

**Minutes of the Extraordinary Meeting of
Sandwell Metropolitan Borough Council**

14th June, 2016 at 6.00pm
at the Sandwell Council House, Oldbury

Present: The Mayor (Councillor Webb);
The Deputy Mayor (Councillor Downing);

Councillors Ahmed, Allcock, Allen, Ashman, Bawa, Carmichael, Cherrington, Costigan, Crompton, K Davies, P Davies, S Davies, Y Davies, Dhallu, Eaves, Edis, Edwards, Eling, Frear, Garrett, Gavan, E A Giles, E M Giles, Gill, Goult, Hackett, Hadley, Haque, Hartwell, Hevican, Hickey, R Horton, D Hosell, S Hosell, P M Hughes, P Hughes, Hussain, Jarvis, I Jones, O Jones, S Jones, Khatun, Lewis, Lloyd, Marshall, Meehan, Melia, Millard, Moore, Phillips, Piper, Preece, R Price, Rouf, Sandars, Shackleton, Shaeen, Sidhu, Trow and White.

Apologies: Councillors S Crumpton, Dr T Crumpton, L Horton, Dr Jaron, B Price, Tagger, Taylor, Tranter, Underhill and Worsey.

61/16 **Declaration of Interest**

The following members declared an interest as indicated:-

Agenda Item	Subject	Member	Interest
3	West Midlands Combined Authority	Councillor Hackett	Other interest – sessional teacher at Sandwell College.

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62/16

West Midlands Combined Authority Devolution Deal and Provision for a Mayoral West Midlands Combined Authority

On 8th March 2016, Council gave approval to become a constituent member of the West Midlands Combined Authority and gave its agreement to the draft Order for the creation of the Combined Authority. The Order was currently before Parliament and was anticipated to come into force in June 2016, on which date the West Midlands Combined Authority would be formally established.

In parallel to the discussions to establish the Combined Authority, negotiations had continued between the Combined Authority Shadow Board and Government to ensure that the Combined Authority created the right economic development incentives for the people of Sandwell and the wider West Midlands conurbation area. This was reflected in the West Midlands Combined Authority Devolution Deal made between the Government and the Combined Authority Shadow Board (Devolution Deal).

The Devolution Deal set out a range of initiatives and programmes announced by the Government which were designed to support localism and decentralisation. Central to the Devolution Deal was a reformed governance system for the Combined Authority which would involve adopting a model of a directly elected mayor for the West Midlands Combined Authority area. In return, the Combined Authority would receive a number of devolved powers and budgets from the Government on the basis that the Combined Authority would deliver additional economic growth and job creation.

Pursuant to the implementation of the Devolution Deal, the West Midlands Combined Authority would become a Mayoral West Midlands Combined Authority. This required the preparation and approval of both the draft West Midlands Combined Authority (Election of Mayor) Order and a Mayoral Functions Scheme. The Devolution Deal stipulated that the Mayor would be the Chair of the Combined Authority.

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Each of the Shadow West Midlands Combined Authority constituent members were required to consent to the Mayoral Election Order in the same way as they gave consent to the original Establishment Order. Council's consent was sought to the draft Mayoral Election Order which would then be laid in Parliament in June 2016, providing for the establishment of the position of a Mayor for the West Midlands Region and for the election of a Mayor on 4th May, 2017.

To comply with statutory requirements, and in conjunction with the Mayoral Election Order, a Governance Review had been undertaken and a draft Mayoral West Midlands Combined Authority Functions Scheme prepared. This Scheme would be the subject of public consultation. The draft Mayoral West Midlands Combined Authority Functions Scheme dealt with the proposed functions and powers which were required to secure implementation of the Devolution Deal.

Following consultation, the draft Mayoral Functions Scheme would form the basis of a third Order - the Mayoral West Midlands Combined Authority Functions Order. It was anticipated that this would be considered by Council in September/October 2016 before being laid before Parliament.

The draft Mayoral Functions Scheme was based on the establishment of an elected Mayor for the West Midlands Metropolitan area working as part of the Combined Authority, with a Cabinet of Council Leaders of the Constituent Councils, creating a Mayor and Cabinet style of governance structure. The West Midlands Combined Authority, its Mayor and Cabinet would be subject to local democratic scrutiny, through the establishment of a Scrutiny and Audit Committee. The nominations for Sandwell members on the West Midlands Combined Authority, its Scrutiny and Audit committees were included in the appointments to outside bodies, as set out in Minute No. 63/16 below.

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Combined authority governance to deliver Devolution Deals represented a new area of challenge for local government and involved complex and not necessarily ideal governance configurations. However, it was anticipated that once the Mayoral West Midlands Combined Authority was up and running, governance arrangements would evolve and develop. The draft Mayoral Functions Scheme aimed to ensure that local accountability was not eroded and that there was good management and accountability of Mayoral powers.

In response to questions, the Leader commented as follows:-

- with regard to scrutiny, the Leader shared the concerns highlighted by members. The Leader confirmed that the scheme for operation of scrutiny within the Combined Authority had yet to be agreed, however, he recognised the importance of honest and rigorous scrutiny around the Combined Authority;
- there had been a discussion at the Association of Black Country Authorities around the salary/allowance which would be payable to the elected Mayor. The Leader considered that the Council should support the view that the salary/allowance for the elected Mayor should be set at a level of no more than £40,000 so as to attract genuine candidates who understood the needs of the area and the role of the Mayor in the regeneration of the area, rather than individuals who may be attracted by a high salary and the public prominence of the office;
- the Leader confirmed that the time commitment required of him or his Cabinet would not impact on their individual or collective ability to both represent Sandwell's interests and get the maximum out of the devolution deal and any future deals for Sandwell and the wider West Midlands. The former Leader, Councillor Cooper, had put a lot of work in to bringing the Combined Authority forward and the Leader was committed to maximising his legacy;
- with regard to the comments made about the actions of MPs in relation to the Combined Authority, the Leader stated that he was not in a position to comment on the statements made by MPs.

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However, approval of the Combined Authority and Mayoral Orders was Parliamentary business and there had been an opportunity in Parliament for discussions to take place on the approval of the Order. A consultation process would take place and the matter would be referred back to Parliament.

In accordance with the provisions of Standing Order No. 12, Councillor Trow called for a named vote on the decision to consent to the draft West Midlands Combined Authority (Election of Mayor) Order. The required support to the request was achieved and the motion put to a named vote as follows:-

For: Councillors Ahmed, Allcock, Allen, Ashman, Bawa, Carmichael, Cherrington, Costigan, Crompton, K Davies, P Davies, S Davies, Y Davies, Dhallu, Downing, Eaves, Edis, Edwards, Eling, Frear, Gavan, E A Giles, E M Giles, Gill, Goult, Hackett, Hadley, Haque, Hartwell, Hevican, Hickey, R Horton, D Hosell, S Hosell, P M Hughes, P Hughes, Hussain, Jarvis, I Jones, O Jones, S Jones, Khatun, Lewis, Lloyd, Marshall, Meehan, Melia, Millard, Moore, Phillips, Piper, Preece, R Price, Rouf, Sandars, Shackleton, Shaeen, Sidhu, Trow, Webb and White;

Against: Councillor Garrett;

Abstain: None.

Resolved:-

- (1) that the consent of the Council is given to the draft West Midlands Combined Authority (Election of Mayor) Order, as set out in Appendix A, which provides for the election of a directly elected Mayor for the West Midlands Metropolitan Area;
- (2) that the Leader and the Chief Executive make any necessary minor and/or administrative amendments to the draft Order, and that the final West Midlands Combined Authority (Election of Mayor) Order be approved by the Leader on behalf of the Council;

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- (3) that the conclusion of the Governance Review that the making of an Order to confer on the West Midlands Combined Authority the additional functions in the draft Mayoral West Midlands Combined Authority Functions Scheme, would be likely to improve the exercise of statutory functions in the West Midlands area, is received and acknowledged;
- (4) that the Governance Review, as set out in Appendix B, is endorsed.
- (5) that authority is given to the Chief Executive, in consultation with the Leader of the Council, to approve and make any necessary amendments to the Governance Review;
- (6) that the draft Mayoral West Midlands Combined Authority Functions Scheme, as set out in Appendix C, is approved and be published pursuant to section 112 of the Local Democracy, Economic Development and Construction Act 2009 (as amended).
- (7) that the Chief Executive is authorised, in consultation with the Leader of the Council, to approve and make any drafting amendments to the draft Mayoral West Midlands Combined Authority Functions Scheme;
- (8) that the arrangements for public consultation on the proposals in the Mayoral West Midlands Combined Authority Functions Scheme are endorsed and that the Chief Executive agree the final arrangements on behalf of the Council.
- (9) that the Council representatives appointed to the Combined Authority, be requested to relay the views of the Council in relation to the payment of allowances for the position of elected Mayor, to the Chair of the Combined Authority.

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63/16 **Appointments to Outside Bodies**

The Council considered the appointment or nomination of representatives to serve on outside bodies for the Municipal Year 2016/17. A schedule of nominations was circulated at the meeting and verbally updated.

Resolved that the persons listed in Appendix D be appointed or nominated, as the case may be, as the Council's representatives on the bodies referred to.

(The meeting ended at 6.43pm)

Contact Officer: Trisha Newton Democratic Services Unit 0121 569 3193

[ILO: UNCLASSIFIED]

Draft Order laid before Parliament under section 117(2) of the Local Democracy, Economic Development and Construction Act 2009, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2016 No.

LOCAL GOVERNMENT, ENGLAND

**The West Midlands Combined Authority (Election of Mayor)
Order 2016**

Made - - - -

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by section 107A of, and paragraph 3 of Schedule 5B to, the Local Democracy, Economic Development and Construction Act 2009(a).

The councils whose local government areas are comprised in the area of the West Midlands Combined Authority and the West Midlands Combined Authority have consented to the making of this Order.

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament pursuant to section 117(2) of the Local Democracy, Economic Development and Construction Act 2009.

Accordingly, the Secretary of State makes the following Order:

Citation and commencement

1. This Order may be cited as the West Midlands Combined Authority (Election of Mayor) Order 2016 and shall come into force on the day after the day on which it is made.

Interpretation

2. In this Order—

“the area” means the area of the West Midlands Combined Authority(b);

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- (a) 2009 c. 20. Section 107A and Schedule 5B were inserted by section 2 of the Cities and Local Government Devolution Act 2016 (c. 1). Section 117(2), (2A) and (3) was substituted by section 13 of the Localism Act 2011 (c. 20). Section 117 was amended by paragraph 24 of Schedule 5 to the Cities and Local Government Devolution Act 2016.
- (b) The West Midlands Combined Authority was established by the West Midlands Combined Authority Order 2016 (S.I. 2016/TBC).

“the ordinary day of election”, in relation to any year, means the day which is the ordinary day of election in that year of councillors for counties in England and districts as determined in accordance with sections 37 and 37A of the Representation of the People Act 1983(a).

Election of a mayor

- 3.—(1) There is to be a mayor for the area.
- (2) The first election for the return of a mayor for the area is to take place on 4th May 2017.
- (3) Subsequent elections for the return of a mayor for the area shall take place—
- (a) on the ordinary day of election in 2020, and
 - (b) in every fourth year thereafter on the same day as the ordinary day of election.
- (4) The term of office of the mayor returned at an election for the return of a mayor for the area—
- (a) begins with the fourth day after the day of the poll at the election for the return of a mayor for the area, and
 - (b) ends with the third day after the day of the poll at the next election for the return of a mayor for the area.

