

Sandwell Metropolitan Borough Council

6 December 2016

West Midlands Mayoral Combined Authority – Implementing the Devolution Agreement

1. Summary Statement

- 1.1 Council has received and considered a number of reports regarding the establishment of a Combined Authority for the West Midlands and has consented to Sandwell being a Constituent member of the Combined Authority alongside the other six councils of the West Midlands. This report provides Council with the opportunity to consider the next phase in the development of a Mayoral Combined Authority.
- 1.2 The development of the government's devolution agenda created the opportunity for the West Midlands Combined Authority (WMCA) to negotiate and subsequently agree a proposed Devolution Agreement. The agreement was ratified by the seven constituent councils throughout February and March 2016 when they consented to become a member of the West Midlands Combined Authority. Sandwell confirmed its membership of the combined authority on 8th March.
- 1.3 The objective of the Devolution Agreement is to open up potential investment funds totalling £8bn which it is hoped will increase confidence in the local area so that further private sector investment can be leveraged. It sits alongside the Midlands Engine project, a partnership with government covering the whole West and East Midlands, including the Midlands Connect Initiative to take forward east-west transport investment.
- 1.4 The key focus areas of the first devolution agreement are:
 - Finance, including £36.5 million per annum of government revenue funding for 30 years, to support a locally controlled investment fund;
 - Governance, including the election of a Mayor for the West Midlands metropolitan area in May 2017;
 - Transport;
 - HS2 growth;
 - More and better homes;

- Skills and employment;
- Supporting and attracting business and innovation
- Public service reform.

- 1.5 Council, at its extraordinary meeting held on 14 June 2016, gave consent to the draft West Midlands Combined Authority (Election of Mayor) Order which provides for the election of a directly elected Mayor for the West Midlands metropolitan area. The Order was subsequently made by Parliament on 15th September 2016.
- 1.6 Council also approved the draft Mayoral West Midlands Combined Authority Functions Scheme and its publication under section 112 of the Local Democracy, Economic Development and Construction Act 2009 (as amended). In doing so, the Chief Executive was authorised to agree the final arrangements for public consultation on the proposals in the Mayoral WMCA Functions Scheme, on behalf of the Council. It is this Scheme, as amended by the outcomes of the consultation process that provides the basis and underlying principles for the Draft West Midlands Combined Authority (Functions and Amendment) Order 2016. Appendix B provides a comparison between the Draft Order content and the Functions Scheme.
- 1.7 It is crucial to the delivery of the devolution deal and the wider devolution agenda that the finalised Order is laid in Parliament as soon as possible. The Combined Authority will therefore be asked to approve the Draft West Midlands Combined Authority (Functions and Amendment) Order 2016 at its meeting on 9 December so that it can be laid before Parliament before 18 December. The Cabinet for each of the Constituent Council's is also being asked for its consent to the Order prior to the Combined Authority meeting. The views of Council are sought to assist in informing the debate of the matter by Cabinet.
- 1.8 The Draft Order, set out as Appendix A to this report, details the functions required by the Mayoral Combined Authority in order to deliver the devolution deal. It is important for members to note that the functions being transferred are government functions that it is devolving to the Mayoral Combined Authority and not the functions of the Council, which will remain unchanged.

Further details are attached for your information

2. Recommendation

That the views of the Council on the West Midlands Combined Authority (Functions and Amendment) Order 2016, as now submitted, be forwarded to the Cabinet to assist in the consideration of the matter at its meeting on 7 December, 2016.

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3. Strategic Resource Implications

3.1 The West Midlands Combined Authority (Functions and Amendment) Order 2016 will be supported by a secondary Mayoral Combined Authority Funding Order. The Finance Order will recognise that in addition to income in the form of gain share and grants following certain functions, combined authorities will need to be provided with powers to raise funds to cover costs of exercising their functions via:

- (a) A generic approach, to be included in area-specific Orders and varied as needed to enable funding of combined authorities by:
- Adding to existing powers for the combined authority and/or the Mayor, to receive contributions from constituent authorities, by agreement with those constituent local authorities, for functions specified in the Order;
 - Establishing powers for the combined authority to levy for non-mayoral transport functions specified in the Order;

The functions and funding arrangement may differ from area to area but as a rule of thumb, non-mayoral combined authority functions will be funded by the levy. Other functions (which may include transport functions and/or those mayoral functions a combined authority would like to fund other than by the mayor's precept) will be funded by contributions.

