103 of the Local Democracy, Economic Development and Construction Act 2009 are satisfied.
- 4.2 A Governance Review pursuant section 108 of Local Democracy, Economic Development and Construction Act 2009 will be required. The Governance Review is undertaken jointly with the authorities forming the Combined Authority, this is detailed in paragraph 6.8 below.
- 4.3 A Scheme will then need to be prepared in accordance with s109 LDEDCA 2009 and compliant with section 103 Local Democracy, Economic Development and Construction Act 2009. The Scheme will contain details of the functioning and purpose of the Combined Authority

- 4.4 The Scheme will provide details in respect of the Combined Authority which will include:
- Membership of the Combined Authority
 - Area of the Authority
 - Appointment, termination of Leaders and Members
 - Functions, powers and duties of the Combined Authority
- 4.5 Engagement with stakeholders will need to be carried out in respect of forming the Combined Authority. The first stage of the consultation can be done jointly, such as the 'West Midlands Combined Authority' as a whole would be consulting on the Combined Authority.
- 4.6 The Governance Review and the Scheme would be presented to the Secretary of State for review. The Secretary of State will then carry out a further consultation exercise consulting the authorities that would be covered by the Combined Authority and must satisfy itself that the establishment of a Combined Authority will contribute to economic development and transport policy; this may result in further questions being asked. Once the consultation process has concluded and the results being in favour of the formation of a Combined Authority then an Order will be laid before Parliament and this would have to go through its stages before coming into force
- 4.7 The Combined Authority will have a constitution which will govern how the authorities involved in the Combined Authority will work together to achieve their aims. The constitution will include the practical arrangements involved in the decision making and will govern the relationships between member authorities. The constitution will include arrangements for dealing with discharging its functions as a legal entity including audit arrangements.

5. Implications for the Council's Scorecard Priorities

- 5.1 The Council's scorecard priorities have been established to guide the Council in the improvement of its services to its constituents. The commitment to the establishment of a combined authority further demonstrates the Council's ambition to accelerate growth and public sector reform across the West Midlands region which it is anticipated will have significant benefits for the Borough of Sandwell and the delivery of its priorities, particularly in the areas of jobs, skills, investment and transport.

6 Background Details

The National Picture:

6.1 The Queen's Speech set out the Government's intention to bring forward new legislation to provide for the devolution of powers to cities/combined authority areas.

This was quickly followed by the publication of the Cities and Local Government Devolution Bill on 28 May 2015 which is currently progressing through the various Parliamentary stages.

6.2 Broadly, the Bill is an enabling rather than prescriptive one and it sets out provisions conferring additional powers on combined authorities for the election of mayors for those areas if they so wish. The Bill also contains provisions for local authorities' governance arrangements, their constitution and membership and structural boundary arrangements.

6.3 The intention behind the Government's introduction of the Bill is to reverse the trend toward centralisation by putting powers and budgets back in the hands of local civic and business leaders through enabling devolution of far reaching powers over economic development, local transport, housing, skills and, potentially, other public services such as health and social care.

6.4 The Bill provides for a combined authority to be given powers of any public body other than powers to make regulations and other legislative instruments. This includes powers of Ministers and Government departments. It will allow the Government to give a combined authority the same power of general competence as is available to councils.

6.5 Across the Country, a number of metropolitan areas have already created combined authorities. Greater Manchester, Sheffield and West Yorkshire have agreed devolution deals with Government and the benefits for these areas are being widely promoted by the Government. The allocation of resources in the recent budget announcements to the benefit of these areas, was significantly noticeable. A number of other areas are in the negotiation phase. Similarly, a large number of non-metropolitan areas are currently planning to have a combined authority, most notably locally, in Nottinghamshire and Derbyshire. During visits and public speeches, the Chancellor has actively encouraged the West Midlands to engage in the development of a combined authority.

The West Midlands:

6.6 The leaders of the four Black Country local authorities and Birmingham City Council announced in November 2014, their intention to create a combined authority as a reflection of their ambition to accelerate growth and public sector reform in the West Midlands.

Solihull and Coventry City councils have since announced their willingness to join in the pursuit of a combined authority. A number of district and county councils within the geographical footplate of the three Local Enterprise Partnerships that cover the potential regional area of a combined authority have also joined the discussions.

- 6.7 Essential to the success of a combined authority is the engagement of Local Enterprise Partnerships (LEPs) themselves and all three LEPs have been invited to join in the discussions with the local authority leaders.

Strategic Governance Review:

- 6.8 In accordance with Section 108 of the Local Democracy, Economic Development and Construction Act 2009 a governance review in relation to a potential Combined Authority addresses the effectiveness and efficiency of:

- (a) transport within the area covered by the review; and
- (b) arrangements for economic development and regeneration within the review area.