Signed by authority of the Secretary of State for Communities and Local Government

Name
Parliamentary Under Secretary of State

Date Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”) provides for the establishment of combined authorities for the areas of two or more local authorities in England. Combined authorities are bodies corporate which may be given power to exercise specified functions.

Under section 107B(3) of the 2009 Act the Secretary of State may provide for there to be a mayor for the area of a combined authority with the consent of the constituent councils of the combined authority (each district council or county council whose area is within the area of the combined authority) and any existing combined authority. Paragraph 3 of Schedule 5B to the 2009 Act provides that the Secretary of State may make provision for the dates on which and years in which mayoral elections for the area of a combined authority may or must take place, the intervals between elections for the return of a mayor and the term of office of a mayor.

Article 3 of the Order creates the position of mayor for the area of the West Midlands Combined Authority. Article 3 further specifies the term of office for the mayor for the area of the West Midlands Combined Authority, and the dates on which elections for the return of a mayor shall take place and the intervals between elections.

A full regulatory impact assessment has not been prepared as this instrument will have no impact on the costs of business and the voluntary sector.

(a) 1983 c. 2. Section 37 was amended by section 17 of, and Schedule 3 to, the Greater London Authority Act 1999 (c. 29) and by section 60(1) of the Local Government and Public Involvement in Health Act 2007 (c. 28). Section 37A was inserted by section 60(2) of the Local Government and Public Involvement in Health Act 2007.



WEST MIDLANDS
COMBINED AUTHORITY

Governance Review

Review of West Midlands Combined Authority
Functions and Governance Arrangements

May 2016

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Introduction

The Governance Review details the incorporation of the functions and governance arrangements required to deliver the first devolution agreement in the West Midlands

Creation of the WMCA

The West Midlands Combined Authority (the “WMCA”) will be established, Parliamentary approval pending, on 1st June 2016 under the WMCA Order 2016 (the “2016 Order”) pursuant to the provisions of the Local Democracy Economic Development and Construction Act 2009 (the “2009 Act”). The aim of the West Midlands Metropolitan Authorities in creating the WMCA was to ensure that the transport, economic development and regeneration functions across the West Midlands would be strategically coordinated and integrated. A Combined Authority also offers the platform for the devolution of powers to the WMCA, enabling the West Midlands to realise its full economic potential.

Membership of the WMCA

The seven West Midlands Metropolitan Authorities of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton are the “Constituent Councils” of the WMCA. The Non-Constituent Members are the three Local Enterprise Partnerships (LEPs) of the Black Country LEP, Greater Birmingham & Solihull LEP, Coventry & Warwickshire LEP and five Councils: Cannock Chase, Nuneaton and Bedworth, Redditch, Tamworth, Telford & Wrekin.

In addition to the incorporation of the functions and governance arrangements required to deliver the Devolution Agreement this Review also covers the addition of the following as Non-Constituent Members:

Stratford-on-Avon District Council
Shropshire Council

[other requests for membership will be considered up to the 10 June 2016]

Any additional members build on the agreed principle that collaboration across the West Midlands with both the LEPs and local authorities is a key part of the WMCA agenda and crucial to its success. The powers and functions required to deliver the devolution agreement are contained within the Mayoral WMCA ‘powers and functions’ Scheme. The Scheme requires approval by all Constituent Councils and public consultation.

The draft WMCA (Election of Mayor) Order 2016 made under the Cities and Devolution Act 2016 (the “2016 Act”) will establish the post of WMCA Mayor *only* and is dependent on each Constituent Council’s approval in May 2016. If this approval is given, the Parliamentary process will begin and the first Mayoral election will take place in May 2017. The Mayor will be a Member of the Mayoral WMCA and its Chair.

Policy Context

In establishing the WMCA (see the WMCA website for the Governance Review published 26 October 2015), it was recognised by the West Midlands Authorities and the three LEPs that collaboration across the West Midlands would provide the most appropriate governance model for the local authorities to act together to deliver their economic development, regeneration and transport functions and aspirations. This stronger governance would deliver a more joined up strategic approach. Bringing together policy interventions in transport and the key economic drivers that will deliver enhanced growth. By working this way, members of a Combined Authority can deliver shared strategic priorities that are best addressed at a scale above local boundaries.

The area already had a good track record of collaboration between local authorities and the LEPs on issues that affect the area covered by the Constituent local authority areas of Birmingham, City of Wolverhampton, Coventry, Dudley, Sandwell, Solihull and Walsall. However, the governance needed to change if the West Midlands was to demonstrate stronger, more efficient and more effective delivery of economic development, regeneration and transport responsibilities.

We intend to create the most effective Combined Authority in the country in order to propel our economy to further growth than can be achieved at present. Working together across the West Midlands we will achieve far more than any of us could ever deliver separately.

Maximising growth and reducing the total cost of delivering public services cannot be led at a national level: devolving national programmes and funding streams to the WMCA will enable the WMCA to align those programmes and funding streams to local priorities, enabling a focus on game changing investment in growth and on taking demand out of the system through better joined up public services.

Further devolution from Central Government will strengthen the Combined Authority with additional powers. **No existing powers will be taken from Local Authorities.** Indeed, through devolution local councils and local leaders will be better able to exercise their democratic responsibilities through more influence over greater levels of public spending in their localities.

Our Strategic Economic Plan Vision based on the WMCA and the devolution agreement (SEP+ Vision) envisages that in 2030, four years after the arrival of HS2, the West Midlands:

- Will be internationally recognised as a top 3 UK location to do business, boosting the UK's global competitiveness.
- Will be home to 150,000 businesses, almost 20,000 more than today.
- Will have 5% higher productivity than the national average.
- Will provide local people of all ages with access to first class education and training. As a result our skills levels will be higher than the national average.
- Will be home to one of the biggest concentrations of advanced manufacturing and engineering in.
- Will have businesses of all sizes investing in innovation and Research & Development drawing on our world class support infrastructure, including our network of globally recognised research, economic intelligence and policy institutes.
- Will be a world leader in creating a low carbon economy.
- Will have a supply of first class employment land of national significance generated through the addition of 1,600ha. from brownfield land, the regeneration of which has transformed large areas.
- Will have transformed our approach to planning and urban design enabling us to increase the rate of house building while improving our environment and quality of life. As a result there will be a wide choice of housing with over 1.9m homes.
- Will have eliminated our £3.9bn deficit between taxes raised and public expenditure in the area through the Public Sector Reform programme.

Devolution, and more specifically, the powers to be drawn down through the Mayoral WMCA Scheme, will greatly improve the ability of the WMCA to deliver growth and reform for the people and businesses of West Midlands.

The West Midlands Devolution Agreement

In recognising the considerable progress made to date and the great economic potential of the West Midlands, the Chancellor of the Exchequer and the 7 West Midlands Metropolitan Leaders and the three LEP Chairs signed on 17 November 2015, the West Midlands Combined Authority devolution agreement. It is the intention that this is the first of many.

In order to receive the funding, powers and functions within the devolution agreement the agreement is based on the establishment of an elected Mayor (“the Mayor”) for the West Midlands metropolitan area (the WMCA Area) - working as part of the Combined Authority with a cabinet of Council Leaders of the Constituent Councils and subject to local democratic scrutiny. However, given the importance of existing collaboration across the three LEP geography, as well as with neighbouring areas, the devolution agreement recognises that the wider partnership with business through the LEPs and with neighbouring councils across the West Midlands will be critical to success.

The Mayoral WMCA’s ambition through the devolution agreement is to increase competitiveness and productivity, create more skilled and better paid jobs, bring more investment into the area, reform public services and reduce the region’s welfare bill. It will deliver outcomes that matter to local people: more jobs, better training and improved skills, faster, more convenient and more integrated transport links and more new homes. It will drive these ambitions through its primary focus to improve the effectiveness and efficiency of transport in the area, the exercise of statutory functions relating to economic development and regeneration in the area, skills and employment and economic conditions in the area.

It will manage a significant programme of investment in transport and economic infrastructure, circa £8 billion over 10 years, and influence and align with Government investment, in order to boost economic development and regeneration.

The related interventions will have differential impacts across the Mayoral WMCA area - underpinned by the principle that all communities benefit, but not at the same time and not in the same way. The Mayoral WMCA will seek to achieve this by using evidence based objective means by which to assess interventions, or the design of interventions, so that these are aligned to our balanced economic outcomes for the Mayoral WMCA area.

The Mayoral WMCA will continue to be focused, through the WMCA Strategic Economic Plan, on economic growth issues that will include, but are not restricted to:

- Setting the WMCA Strategic Economic Plan and investment strategy, in consultation with the LEPs and Non-Constituent Members of the Mayoral WMCA.
- Ensuring effective alignment between decision making on transport and decisions on other areas of policy such as land use, economic development and wider regeneration.
- Using WMCA wide economic intelligence and analysis as a basis for strategic planning and coordination.
- Acting as an accountable body for a range of devolved funding.
- Strategic decision-making on the skills agenda across the WMCA.
- Enabling the Mayoral WMCA to act as the forum for local authorities to exercise the Duty to Cooperate, in respect of strategic planning matters.
- Coordinating inward investment activity through the development of a range of investment mechanisms.

The directly elected Mayor for the West Midlands will act as Chair to the WMCA and will exercise the following powers and functions devolved from central government:

- Responsibility for a consolidated, devolved transport budget, with a multi-year settlement to be agreed at the Spending Review.
- Responsibility for franchised bus services, which will support the WMCA's delivery of smart and integrated ticketing across the Combined Authority's Constituent Councils.
- Responsibility for a new Key Route Network of local authority roads that will be managed and maintained at the Metropolitan level by the WMCA on behalf of the Mayor.
- Powers to drive housing delivery and improvements in housing stock which will include the same competencies as the Homes and Communities Agency. The government will also work with the WMCA Land Commission.
- The ability to place a supplement on business rates to fund infrastructure, with the agreement of the relevant local enterprise partnership boards, up to a cap.
- The ability to set a Precept.

The WMCA will also receive the following:

- Control of a new additional £36.5 million a year funding allocation over 30 years, to be invested to drive growth.
- Devolved 19+ adult skills funding from 2018/19, with the Shadow Board responsible for chairing Area Based reviews of 16+ skills provision.
- Joint responsibility with the Government to co-design employment support for the hardest-to-help claimants.
- Responsibility to work with the Government to develop and implement a devolved approach to the delivery of business support programmes from 2017 and deliver more integrated working together on investment and trade.

In addition under the devolution agreement the Government:

- Supports the ambition of the HS2 Growth Strategy and the emerging West Midlands Strategic Transport Plan, and commits to funding the Curzon Street Enterprise Zone extension in order to help deliver this strategy.
- Commits to funding the Eastside Metro extension to Digbeth, subject to a business case, to support the first part of the HS2 Growth Strategy, and supports the work of the Shadow Board to develop a delivery plan, encompassing the Metro extensions from Curzon to Interchange and from Brierley Hill, in order to realise the full benefits of HS2.
- Will work with the Shadow Board through the development of the second Roads Investment Strategy to explore options for reducing congestion on the strategic road network in the West Midlands.
- Commits to support the programme of public service reform across the West Midlands, including working with the Shadow Board to consider the scope for further devolution of youth justice services.

Further powers may be agreed over time and included in future legislation.

Legal Context

Pursuant to articles 6 and 7 of the 2016 Order, on the creation of the WMCA, the West Midlands Integrated Transport Authority (WMITA) is abolished and all of its functions, property, rights and liabilities transferred to the WMCA. Prior to this the West Midlands Passenger Transport Executive (WMPTE) ('Centro') is transferred into the WMITA and as a result also subsequently transferred into the WMCA.