- (b) A generic approach to funding of mayors and combined authority budget setting, to be included in a single generic Order, by:
- Providing a requirement for combined authority mayors to precept for their functions in all areas;
 - Providing for a budget setting process for the mayor, broadly in line with the model set out in Schedule 2 of the Standing Orders Regulations 2001. For most combined authorities, a two-thirds majority will be required to overturn or amend the mayor's budget.

The precepting provision and the requirements for mayoral budget-setting will be suspended in the first year of a move to a mayoral combined authority as the mayor will not be in post and able to set either a precept or a budget. The combined authority will set a budget for the mayor's functions in the first year and provide their funding.

- 3.2 An initial equalities assessment was carried out on the Mayoral West Midlands Combined Authority Scheme on which the draft West Midlands Combined Authority (Functions and Amendment) Order 2016 is based and it was concluded that no further assessment was required.

4. Legal and Statutory Implications

- 4.1 The Local Democracy, Economic Development and Construction Act 2009 (as amended) allows two or more local authorities to form a combined authority which is a separate public body and which may exercise certain functions concurrently with the member authorities.
- 4.2 The agreement of the Council to the West Midlands Combined Authority (Functions and Amendment) Order 2016 is an executive function under the Local Authorities (Functions and Responsibilities) (England) Regulations 2013. Consequently, the Cabinet at its meeting on 7th December will be asked to determine the Council's position in relation to the Order. However, in view of the importance of the matter and its potential implications for Sandwell as detailed in paragraph 1.4, Cabinet is interested to hear the views of the Council as a whole which it will receive and consider as part of its deliberations on the matter.
- 4.3 The West Midlands Combined Authority (Functions and Amendment) Order 2016 is being made under the provisions of the Local Democracy, Economic Development and Construction Act 2009 as amended by the Cities and Local Government Devolution Act 2016.

5. **Implications for the Council's Scorecard Priorities**

- 5.1 The areas of focus for the devolution agreement relating to more and better homes, skills and employment, supporting and attracting business and innovation and public service reform support the Council's priorities of Great People, Great Prospects, Great Place and great Performance.

6 **Background Details**

- 6.1 It is a requirement that public consultation is undertaken in most cases where additional functions are to be conferred on a combined authority. Therefore, the functions required by a Mayoral West Midlands Combined Authority to deliver the devolution agreement were detailed in a Functions Scheme and consulted on.
- 6.2 The consultation was carried out from 4th July to 21st August 2016 to seek views from stakeholders on the additional functions proposed to be conferred on the West Midlands Combined Authority, in order to deliver the devolution agreement.
- 6.3 Following the consultation, a summary of responses was submitted to the Secretary of State for Communities and Local Government. The summary report is available on the West Midlands Combined Authority website via the following link, for Council's information
<https://westmidlandscombinedauthority.org.uk/media/1354/mayoral-wmca-consultation-report-for-upload.pdf>
- 6.4 The Secretary of State has considered the responses and has indicated that he is satisfied that the statutory tests have been met and no further consultation is required. The tests are set out in Section 113 of the Local Democracy, Economic Development and Construction Act 2009 as amended by the Cities and Local Government Devolution Act 2016.
- 6.5 In response to the Secretary of State's decision, the Department for Communities and Local Government, in consultation with the West Midlands Combined Authority and relevant government departments, has prepared the draft statutory West Midlands Combined Authority (Functions and Amendment) Order 2016, based on the functions scheme. The Order is attached at Appendix A.
- 6.6 If approved by the seven constituent council's (Sandwell, Birmingham, Coventry, Dudley, Solihull, Walsall and Wolverhampton) the Order will be laid before Parliament for approval of the functions to be transferred to the Combined Authority. It is important for members to note that the functions being transferred are government functions and not the functions of the Council.

Source Documents

West Midlands Combined Authority (Election of Mayor) Order

Transfer of functions consultation response summary report

Draft West Midlands Combined Authority (Functions and Amendment) Order
2016 (attached)