- 6.9 The purpose of the strategic governance review is to determine:

- Whether the area covered by the local authorities it is proposed will form the combined authority area can properly be seen as constituting a functional economic market area for the purpose under consideration in the review; and
- Whether the existing governance arrangements for strategic economic development, regeneration and transport are effective or would benefit from changes.

- 6.10 The statutory tests for the governance review in relation to a potential Combined Authority are set out in the Local Transport Act 2008 and the Local Democracy, Economic Development and Construction Act 2009. The process of the review examines the options available to the West Midlands in relation to each of the following and evaluates the likely improvement going forward:

- The exercise of statutory functions relating to economic development, regeneration and transport;
- The effectiveness and efficiency of transport; and
- The economic conditions in the area.

Methodology for the Governance Review

6.11 An officer-led working group comprising senior officers and relevant experts from each of the constituent local authorities, the Integrated Transport Authority and the Local Enterprise Partnerships, was tasked with undertaking the governance review.

The activities undertaken included:

- A review of the economic evidence to test the rationale for working across the West Midlands geography as a functional economic market area;
- Desk research of the current governance arrangements and structures;
- Workshops to collect views and evidence from stakeholders in each constituent authority, the Independent Transport Authority and the Local Enterprise Partnerships to consider the functions or activities that could benefit from strengthened collaborative governance arrangements.
- One to one interviews with external stakeholders, including Local Enterprise Partnerships members, Chambers of Commerce and neighbouring local authorities, to collect views on the draft proposals.
- Options assessment based on this evidence.

Options Assessment

6.12 The governance review has considered the four options available to the West Midlands. The review demonstrated that the seven councils in the West Midlands have a strong track record of working together on areas of mutual benefit. Collaborative working has evolved over the years bringing together democratic leadership and senior business leaders, including the Local Enterprise Partnerships. However, the overarching arrangements remain informal without any independent legal status and could be improved, particularly around providing democratic leadership transparency and accountability. There is a general consensus that the region has outgrown these existing arrangements and the time is now right to take the strategic governance arrangements to the next level, moving from a process of informal collaboration to joint decision making.

6.13 After evaluating the current evidence, the conclusion from the strategic governance review is to recommend a Combined Authority model.

6.14 Members should note that a Combined Authority is not a merger or a takeover of existing local authority functions nor would it be a 'Super-Council'. Instead it would seek to complement local authority functions in economic development regeneration and transport and enhance the effectiveness of the way they are discharged. In particular, it is the enhancement of decision making and information sharing at a strategic level that are most frequently cited as the advantages of such a body.

Next steps

- 6.15 The second key stage following the strategic governance review, the consultation phase, will focus on whether it is considered that the proposals emanating from the governance review will meet the statutory tests in that the proposed Combined Authority would be likely to improve:
- the exercise of statutory functions relating to economic development, regeneration and transport in the area;
 - the effectiveness and efficiency of transport in the area; and
 - the economic conditions in the area.
- 6.16 At the end of the engagement period the responses will be analysed by the officer-led working group. A final version of the governance review and Scheme will be prepared and reported back to individual cabinets, councils and the Integrated Transport Authority during September 2015 when individual councils will be asked, in principle, to approve the Scheme and become constituent members of the Combined Authority.
- 6.17 There is currently no scheduled meeting of the full Sandwell Council during September to receive this feedback. Council is not scheduled until 20th October, 2015. However, as approval will be required prior to submission to the Secretary of State in late September/early October 2015 in order for the Combined Authority to be operational from 1 April 2016, it may be necessary to call an extraordinary meeting of the Council. Cabinet is asked to seek the agreement of Council that the Chief Executive, in consultation with the Mayor, determine the date of the Extraordinary Meeting, once the timescales for obtaining approval become clearer.
- 6.18 Under the third main step, proposals for a Combined Authority will be considered jointly by the Secretary of State for Communities and Local Government and the Secretary of State for Transport. They will also have regard to the following before making an order to establish a new body;
- The need to reflect the identities and interests of local communities; and
 - The need to secure effective and convenient local government.
- 6.19 Government will then consider the submission and conduct a statutory Consultation that mirrors the consultation carried out by the Councils, to establish that the proposal has local support and backing. If this is found to be the case, an Order will be laid before Parliament for the Authority to be created.
- 6.20 Cabinet are recommended to endorse the approach to consulting on the strategic governance review and potential operation of the Combined Authority.

6.21 The Council have recently launched a website which shows plans for the West Midlands Combined Authority and highlights how the West Midlands aim to become the engine of the British economy, driving jobs, prosperity and economic growth. The Statement of Intent demonstrates how this will be done and can be viewed at <http://www.westmidlandscombinedauthority.org.uk/>

Source Documents

There are no source documents required for this report that are not already in the public domain.