The 2016 Act (which was enacted on 28 January 2016) makes provision for conferring additional functions on Combined Authorities established under Part 6 of the 2009 Act. Sub-section 1(2)(e) of the 2016 Act refers to "*the principle that powers should be devolved to combined authorities or the most appropriate local level except where those powers can more effectively be exercised by central government.*" The 2016 Act has amended the 2009 Act so that a Combined Authority is no longer restricted to the exercise of statutory functions relating to economic development, regeneration and transport.

Section 111 of the 2009 Act allows for an existing Combined Authority to undertake a 'review of one or more combined matters' in respect of proposed changes to the Combined Authority.

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Review of WMCA functions pursuant to section 111 of the Local Democracy, Economic Development and Construction Act 2009

The Government and the WMCA have reached agreement that in order to improve the ability of the WMCA to deliver growth and reform for the people and businesses of the West Midlands, through the devolution agreement, a range of powers need to be devolved to the new directly elected Mayor and to the WMCA.

The position of directly elected Mayor is not a legal requirement of a Combined Authority but the Government are clear that there must be direct accountability to residents for the new powers and funding to be passed down to the Mayoral WMCA through the devolution agreement. Therefore a Mayor is in effect a condition of the devolution of those powers and funding that form the devolution agreement in order to provide the direct accountability required by Government.

To give effect to the agreement the WMCA is required to comply with and follow the procedures in the 2009 Act, as amended by the 2016 Act, to make any changes to existing Combined Authority arrangements. This is achieved by publishing this Governance Review and a Scheme. The Governance Review details the functions and governance arrangements that are more effectively and efficiently carried out by the Mayoral WMCA and the Scheme details additional functions, powers and membership. The Scheme will be the primary document for the detail of those functions and powers and will be consulted on.

The 2016 Act has made significant amendments to the 2009 Act to reflect the fact that a Combined Authority is now able to request the Secretary of State to make an order which will allow a Combined Authority to exercise any “function of a local authority” that is exercisable in relation to all or part of the Combined Authority’s area (i.e. Combined Authorities are no longer restricted to the exercise of local authority functions relating to economic development, regeneration and transport.)

The 2009 Act also allows a Combined Authority to request the Secretary of State to make an Order which will allow a Combined Authority to exercise a function of a “public authority” (e.g. The Secretary of State, the Homes and Communities Agency etc.) that is exercisable in relation to a Combined Authority’s area or confer on a Combined Authority, in relation to its area, a function corresponding to a function that a public authority has in relation to another area (e.g. functions of the Mayor of London / the GLA).

In addition Section 107 of the 2009 Act allows for a Mayor to be provided for the area of a Combined Authority and makes provision for:

- any function of a Combined Authority which has an elected Mayor (a “Mayoral Combined Authority”) to be a function only exercisable by the elected Mayor;
- the costs of an elected Mayor for the area of a Combined Authority that are incurred in, or in connection with, the exercise of “Mayoral functions” to be

met from precepts issued by the authority under section 40 of the Local Government Act 1992.

As part of this review of the functions of the WMCA under section 111 of the 2009 Act (the “**Section 111 Review**”), the WMCA has considered the various functions that the Government has agreed should be conferred on either the WMCA or the Mayor under the devolution agreement and whether there are any related additional functions that the WMCA should seek in order to enable the WMCA and the Mayor to exercise their devolved functions as effectively as possible.

As a result of the significant amendments to the 2009 Act made by the 2016 Act, the Section 111 Review carried out by the WMCA has also considered more generally whether there are any local authority functions that are exercisable within the West Midlands that would be more appropriately exercised at WMCA level and if there are any “public authority” functions that are exercisable within the West Midlands which could be more effectively exercised at WMCA level.

The Review has also considered:

- whether any of the functions that are **currently** conferred on the WMCA by the 2016 ‘establishment’ Order are functions that the WMCA proposes the new WMCA Order should seek to make “Mayoral functions” which are only be exercisable by the Mayor.
- whether the **additional** functions that the WMCA proposes should be conferred on the WMCA should be WMCA functions or “Mayoral functions”; and
- whether all of the additional functions that the WMCA proposes should be conferred on the WMCA should be exercised by the WMCA **concurrently/jointly** with the Constituent Councils or the public authority which has the function by virtue of any enactment;

The Government and the WMCA are in agreement that the powers which are to be conferred on the Mayor and on the WMCA will be more effectively exercised at a West Midlands level than by central Government. Detailed in the section below is the rationale behind the exercise of those functions, whether by the Mayor, the Mayoral WMCA with the support of the Mayor, or the Mayoral WMCA.

Powers and functions to be conferred on the Mayoral WMCA and the exercise of those powers and functions.

Governance Arrangements

Mayor and Cabinet

The Mayor will be a member of the Mayoral WMCA and its Chair. This is specified in the devolution agreement and as above provides the direct accountability required by Government for the powers and functions being devolved to the Mayoral WMCA.

The Leaders of the Constituent Councils, who are members of the Mayoral WMCA, will hold the office of portfolio leads for aspects of the WMCA's responsibilities, on the basis to be set out in its Constitution and in consultation with the Mayor and will be collectively known as the Cabinet operating with collective responsibility. Portfolio leads will be decided by unanimous vote of the Constituent Members.

The Mayor will propose the Mayor's draft annual budget, which covers Mayoral functions. The Cabinet will examine the Mayor's draft annual budget and the plans, policies and strategies, as determined by the Mayoral WMCA and will be able to reject them if two-thirds of the Mayoral WMCA Cabinet agree to do so. In the event that the Mayoral WMCA reject the proposed budget, then the Mayoral WMCA shall propose an alternative budget for acceptance by the Cabinet, subject to two-thirds majority of those present and voting. The Mayor shall not be entitled to vote on the alternative Mayoral WMCA proposed budget.

Voting

Proposals for a decision of the Mayoral WMCA may be put forward by the Mayor or any Member of the Mayoral WMCA. Any questions that are to be decided by the Mayoral WMCA, unless otherwise specified in the Mayoral WMCA 'functions' Scheme or the Mayoral WMCA Constitution, are to be decided by way of two-thirds majority of Constituent Members, and overall majority of all Members present and voting.

The voting mechanism and exercise of functions in the Mayoral WMCA is dependent on who is exercising the function, the Mayor or the Mayoral WMCA, the exercise of which are summarised below.

Mayoral functions

Mayoral functions will be devolved to the Mayoral WMCA by central Government, exercised by the Mayor and subject to the provisions in the Scheme:

- **HCA CPO Powers** – only exercisable by the Mayor with the **consent of the Mayoral WMCA Cabinet Member(s)** for the area(s) of the land to be compulsorily acquired.
- **Grants to Bus Service Operators** – The Secretary of State to consult the Mayor in making grants to bus service operators which operate services wholly or mainly within the Mayoral WMCA Area. This would provide WMCA with an early opportunity to engage on a formal basis with operators of the current commercial bus network, prior to the forthcoming Buses Bill.
- **Devolved, consolidated transport budget** – to enable greater surety of funding, more effective and efficient long-term asset management and procurement arrangements. **To be exercised in accordance with the Cabinet’s ability to and examination of and ability to reject the Mayoral budget.**
- **Reporting on the West Midlands Key Route Network (WMKRN)** – The WMKRN is the responsibility of the Mayor and is managed and maintained at the Metropolitan level by the WMCA on behalf of the Mayor. The Mayoral function element of the WMKRN is the duty to report to the Secretary of State an assessment of traffic flows, forecast growth and reduction targets in respect of the WMKRN, **in consultation with the appropriate authority(ies).**
- **Mayoral precept** – provisions are sought enabling the Mayor to raise a precept as provided for in the 2016 Act and to aid the delivery of the investment programme.
- **Raising of business rate supplement** – The Mayor will have the ability to raise a business rate supplement, **with the agreement of the relevant LEP Board(s) and the Mayoral WMCA**, up to a specified cap, for investment in specified projects, aiding the delivery of the investment programme driven by the WMCA Strategic Economic Plan.
- **Functional power of competence** – The Mayor will not have the general power of competence, however the Mayor should have, as an ancillary power, a functional power of competence, enabling the Mayor to do things appropriate or incidental to, or connected with, the Mayor’s functions and in order to aid the delivery of the investment programme.

Joint WMCA/Mayoral functions

A joint WMCA/Mayoral power is the responsibility of the Mayor, but for example is maintained/managed by the Mayoral WMCA. These functions are the responsibility of the Mayor **therefore the exercise of the functions at Mayoral WMCA level are subject to the Mayor's vote in favour:**

- **The West Midlands Key Route Network** – The WMKRN is the responsibility of the Mayor but maintained and managed by the WMCA, powers and functions are sought to achieve this and are outlined in the transport section, below, and detailed in the Scheme. Further joint WMCA/Mayoral transport functions sought are regarding bus re-franchising and enhanced quality contracts.
- **Low emissions and clean air zones** - the Mayor and the Mayoral WMCA will have the power, subject to proposals being brought forwards, to create low emissions and clean air zones with the affected highway authority(ies) consent.
- **Homes and Communities Agency (HCA) objectives and functions** – Mayoral WMCA to exercise functions concurrently with the HCA to drive housing delivery.
- Arrangements, exercised jointly/concurrently with the Secretary of State, for the purpose of **assisting persons to train for, obtain and retain suitable employment**, and enter into agreement for the provision of ancillary goods and services.

Mayoral WMCA functions

Functions exercised by the Mayoral WMCA and **not** subject to the Mayor's vote in favour.

- **Current WMCA powers and functions** – contained within the WMCA establishment Order – i.e. transport functions currently undertaken by the Passenger Transport Executive (PTE), and economic development and regeneration functions. It is not appropriate that the Mayor is required to vote in favour as such functions are Local Authority functions, exercised concurrently/in parallel and with the Local Authorities.
- **HS2 Growth** – The WMCA to have the ability to designate any area of land, with the consent of the local planning authority(ies) for the area(s) in the Mayoral WMCA Area, as a development area leading to the establishment, by Order, of WMCA development corporations. As per the devolution agreement, this would be a Combined Authority-led development corporation to deliver local growth.
- **Matters reserved to unanimous Constituent Member voting** – contained within the WMCA establishment Order and WMCA Constitution, agreement of such matters are subject to a unanimous vote of the Constituent Members.

Powers and functions to be conferred on the Mayoral WMCA

Transport

Current position under 2016 Order

The current WMCA's transport functions are inherited from the former West Midlands Integrated Transport Authority and Passenger Transport Executive (WMITA and WMPTE (Centro)). These will remain **WMCA functions**.

Proposals for new Transport Functions

A high quality, efficient, effective and reliable transport network and infrastructure is a prerequisite in driving the economic prosperity of the area.

To achieve this, the Mayor will:

- Receive a multi-year devolved and consolidated local transport capital block allocation from Government for the area of the Mayoral WMCA (i.e. the areas of the Constituent Councils). This will support the delivery of a single asset management plan, working towards shared procurement of highways maintenance services across the Combined Authority's Constituent Councils as practical, reflecting existing contractual and PFI arrangements.
- Receive powers for the franchising of bus services in the Mayoral WMCA area, subject to necessary legislation and local consultation. This will help to deliver integrated smart ticketing across all local modes of transport in the Mayoral WMCA area and align with the work of Midlands Connect on smart and integrated ticketing across the Midlands.
- Take responsibility for a new Key Route Network of defined local authority roads; the management and maintenance of which will be undertaken at the Metropolitan level by the Mayoral WMCA on behalf of the Mayor. This is in order to secure a consistent approach and to have oversight of the local roads that link key centres of growth and employment. Also to provide links to the Strategic Network are seen as critical for the expeditious movement of traffic both within and through the West Midlands to support our key aims of economic growth, productivity and job creation.

Consolidated multi-year local transport capital block allocation

The Government have agreed to the allocation of a 5 year capital allocation for highway maintenance and integrated transport improvements. Having longer term certainty of allocation will allow for improved network maintenance and management enabling greater efficiencies and effectiveness in procurement and improved asset management.

The allocation will be to the Mayor for subsequent distribution to the Constituent Councils. Allocation of the funding will be treated as part of the Mayor's budget and therefore subject to Cabinet's examination of and ability to reject the Mayoral budget, in accordance with the Scheme, **A Mayoral function.**

Public Transport and related infrastructure

To implement and deliver the above it is proposed that:

- The Secretary of State¹ to make grants to bus service operators in relation to services which operate wholly or mainly in the Mayoral WMCA Area, to be exercised by the Secretary of State for Transport in consultation with the Mayor. The eligibility requirements for the grant would remain unchanged. This would provide the WMCA with an early opportunity to engage on a formal basis with operators of the current commercial bus network, prior to the new regime to be introduced by the forthcoming Bus Service Bill. **A Secretary of State function, exercised in consultation with the Mayor.**
- to strengthen the WMCA's Safety and Security agenda and to provide our Safer Travel Police Team with similar powers to that of Transport for London, that exist to help secure effective working on our public transport network and related infrastructure, additional powers are required to be exercised as **Mayoral WMCA functions**, concurrently/jointly with the Constituent Councils to:
 - provide the ability² to tackle smoking in public places, most specifically on buses and in enclosed bus stations; and
 - provide powers³ currently held by Local Authorities, NHS, social landlords, Police Forces and TfL in order to enable efficient action to secure Orders that apply across the whole of the Mayoral WMCA Area.
- to ensure a consistent approach to the enforcement⁴ of bus lane penalty charges etc. are applied.

¹ Section 154 of the Transport Act 2000

² Section 10 of the Health Act 2006

³ Anti-Social Behaviour, Crime and Policing Act 2014

⁴ Approved Local Authority for the purposes of Section 144 of the Transport Act 2000 - Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005

The West Midlands Key Route Network (WMKRN)

The WMKRN serves the main strategic demand flows of people and freight across the metropolitan area, and provide connections to the national strategic road network. The KRN handles a significant proportion of these flows, highlighting the importance of this network and the role it plays in supporting the economic growth objectives across the WMCA area. It also serves large local flows which use main roads and will need to provide good access for businesses reliant on road based transport. Around 60% of journeys to work by residents of the Metropolitan Area involved crossing a district boundary, giving weight to the need for a commonly agreed main road network to handle this movement more effectively.

In order for the WMKRN of local authority roads to be strategically managed and coordinated at the Metropolitan level, with joint Asset Management and Procurement, **by the Mayoral WMCA**, on behalf of the Mayor it is proposed that:

- the WMKRN be statutorily defined⁵ to enable Orders such as ‘Safer Vehicles’ and ‘Air Quality’ Orders to be uniquely identified for the WMKRN.
- the Mayoral WMCA be a party to agreements⁶ as if they were a highway authority. The Secretary of State, Highways England and local highways authorities can enter into agreements with each other for the construction and improvement of roads for which one party to the agreement is the highway authority. This is important in connection with the Mayors strategic management and oversight role in relation to the WMKRN and coordinating the exercise of transport responsibilities. However, it should be emphasised that there is no proposal for the Mayoral WMCA to be the local highway authority or have powers in relation to the day to day operation or maintenance of such highways **This will be a joint WMCA/ Mayoral Function with the effected highway authority(ies) consent.**
- the Mayoral WMCA is provided with the power⁷ to enable it to undertake works on the WMKRN for Transportation purposes as if it were the highway authority, **joint WMCA/ Mayoral Function with the effected highway authority (ies) consent.**
- the Mayoral WMCA is defined⁸ as a Street Authority for the WMKRN. This would enable the WMCA to develop a Permit Scheme, coordinate Notices etc. for the WMKRN. The receipt of notices, register, inspections etc. would still carried out by the Local Highway Authority. It would also enable eligibility for the 18% diversionary works contribution from utilities for non-metro Schemes. **A joint WMCA/ Mayoral Function.**
- a duty⁹ be placed on the Mayoral WMCA, in consultation with the relevant local highway authorities, to report to the Secretary of State on an

⁵ Road Traffic Act Regulations 1984 – General Interpretation of the Act – definition of WMKRN

⁶ Sections 6 and 8 of the Highways Act 1980

⁷ Section 62 of the Highways Act 1980 – General Power of Improvement

⁸ S49 of the New Roads and Street Works Act 1991 – The Street Authority and other Relevant Authorities

⁹ Section 2 of the Road Traffic Act Reduction 1997, subsections 1,2 and 3

assessment of existing Traffic flows, forecast growth and reduction targets in respect of the WMKRN. **A Mayoral Function**

- the WMKRN to be designated a civil enforcement area¹⁰ for moving traffic violations. **A joint WMCA/ Mayoral Function**
- that the Mayoral WMCA should exercise **concurrently with the local highway authority** (the Constituent Councils) the functions¹¹ in relation to road safety. This function relates to preparing and carrying out of a programme of road safety measures, including road safety studies, studies into accidents, accident prevention campaigns, advice as to the use of roads and on the construction of new roads, and arranging for the giving of practical training to road users. **A WMCA non-mayoral function.**

In addition the Mayor and the Mayoral WMCA should receive the following duties¹² regarding the creation of Low Emission Zones and Clean Air Zones:

- duty to cause a review to be conducted of quality for the time being, and the likely future quality within the relevant period, of air within the authority's (WMCA) area and associated duties;
- duty to designate air quality management areas;
- duties in relation to designated areas; and
- any other such duties that are appropriate in order to effectively deliver the Low Emission and Clean Air Zones.

This would be a **joint WMCA/ Mayoral Function with the effected authority(ies) consent.**

HS2 Growth

The Mayoral WMCA will deliver the objectives of the HS2 Growth Strategy. In order to manage risks and support delivery there will be a prioritised programme of projects with milestones, input, output, outcomes and benefit indicators that local partners will use to track delivery. In addition consideration will be given to the remit and governance of a Combined Authority-led Development Corporation to deliver the local growth. Functions to enable the effective delivery of the HS2 growth strategy are detailed in the Scheme.

¹⁰ Section 74 and Schedule 8 of the Traffic Management Act 2004

¹¹ Sections 39 (2) and (3) of the Road Traffic Act 1988

¹² Sections 82 – 84 of the Environment Act 1985

Skills

Current position under 2016 Order

The Combined Authority is designated a local authority for purposes of section 84(2) of The Apprenticeships, Skills, Children and Learning Act 2009 (duty of the Chief Executive of Skills Funding to co-operate with local authorities in relation to apprenticeship training) and has duties and powers¹³ related to the provision of education and training for persons over compulsory school age.

Proposals for new skills functions

The importance of the existing collaboration between the three LEPs on employment and skills is recognised and central to the WMCA's skills ambition. With this in mind the WMCA will begin to prepare for local commissioning which will allow the Mayoral WMCA to agree with providers the mix and balance of provision that will be delivered in return for the block funding, and to define how success will be assessed. It will develop a series of outcome agreements with providers, about what should be delivered in return for allocations in the 2016/17 academic year. This will replace the current system of funding by qualifications as providers will receive their total 19+ skills funding as a single block allocation.

For the 2017/18 academic year, and following the area review, the Government will work with the Mayoral WMCA to vary the block grant allocations made to providers, within an agreed framework.

From 2018/19, there will be full devolution of funding. The Mayoral WMCA will be responsible for allocations to providers and the outcomes to be achieved, consistently with statutory entitlements. The Government will not seek to second guess these decisions, but it will set proportionate requirements about outcome information to be collected in order to allow students to make informed choices.

Employment

The Mayoral WMCA will work with the Department for Work and Pensions (DWP) to co-design the future employment support, from April 2017, for the hardest-to-help claimants, many of whom are currently referred to the Work Programme and Work Choice. The Employment and Skills Strategy for the three LEP Area will influence the co-design.

¹³ Duties under section 15ZA, 15ZB, 15ZC, 17A, 18A (1)(b), and the power under sections 514A and 560A of the Education Act 1996

The respective roles of DWP and the Mayoral WMCA in the co-design will include:

- DWP setting the funding envelope, the Mayoral WMCA can top up if they wish to, but are not required to.
- The Mayoral WMCA setting out how they will join up local public services in order to improve outcomes for this group, particularly how they will work with local Clinical Commissioning Groups/third sector organisations and NHS England/the Work and Health Unit nationally to enable timely health-based support.
- DWP setting the high-level performance framework. The primary outcomes will be to reduce unemployment and move people into sustained employment. The Mayoral WMCA will have some flexibility to determine specific local outcomes that reflect the priorities outlined within the Employment and Skills Strategy and are complementary to the ultimate employment outcome (for example in-work wage progression).

Proposals for new employment functions

Pending the outcome of the above co-design it is proposed that the Mayoral WMCA should have the power¹⁴ to exercise functions **concurrently with the Secretary of State** to make appropriate arrangements for the purpose of assisting persons to train for, obtain and retain suitable employment, and enter into agreements for the provision of ancillary goods and services as a **A joint WMCA/Mayoral function**.

¹⁴ Sections 2 and 10A of the Employment Training Act 1973

More and Better Homes

The Mayoral WMCA and its Constituent and Non-Constituent Councils will support an ambitious target for the increase in new homes, and will report annually on progress against this target.

The objectives are:-

- to improve the supply and quality of housing;
- to secure the regeneration or development of land or Infrastructure;
- to support in other ways the creation, regeneration and development of communities or their continued well-being; and
- to contribute to the achievement of sustainable development and good design.

The Homes and Communities Agency (“HCA”) and the Mayoral WMCA will work together to develop a joint approach to strategic plans for housing and growth proposals for the area.

The Government will work with the Mayoral WMCA to support the West Midlands Land Commission. The West Midlands Land Commission will ensure there is a sufficient, balanced supply of readily available sites for commercial and residential development to meet the demands of a growing West Midlands economy. It will create a comprehensive database of available public and private sector land, identify barriers to its disposal/development, and develop solutions to address those barriers to help the West Midlands meet its goal to deliver a significant number of additional new homes over the next 10 years, and to unlock more land for employment use. The Mayoral WMCA will also be able to use their proposed Land Remediation Fund to support bringing brownfield sites back into use for employment and housing provision.

The Mayoral WMCA and the Government will continue to discuss the devolution of housing loan funds. We also intend to develop further a proposition on a Housing Investment Fund, for discussion with Government.

Proposals for new housing functions.

To enable the achievements of the objectives outlined in this section, including a power of HCA CPO and Mayoral WMCA exemption to mirror the HCA in relation to the provision of land and infrastructure for housing. It is proposed that the Mayoral WMCA be given the relevant powers¹⁵ of the HCA.

The functions set out in the above would **be non-Mayoral functions** with the exception of the specific HCA compulsory purchase powers in Section 9 of the Housing & Regeneration Act 2008 which would be a **Mayoral function, but would only be exercisable by the Mayor with the consent of the Mayoral WMCA Cabinet Member(s) for the area(s)** of the land to be compulsorily acquired.

¹⁵ Section 2 of the Housing and Regeneration Act 2008 (limited to the WMCA Area) and sections 3 to 12, 17 and 18 of the Housing and Regeneration Act 2008

Land Commission

The devolution agreement provides that the Government will work with the WMCA Land Commission (the “**WMCA Land Commission**”). The WMCA will seek the appropriate legislative provision to allow the Secretary of State to make schemes for the transfer to the WMCA of “designated property, rights or liabilities of a specified public body” where such property is in West Midlands Area.

Supporting and Attracting Business Innovation

The Government has committed to working with the Mayoral WMCA and the Greater Birmingham & Solihull, Black Country and Coventry & Warwickshire LEPs to support the further development and implementation of the three LEP Integrated Business Support Ecosystem, an environment where business are enabled to start, grow and succeed through integrated and locally relevant support and access to finance, and in particular will:

- Review the Inward Investment resource location of regional (IST) staff across the three levels of: Partnership Managers; Business Development and Key Account Management teams. The aim will be to seek to agree options for co-location, under UKTI/IST management
- Establish a joint governance structure with quarterly meetings attended by a Director level representative from both UKTI investment and the Mayoral WMCA.
- Ensure a portion of the GREAT campaign budget for overseas based activity (the UK government’s campaign to promote the UK internationally) is aligned to appropriate West Midland’s sector strengths.
- Continue devolved inward investment funding for the Drive West Midlands initiative with the Automotive Investment Organisation to be considered as part of the Spending Review, Export Strategy and future sector prioritisation work. This will determine whether funding should be continued until 2020.

On trade, the Government will:

- Ring-fence trade services resource within the Mayoral WMCA area based on an agreed export plan with a dual key approach to activities and reporting on outputs and outcomes to the Mayoral Combined Authority.
- Develop an export plan between the Mayoral WMCA and UKTI HQ which will allow flexibility.

On other business services, the Government will:

- Work with the Mayoral WMCA to develop a devolved approach to delivery of business support from 2017 onwards.
- Work with the Mayoral WMCA to design a joint approach to enterprise start-up activity.

- Consider the Mayoral WMCA access to finance needs and how these interact with national access to finance programmes, such as the British Business Bank.

Culture

Current position under 2016 Order

The WMCA Order 2016 provides for the power¹⁶ to encourage visitors and provide conference and other facilities. This should remain a non-Mayoral function to be exercised concurrently with the Constituent Councils.

Proposals for new culture functions

The Mayoral WMCA to be further given the power¹⁷ **to provide and support cultural activities and entertainments** as a **non-Mayoral function** to be exercised concurrently with the Constituent Councils. The devolution of this power will assist in the promotion of the West Midlands thereby attracting business and innovation into the region.

Information Sharing Provisions

For the purposes of exercising Mayoral WMCA functions concurrently/jointly with the Constituent Councils or a public authority the WMCA needs to rely on the same information sharing gateways applicable to those authorities.

In most instances the relevant statutory provisions contain a local authority definition that does not specifically recognise a Combined Authority. Whilst some of the relevant functions have yet to be sought, the data sharing is required to enable the further development work agreed in the devolution agreement and the subsequent development of further schemes to seek transfer of additional powers.

For this reason it is proposed that the following enactments be amended to ensure the data provisions sought below apply to the Mayoral WMCA.

The Mayoral WMCA seeks application of the data sharing provisions outlined below. It should be noted that the current definition of a “local authority” does not include a Combined Authority¹⁸.

¹⁶ Section 144 of the Local Government Act 1972

¹⁷ Section 145 of the Local Government Act 1972

¹⁸ Section 65 of the Education and Skills Act 2008

- If requested to do so, educational institutions will be obliged under section 14 Education and Skills Act 2008 (the “ESA 2008”) to supply relevant information about a student or pupil to the WMCA.
- The Mayoral WMCA will have the power to seek the supply of information from other public bodies.
- The Mayoral WMCA will be able to rely on the information sharing provisions in section 17 ESA 2008 (primarily concerning the exchanges between local authorities and their service providers) and; in section 77 ESA 2008 to support local authorities to deliver their duties under section 68 ESA 2008, including such amendments, modifications and enactments of legislation governing information sharing.

The Mayoral WMCA to be able to share relevant information for education and training purposes between local authorities and their service providers and for similar exchanges between these bodies with the Secretary of State and/or their service provider¹⁹.

When exercising its functions to consider crime and disorder implications the Mayoral WMCA seeks relevant authority status²⁰ to enable it to share information in accordance with the provisions in sections 17A and 115 of this the Crime and Disorder Act 1998.

For the purposes of discharging environmental functions in relation to Mayoral WMCA’s air quality functions the provision²¹ to disclose prescribed information between relevant Ministers of the Crown, relevant agencies and local enforcing authorities is sought as the definition does not currently include a Combined Authority.

Current legislation enables the Secretary of State to make regulations allowing certain persons, including the Department for Work and Pensions, to share social security and employment and training information with other Government Departments and their service providers, certain types of local authorities and their service providers. The Mayoral WMCA seeks to be included in the definition of a ‘relevant authority’ in order to facilitate the exchange of information and training purposes.

The Mayoral WMCA seeks designation as a relevant authority²² in order to facilitate the exchange of information for employment and training purposes in order to share the following information:

- Social Security Information²³
- To enhance a person’s skills and qualifications with a view to improving their prospects of finding and retaining employment²⁴

¹⁹ Section 122 of the Apprenticeships, Skills, Children and Learning Act 2009

²⁰ Part 1 Chapter 1 (1A) Crime and Disorder Act 1998

²¹ Section 113 of the Environment Act 1995

²² Section 72 of the Welfare Reforms and Pensions Act 1999

²³ Regulation 13(1)(b)(iv) of the Social Security (Claims and Information) Regulations 1999

²⁴ Regulation 13(1A) of the Social Security (Claims and Information) Regulations 1999

- social security information or information relating to employment or training for the purposes of research, monitoring or evaluation²⁵

The Mayoral WMCA seeks designation²⁶ so as to enable the Secretary of State or a person supplying services to the Secretary of State, to supply relevant information to qualifying persons for certain purposes, including welfare services (which includes support, assistance including by means of a grant or loan or the provision of goods or services, advice or counselling to individuals with particular needs), and for these and for the use of that information.

The Mayoral WMCA seeks designation²⁷ as a qualifying person in relation to:

- the provision of welfare services either as a local authority or as a person prescribed or of a description prescribed by the Secretary of State.
- the Secretary of State's ability to supply relevant information for the purposes of identifying households eligible for support under a Troubled Families Programme, providing advice support and assistance to members of such households and for monitoring and evaluating such programmes

The Mayoral WMCA seeks Government's support to use the following national administrative data sets in order to support our ambition to develop an integrated data system to improve outcomes for individuals with multiple indicators of vulnerability (unemployment, offending, substance misuse, poor mental health and homelessness) while respecting legal and other privacy concerns. These will include:

- The Prisons Database (held by the Ministry of Justice)
- The Work and Pensions Longitudinal Study (held by the Department for Work and Pensions)

The Government can support the WMCA in analysing and interrogating health data sources to improve care whilst respecting legal and other privacy concerns. These will include:

- Hospital Episodes Statistics, Mental Health Minimum Dataset (held by the Health and Social Care Information Centre)
- National Drug Treatment Monitoring System (held by Public Health England)

²⁵ Regulation 13(4) of the Social Security (Claims and Information) Regulations 1999

²⁶ Section 131 of the Welfare Reform Act 2012

²⁷ Social Security (Civil Penalties) Regulations 2012

Finance and funding

Current position under 2016 Order

The Mayoral WMCA will be funded through two main sources. In relation to its transport functions, the Transport Levying Bodies Regulations 1992, as amended, enable a Combined Authority to issue a levy to its Constituent Councils to fund “*all those liabilities failing to be discharged by it which are reasonably attributable to the exercise of its transport functions for which provision is not otherwise made*”. **The current arrangements for a Transport Levy will remain.**

The WMCA 2016 Order also provides for a statutory recharge whereby the Constituent Councils are required to “*meet the costs of the WMCA reasonably attributable to the exercise of its functions relating to economic development and regeneration.*”

Proposals for new Financing Functions

Precept(s) for Mayoral functions

Under Section 5 of the 2016 Act a Mayoral WMCA becomes a major precepting authority for the purpose of the Local Government Finance Act 1992 (the “**LGFA 1992**”) and may issue a precept²⁸.

It is proposed that the Secretary of State makes an Order to enable the Mayor to raise a precept in accordance with the Act, and to aid the delivery of the investment programme. The Order is to contain provision requiring the Mayor to maintain a fund in relation to receipts arising, and liabilities incurred and about the preparation of an annual budget in relation to the exercise of those general functions.

The Order for the costs of the elected Mayor to also include provision for:-

- (a) the mayor to prepare a draft budget
- (b) the draft to be scrutinised by other members of the Combined Authority and its Scrutiny Committee
- (c) the making of changes to the draft as a result of such scrutiny
- (d) the approval of the draft by the Combined Authority (including a power to veto the draft in circumstances specified in the order and the consequences of any such veto)
- (e) the basis on which such approval is given.

²⁸ Section 40 of the Local Government Finance Act 1992

The Cabinet will examine the Mayor's draft annual budget and the plans, policies and strategies, as determined by the Mayoral WMCA, and will be able to reject them if two-thirds of the Mayoral WMCA Cabinet agree to do so. In the event that the Mayoral WMCA reject the proposed budget then the Mayoral WMCA shall propose an alternative budget for acceptance by the Cabinet, subject to a two-thirds majority of those present and voting. The Mayor shall not be entitled to vote on the alternative Mayoral WMCA proposed budget.

Levies

The 2016 Act removes the restriction of levying for transport only enabling regulations to be made to enable a Combined Authority to be a levying body in respect of non-mayoral functions other than transport, provided that the Constituent Councils consent. It is proposed that provision is made²⁹ to enable the Combined Authority to be a levying body in respect of all its non-Mayoral expenditure.

Borrowing

Previous legislation provided that capital finance applies to a Combined Authority as it applies in relation to a local authority, except that the power to borrow confers power on such a Combined Authority to borrow money for a purpose relevant to its transport functions *only*. Therefore the Mayoral WMCA is prevented from borrowing for the purposes of its economic development and regeneration functions and as a result one of the Constituent Councils would in effect need to borrow on Mayoral WMCA's behalf. The Greater Manchester Combined Authority have found this approach to be unsatisfactory, administratively burdensome and inconvenient. For the West Midlands to also proceed in this way would be extremely unsatisfactory.

The 2016 Act remedies this difficulty. It amends previous legislation so that in addition to borrowing for transport functions, a Combined Authority may borrow in relation to "*any other functions of the authority that are specified for the purpose of [section 23(5)] in regulations made by the Secretary of State*". Such functions include Mayoral and non-Mayoral functions.

Such regulations may only provide borrowing powers for a particular function of the Mayoral WMCA if all the Constituent Councils consent. It is proposed that the regulations should provide for the **Mayoral WMCA to have borrowing powers** in respect of all of its functions.

²⁹ S9 of the Cities and Local Government Devolution Act 2016

European Funding

The Mayoral WMCA will work with the Government to achieve Intermediate Body status for European Regional Development Funding and European Social Funding for the Greater Birmingham & Solihull LEP only, to complement other aspects of this devolution agreement.

Conclusion

It is considered that the conferral of additional functions on the WMCA and the associated governance changes, as recommended by this review and incorporated in the Scheme, would be likely to improve the exercise of statutory functions in relation to the area of the WMCA at the appropriate local level.

The functions and powers detailed in this Governance Review and Scheme would give effect to the devolution agreement and with this and future agreement of devolution deals, improve the ability of the WMCA to deliver growth and reform for the people and businesses of the West Midlands.

DRAFT



Draft Scheme for the establishment of a Mayoral West Midlands Combined Authority

Introduction - Delivery of the Devolution Agreement and the involvement of a directly elected Mayor

The establishment of a West Midlands Combined Authority¹ presented the opportunity to have a strong, shared voice for the West Midlands and to make a step change in the collective efforts to drive the economic prosperity of the area. Effective engagement with the Local Enterprise Partnerships (“LEPs”) and the wider business community remains critical to the delivery of this ambition.

In recognising the considerable progress made to date and the great economic potential of the West Midlands, as it performs increasingly strongly on growth, inward investment and exports together with the investment in HS2, a devolution agreement (the “devolution agreement”) has been negotiated with Central Government which supports the public and private sector of the West Midlands to fully grasp these opportunities.

This Scheme for a Mayoral West Midlands Combined Authority (Mayoral WMCA) builds on the existing West Midlands Combined Authority by providing the necessary powers and decision making necessary to deliver the devolution agreement.

The devolution agreement is based on the establishment of an elected Mayor for the West Midlands metropolitan area (“the Mayor”) - working as part of the Combined Authority with a Cabinet of Council Leaders of the Constituent Councils having identified portfolios (“the Cabinet” and “Cabinet Member”) and subject to local democratic scrutiny. It is not envisaged that the Cabinet holds separate meetings; the Cabinet is part of the Mayoral WMCA, of which both LEPs and Local Authorities are Members. The ‘Cabinet’ will make decisions on the relevant matters to the WMCA Area, particularly applicable in relation to the Mayoral functions, such as the examination of the Mayoral draft budget.

Given the importance of existing collaboration across the three LEP geography (a crucial economic geography for the West Midlands area), as well as with neighbouring areas, the devolution agreement recognises that the wider partnership with business through the LEPs and with neighbouring councils across the West Midlands will be critical to success.

Implementation of the devolution agreement will enable the West Midlands to tackle the economic and social challenges that the region faces. The devolution agreement includes powers to support adult skills provision and employment support, and the ability to create an integrated approach to local public transport, including a single smart ticketing system. Further powers may be agreed over time and included in future legislation, which will require further parliamentary Orders.

¹ A Scheme for the establishment of the West Midlands Combined Authority was published on 26 October 2015. All definitions set out there in shall also apply to this Scheme unless otherwise specified.

Section 1 - Establishment of the Mayoral West Midlands Combined Authority (Mayoral WMCA)

All of the provisions in this Scheme are in addition to the current Order to establish the WMCA and the Constitution of the existing WMCA.

1. A Mayoral WMCA will be established pursuant to Section 107A of the Local Democracy, Economic Development and Construction Act 2009 (the “2009 Act”) as amended by the Cities and Local Government Devolution Act 2016 (the “2016 Act”), Constituent Councils approval dependent. The Parliamentary process for the election of a Mayor in May 2017 will be required and is a separate process. This Scheme details the powers and functions that are being sought by the WMCA to enable the Mayoral WMCA, in conjunction with the Mayor, to deliver the devolution agreement.

Membership of the Authority

2. The directly elected Mayor for the West Midlands will be a Member and Chair of the Mayoral WMCA and will be subject to the Mayoral WMCA constitution. Until such time as the Mayor is elected, a Chair and up to 2 Vice Chairs will be appointed from the Constituent Members by majority.

3. Once elected, the Mayor will appoint a Deputy from one of the Constituent Members.

4. In addition to the current Constituent and Non-Constituent Members of the existing WMCA, the following new Non-Constituent Members will be appointed from the following Councils to the Mayoral WMCA:

- Stratford-on-Avon District Council
- Shropshire Council
- *[10th June 2016 deadline has been given for consideration by the WMCA Shadow Board of additional membership]*

5. The total membership of the Mayoral WMCA will comprise of two elected Members from each Constituent Councils, one of which must include the Leader of each Constituent Council, one elected Member from each of the Non-Constituent Councils, one representative from each of the three LEPs and the elected Mayor.

Mayor and Cabinet

6. The Leaders of Constituent Councils, who are Members of the Mayoral WMCA, will hold the office of portfolio leads for aspects of the WMCA's responsibilities, on the basis to be set out in its Constitution and in consultation with the Mayor and will be collectively known as the Cabinet operating with collective responsibility. Portfolio leads will be decided by unanimous vote of the Constituent Members.

7. The Mayor will also delegate to portfolio leads such areas of Mayoral responsibility as agreed by simple majority of the Cabinet.

8. The Cabinet will examine the Mayor's draft annual budget and the plans, policies and strategies, as determined by the Mayoral WMCA, and will be able to reject them if two-thirds of the Mayoral WMCA Cabinet agree to do so. In the event that the Mayoral WMCA reject the proposed budget then the Mayoral WMCA shall propose an alternative budget for acceptance by the Cabinet, subject to a two-thirds majority of those present and voting. The Mayor shall not be entitled to vote on the alternative Mayoral WMCA proposed budget.

9. If the Mayoral WMCA agrees, the Mayor may be paid an allowance subject to an independent review of the appropriateness and amount of such an allowance, subject to any statutory provision.

10. It is proposed that there should be provision to enable the Mayor to appoint one person as the Mayor's political adviser and to provide for the terms and conditions of such appointment in accordance with Section 9 of the Local Government and Housing Act 1989.

Voting

11. Proposals for a decision of the Mayoral WMCA may be put forward by the Mayor, or any Member of the Mayoral WMCA. Any questions that are to be decided by the Mayoral WMCA, unless otherwise specified in this Scheme or the Mayoral WMCA Constitution, are to be decided by way of two-thirds majority of Constituent Members, and overall majority of all Members present and voting.

12. **Mayoral functions** will be devolved to the Mayoral WMCA by central government, exercised by the Mayor and subject to the provisions in this Scheme.

13. **Mayoral WMCA/Mayoral joint functions** are identified in Section 2 of this Scheme and are subject to the Mayor's vote being included in the majority in favour with the two-thirds of the Constituent Member voting.

14. **Mayoral WMCA functions**, such as those contained within the WMCA establishment Order regarding transport and economic development and regeneration, are **not subject to the Mayor's vote** being included in the majority in favour with the two-thirds of the Constituent Member voting. **The items reserved for unanimous voting of the Constituent Members are also not subject to the Mayor's vote in favour.**

15. The specific issues that are reserved for unanimous Constituent Member voting, in addition to any further unanimous issues specified in this Scheme, are:

- (a) approval of borrowing limits, treasury management strategy including reserves, investment strategy and capital budget of the Mayoral WMCA;
- (b) the conferral of further functions on the Mayoral WMCA;
- (c) voting rights for Members of the Mayoral WMCA appointed otherwise than from among the elected Members of the Constituent Councils;
- (d) the exercise of its functions in accordance with Section 113A of the Local Democracy, Economic Development and Construction Act 2009 (the "2009 Act")²;
- (e) amendments to the standing orders of the Mayoral WMCA; and
- (f) such other plans and strategies as may be determined by the Mayoral WMCA and set out in its standing orders.

16. Any delegation of any Combined Authority function pursuant to Section 101 the Local Government Act 1972 is a matter for the unanimous decision of the Constituent Members only.

Overview and Scrutiny and Audit Arrangements

17. The joint Overview and Scrutiny arrangements and the Audit committee of the Mayoral WMCA will comply with the provision of S104 (9) of the 2009 Act and any subsequent regulations issued under the 2016 Act. The Audit Committee will include at least one independent person.

18. No Member of the Mayoral WMCA or its committees (other than the Overview and Scrutiny Committee) can be a Member of any Mayoral WMCA Overview and Scrutiny Committee.

(2) Section 113A was inserted by section 13 of the Localism Act 2011.

Section 2 - Functions Sought by the Mayoral WMCA

19. **Existing WMCA transport and economic development and regeneration functions**, provided for in the establishment of the WMCA, **will remain exercisable by the Mayoral WMCA, not the Mayor**. In order to deliver the devolution agreement, the Mayoral WMCA is seeking the additional functions detailed in this section. The mechanism for exercise of the function is highlighted and voting arrangements for those functions are in accordance with paragraphs 13-16 of this Scheme.

Transport

20. The powers and functions funded from the “ITA levy” are **to remain as WMCA functions, funded by the “ITA levy”**. There are **no** proposals to move functions funded by the “ITA levy” to Mayoral functions. Any reference to functions currently undertaken by Constituent Councils will be run **either concurrently or jointly with the Mayoral WMCA**.

Consolidated multi-year local transport capital block allocation

21. The Mayoral WMCA will receive a devolved and consolidated multi-year local transport capital allocation for the area of the Mayoral WMCA to enable greater surety of funding, more effective and efficient long-term asset management and procurement arrangements. **A Mayoral Function, carried out in accordance with the Cabinet’s examination of and ability to reject the Mayoral budget**, in accordance with paragraph 8 of this Scheme.

Public Transport and related infrastructure

22. It is proposed that the Secretary of State for Transport to make grants to bus service operators under Section 154 of the Transport Act 2000, in relation to services which operate wholly or mainly within Mayoral WMCA Area, be **exercised by the Secretary of State for Transport in consultation with the Mayor**. This would provide the WMCA with an early opportunity to engage on a formal basis with operators of the current commercial bus network, prior to and in expectation of the new regime to be introduced by the forthcoming Bus Service Bill. **A Secretary of State function, exercised in consultation with the Mayor**.

23. To strengthen our Safety and Security agenda the public transport Safer Travel Police Team will be provided with powers to ensure a consistent approach and more effective response on our bus network and related infrastructure. The powers sought below are to **be concurrently/jointly exercised with the Constituent Councils, as Mayoral WMCA functions:**

- **The Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) England Order 2005** - the Mayoral WMCA is seeking functions equivalent to those contained within Section 144 of the Transport Act 2000 (civil penalties for bus lane contraventions), allowing the Mayoral WMCA to be an approved Local Authority. The outcome would be to ensure a consistent approach to the enforcement, application of penalty charges etc. of bus lanes.
- **The Health Act 2006** - to provide the Mayoral WMCA with the ability to tackle smoking in public places, specifically on buses and in enclosed bus stations.
- **The Anti-Social Behavior, Crime and Policing Act 2014** - the powers contained within are currently held by Local Authorities, NHS, social landlords, Police Forces and Transport for London. The Mayoral WMCA is seeking equivalent functions to enable the Mayoral WMCA to efficiently secure Orders that apply across the whole of the Mayoral WMCA Area rather than at present in individual Constituent Council areas.

24. Bus re-franchising and enhanced quality contracts - the Mayoral WMCA is seeking enhanced powers to deliver integrated smart ticketing across all local modes of transport in the Mayoral WMCA Area. **A joint WMCA/ Mayoral function.**

The West Midlands Key Route Network (WMKRN)

25. The Mayoral WMCA is seeking functions equivalent to those contained within Part 1 of the Road Traffic Regulation Act. These functions would enable the WMKRN be statutorily defined, to enable Orders such as 'Safer Vehicles', 'Air Quality', "Moving Traffic Violation" Orders etc. to be uniquely identified for the WMKRN, or the equivalent provisions sought in order to allow the WMKRN of local authority roads to be strategically managed and coordinated at the West Midlands Metropolitan level, with joint asset management and procurement, by the Mayoral WMCA on behalf of the Mayor.

26. The Mayoral WMCA is seeking functions equivalent to the below, **to be exercised by the Mayoral WMCA on behalf of the Mayor, concurrently with the Constituent Council on the WMKRN**, unless otherwise stated:

- **Section 6 of the Highways Act 1980** (enabling the Secretary of State or Highways England to delegate to or enter into an agreement with a county council, metropolitan district council or London borough council in relation to the construction, improvement or maintenance of trunk roads.) It is proposed that the section should be modified to include the Mayoral WMCA in the authorities to which such functions may be delegated to support better integration between local and national networks, or the equivalent legislative provision in order to achieve the aim of better integration. **A joint WMCA/Mayoral function.**
- **Section 8 of the Highways Act 1980** (enabling local highway authorities and Highways England to enter into agreements with other such authorities in relation to the construction, improvement, maintenance etc. of a highway for which any party to the agreement is the highway authority.) It is proposed that the section be modified to allow the **Mayoral WMCA to be a party to such agreement as if it were a local highway authority, with the affected highway authority(ies) consent**, or the equivalent legislative provisions in order to allow the WMCA to be party to such agreements. **A joint WMCA/Mayoral function.**
- **Section 62 of the Highways Act 1980 - General Power of Improvement**, or the equivalent legislative provisions to provide Mayoral WMCA with General Power of Improvement in respect of highways. This will enable the Mayoral WMCA, by agreement with local highway authority, to undertake works on the WMKRN for Transportation purposes as if the highway authority, **with the affected highways authority(ies) consent(s).** **A joint WMCA/Mayoral function.**
- The Mayoral WMCA is seeking functions equivalent to those contained within S49 New Roads and Street Works Act 1991 to enable the **Mayoral WMCA to be defined as a Street Authority for the WMKRN**, or the equivalent legislative provisions, in order to enable the Mayoral WMCA to develop a Permit Scheme, coordinate Notices etc. on the WMKRN. **The receipt of notices, register, inspections etc. would still be carried out by the Local Highway Authority.** The Mayoral WMCA would also enable eligibility for the 18% diversionary works contribution from utilities for non-Metro Schemes. **A joint WMCA/Mayoral function.**
- The Mayoral WMCA is seeking functions to place a **duty on the Mayoral WMCA, in consultation with the appropriate authorities**, to report to the Secretary of State an assessment of existing traffic flows, forecast growth and reduction targets in respect of the WMKRN. Section 2 of the Road Traffic Reduction Act 1997 sub sections 1, 2 and 3, or the equivalent functions in order to achieve the Mayoral WMCA's duty to report. **A Mayoral function.**
- The WMKRN be designated a civil enforcement area for moving traffic contraventions **Section 74 and Schedule 8 Part 2 (10) of the Traffic Management Act 2004**, or the equivalent legislative provisions, so as to ensure the expeditious movement of traffic on the most critical local roads

across the West Midlands in terms of economic growth, productivity and jobs.
A joint WMCA/ Mayoral function.

- The Mayoral WMCA is seeking functions equivalent to those contained within **section 39(2) and (3) of the Road Traffic Act 1988**, to have **concurrently** the power of a local authority to promote road safety and give road safety information and training. **A joint WMCA/Mayoral Function.**

27. The Mayor and the Mayoral WMCA will have the power to create **Low Emissions Zones and Clean Air Zones, with the affected highway authority(ies) consent. A joint WMCA/Mayoral function.**

HS2 Growth

28. The Mayoral WMCA will deliver the objectives of the HS2 Growth Strategy. In order to manage risks and support delivery there will be a prioritised programme of projects with milestones, input, output, outcomes and benefit indicators that local partners will use to track delivery. In addition, consideration will be given to the remit and governance of a Combined Authority-led Development Corporation to deliver the local growth.

29. It is proposed that the Mayoral WMCA should have functions equivalent to those of the Mayor of London under Part 8 of the Localism Act 2011 to designate any area of land, **with the consent of the local planning authority(ies) for the area(s)**, in the Mayoral WMCA Area as a development area leading to the establishment, by Order, of WMCA development corporations (“WMCADCs”). **A Mayoral WMCA function.**

30. Section 202 of the Localism Act 2011 currently allows for the Mayor of London to decide that the Mayoral Development Corporation(s) should have certain planning functions in relation to the whole or part of the Mayoral development area. It is proposed that Section 202 of the Localism Act 2011 is modified to provide that this power should **only be exercised by the Mayoral WMCA with the consent of the local planning authority(ies) for the relevant area(s)**, or the equivalent statutory provisions in order to ensure that the planning function is **only** exercisable with the consent of the local planning authority(ies) for the relevant area(s).

31. The Mayoral WMCA is seeking provision equivalent to those contained within Schedule 1 of the Land Compensation Act 1961 (relating to disregard of actual or prospective development in certain cases), so that land designated as a WMCA developmental area is treated in the same way as land designated as an urban development area.

Skills

32. The Mayoral WMCA will build on the existing collaboration between the three LEPs and begin to prepare for local commissioning which will allow the Mayoral WMCA to agree with providers the mix and balance of provision that will be delivered in return for the block funding, and to define how success will be assessed.

Employment

33. The Mayoral WMCA will work with the Department for Work and Pensions (DWP) to co-design the future employment support, from April 2017, for the hardest-to-help claimants, many of whom are currently referred to the Work Programme and Work Choice. The Employment and Skills Strategy for the three LEP Area will influence the co-design.

34. The Mayoral WMCA is seeking functions equivalent to the Secretary of State functions under Sections 2 and 10A of the Employment Training Act 1973, to be exercised **concurrently with the Secretary of State** to make appropriate arrangements for the purpose of assisting persons to train for, obtain and retain suitable employment, and enter into agreements for the provision of ancillary goods and services. **A joint WMCA/Mayoral function.**

More and Better Homes

35. The Mayoral WMCA is seeking the objectives and functions of the Homes and Communities Agency (“HCA”) under Section 2(1) (with a limitation to the West Midlands) and Section 3-12, 17 and 18 of the Housing and Regeneration Act 2008 (“H&R Act 2008”), **to be exercised concurrently with the HCA.** These functions, would be **non-Mayoral functions** with the exception of the specific HCA compulsory purchase powers as detailed in paragraph 38.

36. The objectives are:-

- to improve the supply and quality of housing;
- to secure the regeneration or development of land or infrastructure;
- to support in other ways the creation, regeneration and development of communities or their continued well-being; and
- to contribute to the achievement of sustainable development and good design.

37. The functions in paragraph 35 include functions enabling the achievement of the above objectives, including a power of HCA compulsory purchase in Section 9 of the H&R Act 2008 (subject to the authorisation of the Secretary of State). In respect of this section, in order to achieve the objectives above, the Mayoral WMCA should have the benefit of exemption from Section 23 of the Land Compensation Act 1961 enjoyed by the HCA under section 23(3)(d) of that Act.

38. The Mayoral WMCA is seeking functions contained in Section 9 of the H&R Act 2008, as a **Mayoral function, only exercisable by the Mayor with the consent of the Mayoral WMCA Cabinet Member(s)** for the area(s) of the land to be compulsorily acquired.

Supporting and Attracting Business and Innovation

39. The government commits to working with the WMCA and the Greater Birmingham & Solihull, Black Country and Coventry & Warwickshire LEPs to support the further development and implementation of the three LEP Integrated Business Support Ecosystem.

Culture

40. The Mayoral WMCA is seeking functions equivalent to those contained in Section 145 of the Local Government Act 1972 to provide and support cultural activities and entertainments, to be exercised concurrently with the Constituent Councils. This is in addition to the current WMCA function to encourage visitors and provide conference and other facilities. The devolution of the power to provide and support cultural activities and entertainments will assist in the promotion of the West Midlands thereby attracting business and innovation into the region. **A Mayoral WMCA function.**

Data Sharing

41. There will be a number of instances in connection with specified functions and powers, held by both the Authorities and the Mayoral WMCA, when various enactments enable or require that local or public authorities to share information with other persons or bodies and in particular enable / require those other persons or bodies to share information with the local or public authority. It is proposed that in such instances such enactments are amended to **put the Mayoral WMCA in the same position as the local or public authority**, or the equivalent legislative provision is utilised to ensure that the Mayoral WMCA is able to share such information.

42. Such enactments include for example:

- Sections 14, 16, 17 and 77 of the Education and Skills Act 2008;
- Section 122 of the Apprenticeships, Skills, Children and Learning Act 2009;
- Sections 17A and 115 of the Crime and Disorder Act 1998;
- Section 113 of the Environment Act 1995;
- Section 72 of the Welfare Reform and Pensions Act 1999;
- Regulation 13 of the Social Security (Claims and Information) Regulations 1999;
- Section 131 of the Welfare Reform Act 2012; and
- Regulation 5 of the Social Security (Information-sharing in relation to Welfare Services etc.) Regulations 2012.

43. In addition the Mayoral WMCA is seeking functions to allow the Mayoral WMCA access to the following national data sets together with any subsequently identified data sets in order to progress those actions identified in the devolution agreement:

- The Prisons Database (held by the Ministry of Justice)
- The Work and Pensions Longitudinal Study (held by the Department for Work and Pensions)
- Hospital Episodes Statistics, Mental Health Minimum Dataset (held by the Health and Social Care Information Centre)
- National Drug Treatment Monitoring System (held by Public Health England)

Mayoral Provisions

44. The functions which are to be Mayoral functions pursuant to the devolution agreement and the conditions under which they can be exercised by the Mayor are detailed throughout Section 2 and 3 of this Scheme, these are:

- HCA CPO powers (with the consent of the appropriate authority(ies))
- Grants to Bus Service Operators (Secretary of State to consult the Mayor)
- Devolved, consolidated transport budget
- Reporting on the Key Route Network (in consultation with the authorities)
- Mayoral precept
- Raising of a business rate supplement (in agreement with the relevant LEP Board(s) and the Mayoral WMCA)
- Functional power of competence

45. **The Mayor will have responsibility for a devolved and consolidated transport budget and for a franchised bus service.** As part of the Mayoral budget, the consolidated transport budget will be subject to the examination of the Cabinet and can be rejected if two-thirds of the Cabinet decide to do so, in accordance with paragraph 8 of this Scheme.

46. It is **not** proposed that the Mayor should have the general power of competence. However, the Mayor should have, as an ancillary power, a functional power of competence that is similar to the power under section 113A of the 2009 Act. This would enable the Mayor to do things appropriate or incidental to, or connected with, the Mayor's functions and in order to aid the delivery of the investment programme.

47. The Mayoral WMCA is seeking functions equivalent to those contained within section 107E of the 2009 Act, that by Order of the Secretary of State the Mayor will be able to enter into a joint exercise arrangement for the exercise of functions pursuant to section 101(5) Local Government Act 1972.

48. The Mayor will arrange for the exercise of Mayoral functions by such persons permissible under section 107D of the Local Democracy and Economic Development Act 2009 where required to do so by unanimous resolution of the Constituent Council Members present and voting.

Section 3 - Finance and Funding

49. The WMCA will create a fully devolved investment strategy, covering all devolved functions and income streams in order to deliver the devolution agreement.

50. The 2016 Act makes provision for a Mayoral Combined Authority to act as a major precepting authority. It is proposed that the Scheme seeks to secure the provisions **enabling the Mayor to raise a precept** as provided for in the 2016 Act and to aid the delivery of the investment programme.

51. It is proposed that the Order seeks to secure the provisions set out in **section 74** of the Local Government Finance Act 1988, to enable the Mayoral WMCA to issue a levy to its Constituent Councils for **the expenditure of the Mayoral WMCA that is reasonably attributable contribution for all other non-Mayoral functions**.

52. It is proposed that regulations are made pursuant to section 23 (5) of the Local Government Act 2003 to give the Mayoral WMCA borrowing powers for any purpose relevant to the exercise of its functions, both Mayoral and Mayoral WMCA.

53. The Mayor will have the ability, in consultation with businesses, with agreement of the relevant LEP Board(s) and the Mayoral WMCA, to raise Business Rate Supplement, up to a specified cap for investment in specified projects, aiding the delivery of the investment programme driven by the WMCA Strategic Economic Plan. The Mayoral WMCA will be a levying authority for the purposes of the Business Rates Supplement Act 2009 and the Constituent Authorities shall be deemed to be acting jointly through the Combined Authority in accordance with Section 2(3) of the Business Rates Supplement Act 2009.

54. The Mayoral WMCA will work with government to explore the options available to the region as it moves towards 100% business rate retention. The first step in that transition will see the Mayoral WMCA pilot a Scheme which will enable the Combined Authority to retain an agreed level of business rate growth that would otherwise have been paid as central share to government, above an agreed baseline, for an initial period of five years.

55. The Mayoral WMCA will work with the government to achieve Intermediate Body status for European Regional Development Funding and European Social Funding for the Greater Birmingham & Solihull LEP only, which will complement other aspects of the devolution deal.

Section 4 - Substructures and Internal Scheme of Delegation

56. The Mayoral WMCA may establish further joint committees or sub-committees and delegate powers and functions as considered by it to be appropriate, in accordance with its constitution.

Section 5 - Subsequent Reviews

57. There may be further reviews required in as further devolution deals are agreed.

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Sandwell Metropolitan Borough Council

Appointments to Other Bodies

Appointments to Other Bodies - National Organisations

National Organisation	Term of Office	Nomination(s)	Notes
Bus Lane Adjudication Service Joint Committee	1 year expiring 2017	Cabinet Member for Highways and Environment Deputy: Service Manager – Highways	New Body
Local Government Association – General Assembly	1 year expiring 2017	Leader of the Council (5 votes) Non-voting members:- Deputy Leader Director - Regeneration and Economy	LGA Executive Meetings – any places allocated to Sandwell on Executive Meetings will be dealt with through the regional political groups

National Organisations cont

National Organisation	Term of Office	Nomination(s)	Notes
Local Government Association Strategic Aviation Special Interest Group	1 year expiring 2017	Councillor Piper Director – Regeneration and Economy	New Body
Local Government Information Unit – Management Committee	1 year expiring 2017	Deputy Leader of the Council and Cabinet Member for Neighbourhoods and Communities or her nominee	
PATROL Adjudication Joint Committee (Parking and Traffic Regulations Outside London)	1 year expiring 2017	Cabinet Member for Highways and Environment Substitute member - Cabinet Member for Regeneration and Economic Investment	
SIGOMA (Special Interest Group of Municipal Authorities within the LGA)	Indefinite appointment	Leader of the Council or his nominee	

Appointments to Other Bodies - Regional Organisations

Regional Organisation	Term of Office	Nomination(s)	Notes
Association of Black Country Authorities	1 year expiring 2017	Leader of the Council (substitute: Cabinet Member for Regeneration and Economic Investment)	
Beacon Centre for the Blind	1 year expiring 2017	Councillor Allen	Non-Voting Advisory Capacity Only.
Midlands Joint Advisory Council for Clean Air and Noise Control	1 year expiring 2017	Cabinet Member for Public Health and Protection Chair of Community Safety, Highways and Environment Scrutiny Board Director – Public Health	

Regional Organisations cont

Regional Organisation	Term of Office	Nomination(s)	Notes
Midlands Joint Advisory Council for Environmental Protection	1 year expiring 2017	Cabinet Member for Public Health and Protection Chair of Community Safety, Highways and Environment Scrutiny Board Director – Public Health	
West Midlands Fire and Rescue Authority	1 year expiring 2017	Councillor Edwards* Councillor Tranter Councillor Allcock	* Denotes Lead Member (Section 41)
West Midlands Home and Leisure Safety Council	1 year expiring 2017	Councillor Taylor	

Regional Organisations cont

Regional Organisation	Term of Office	Nomination(s)	Notes
Transport Delivery Committee - West Midlands Integrated Transport Authority (formerly known as Centro Members)	1 year expiring 2017	Councillor R Horton* Councillor Eaves	*Denotes Lead Member (Section 41)
Transport Authority Overview and Scrutiny Joint Committee	1 year expiring 2017	Councillor Dhallu	
West Midlands Rail Ltd	For length of office of member	Leader of the Council Substitute: Councillor R L Horton	Principal Director of Board of Directors
West Midlands Police and Crime Panel	1 year expiring 2017	Cabinet Member for Public Health and Protection Named alternate: Councillor Webb Named alternate for Dudley MBC: Councillor D Hosell	

Regional Organisations cont

Regional Organisation	Term of Office	Nomination(s)	Notes
West Midlands Regional Health Scrutiny Chairs Group	1 year expiring 2017	Chair of Health and Adult Social Care Scrutiny Board	
West Midlands Strategic Migration Partnership Board	1 year expiring 2017	Deputy Leader	
Pensions Committee, Investment Advisory Sub-Committee and Pensions Joint Consultative Forum	1 year expiring 2017	Councillor Hevican (or nominee: vacant)	

Appointments to Other Bodies - Partnership Organisations

Partnership Organisation	Term of Office	Nomination(s)	Notes
Birmingham Airport - Airport Consultative Committee	1 year expiring 2017	Councillor Dr T Crumpton	
Black Country Consortium	1 year expiring 2017	Leader of the Council	As a Director and a Guarantee Member.
Black Country Executive Joint Committee	For length of office of member	Leader of the Council Cabinet Member for Regeneration and Economic Investment	
Black Country Local Enterprise Partnership	1 year expiring 2017	Leader of the Council Cabinet Member for Regeneration and Economic Investment	
Black Country Partnership NHS Foundation Trust - Assembly of Governors	For length of office of member	Councillor Piper	

Partnership Organisations cont

Partnership Organisation	Term of Office	Nomination(s)	Notes
Black Country Waste Management Forum	1 year expiring 2017	Cabinet Member for Highways and Environment	
Clinical Governance Committee	1 year expiring 2017	Chair of Health and Adult Social Care Scrutiny Board	
Contest Board	1 year expiring 2017	Leader of the Council Cabinet Member for Public Health and Protection	New Body
Corporate Parenting Board	1 year expiring 2017	Cabinet Member for Children's Services Councillor Hadley Councillor L Horton Councillor Shackleton Councillor Webb	Cabinet Member with responsibility for Children's Services + 4 members Chair and Vice-Chair of Children's Services Scrutiny Board participating observers
Local Improvement Finance Trust (LIFT) – Strategic Partnership Board	1 year expiring 2017	Assistant Chief Executive (or her nominee)	

Partnership Organisations cont

Partnership Organisation	Term of Office	Nomination(s)	Notes
Local Sustainable Transport Fund (Local Sustainable Transport Fund Member Programme Board)	1 year expiring 2017	Cabinet Member for Regeneration and Economic Investment	Cabinet Member with responsibility for transport
Raising Participation Group	1 year expiring 2017	Cabinet Member for Children's Services	
Right Care Right Here Partnership Board	1 year expiring 2017	Cabinet Member for Social Care Director - Adult Social Care, Health and Wellbeing	
River Trent Regional Flood and Coastal Committee	1 year expiring 2017	Cabinet Member for Highways and Environment (nominated substitute: Councillor Khatun)	

Partnership Organisations cont

Partnership Organisation	Term of Office	Nomination(s)	Notes
Sandwell Futures Ltd Board (and HoldCo Board)	Indefinite appointment	Director – Regeneration and Economy	Appointed as the Local Education Partnership Director for Sandwell Futures and PFI 1 Director for HoldCo
Sandwell Leisure Trust	1 year expiring 2017	Councillor P Hughes* Councillor L Horton	* denotes nominated member to answer written questions
Sandwell Local Access Forum	1 year expiring 2017	Councillor Gavan Councillor S Hosell Councillor Tranter	Elected member representatives would ideally address any areas of interest that appeared to be under represented at that time – in particular Land Management.
Standing Advisory Council on Religious Education (SACRE)	1 year expiring 2017	Cabinet Member for Children’s Services Councillor Melia Nominated representatives: Councillor B Price and Phillips respectively	

Partnership Organisations cont

Partnership Organisation	Term of Office	Nomination(s)	Notes
W2R Contract Management Board	1 year expiring 2017	Leader of the Council Director - Neighbourhoods	
West Midlands Combined Authority Board	1 year expiring 2017	Leader of the Council Cabinet Member for Regeneration and Economic Investment (substitutes: Cabinet Member for Public Health and Protection and Cabinet Member for Core Services)	New Body
West Midlands Combined Authority Overview and Scrutiny Committee	1 year expiring 2017	Councillor Peter Hughes Substitute: Councillor Worsey	New Body
West Midlands Combined Authority Audit Committee	1 year expiring	Councillor Carmichael Substitute: Councillor Taylor	New Body
West Midlands Employers	1 year expiring 2017	Cabinet Member for Core Services	

Partnership Organisation	Term of Office	Nomination(s)	Notes
West Midlands Joint Committee	1 year expiring 2017	Leader of the Council* Deputy Leader of the Council**	* Voting member ** Substitute voting member (Chair of each Joint Authority for Police, Fire and Transport to be ex-officio members but with no voting rights)

Appointments to Other Bodies - Civic Organisations

Civic Organisation	Term of Office	Nomination(s)	Notes
Safer Sandwell Partnership	1 year expiring 2017	Cabinet Member for Public Health and Protection Councillor Allen Councillor Webb	Cabinet Portfolio Holder for crime and disorder issues

Appointments to Other Bodies - Local Organisations

Local Organisation	Term of Office	Nomination(s)	Notes
Akrill Trust	4 years expiring 2020	Councillor Melia	Other representatives 4 years expiring 2019: Councillor L Horton Councillor Webb
Barlow Homes Committee of Management	1 year expiring 2017	Councillor Dr Crumpton Councillor S Davies Councillor Y Davies Councillor Frear Councillor Gavan	
- Barlow Samaritan Fund for Teachers and Scholars – Committee of Management	1 year expiring 2017	The Mayor Councillor Y Davies Councillor Downing Councillor Gavan	
George and Thomas Henry Salter Trust	1 year expiring 2017	The Mayor	Ex-officio appointment only

Local Organisations cont

Local Organisation	Term of Office	Nomination(s)	Notes
Leonard Andrews Poole Trust	1 year expiring 2017	Members of the General Purposes and Arbitration Committee	To act as managing trustees of the Charity
Mackmillan Educational Foundation	4 years expiring 2020	Mr Hamblett Councillor Webb	Other representatives: 4 years expiring 2017 Councillor Eaves Councillor Shackleton 4 years expiring 2019 Councillor Carmichael Councillor B Price Mr P Webb
Rowley Quarry Residents Liaison Group	1 year expiring 2017	Ward Blackheath Councillor Carmichael Rowley Councillor Eaves Tividale Councillor Crompton	

Local Organisations cont

Local Organisation	Term of Office	Nomination(s)	Notes
Rowley Regis Consolidated Charities	4 years expiring October 2020	Councillor Ashman Councillor B Price Councillor Shackleton Councillor Tranter Mr P Webb	
Sandwell Academy Governing Body	1 year expiring 2016	Councillor Shackleton	
Sandwell Advice and Moneylink	1 year expiring 2017	Councillor Y Davies	
Sandwell Twinning Association	1 year expiring 2017	The Mayor Councillor Dhallu Councillor Hackett (or their nominee: Councillor J Underhill)	Ex-officio appointment