

## Cabinet – 2 June 2016

### Approval of the West Midlands Combined Authority Draft Mayoral Scheme, Mayoral Elections Order, and West Midlands Devolution Deal.

**Portfolio:** Councillor Mike Bird, Leader of the Council

**Related portfolios:** Councillor Adrian Andrew, Deputy Leader and Portfolio Holder Economy, Infrastructure and Development

**Service:** Chief Executive

**Wards:** All

**Key decision:** Yes

**Forward plan:** Yes

#### 1. Summary

- 1.1 In November 2015 the Shadow West Midlands Combined Authority (WMCA) accepted an initial proposed agreement for a West Midlands 'Devolution Deal'. The deal proposed amendments to the governance arrangements for the WMCA which had previously been agreed by Council 7 March 2016. Cabinet will recall that in approving the WMCA Scheme and Order, the parliamentary process for creating the WMCA was enabled and at the time of writing this report the Order was being laid in statute.
- 1.2 The premise upon which the Government entered into the Devolution Deal was that in return for devolution to the West Midlands a directly elected Mayor would be granted for the West Midlands Combined Authority. The amendments referred to above require a new WMCA 'Powers and Functions' Scheme and subsequent Order to facilitate devolution in the West Midlands and to receive this specific powers and functions in the Deal that are being afforded to a directly elected Mayor.
- 1.3 There is also a requirement for a Mayoral (Elections) Order to be approved by the seven Constituent Councils, which establishes the role of a Mayor and sets the timescales for an election, which converts the WMCA into Combined Authority with a directly elected Mayor (a Mayoral Combined Authority). These proposed amendments have required a Governance Review (**appendix 1**), and from that a Mayoral West Midlands Combined Authority Scheme ('MWMCA') (**appendix 2**) has been drafted.

- 1.4 The draft Mayoral WMCA 'Powers and Functions' Scheme will be subject to statutory public consultation proposed to be held between July and August 2016. This process is effectively undertaken on behalf of the Secretary of State to enable him to make his decision to draft an Order creating a Mayoral West Midlands Combined Authority (MWMCA). Once the responses have been provided to the Secretary of State for Communities and Local Government it will be for him to determine whether to lay an MWMCA 'Powers and Functions' Order before Parliament, thus amending the WMCA governance arrangements. When considering the Mayoral Scheme and any responses to consultation, the Secretary of State must have regard to the consents of the Scheme but not necessarily follow them precisely.
- 1.5 This report seeks to detail the proposed 'Powers and Functions' of the MWMCA in support of the delivery of the West Midlands Devolution Deal and seeks Cabinet's approval, in its Executive role to the Council, to determine whether the draft Mayoral 'Elections' Order (**appendix 3**) and draft Mayoral WMCA 'Powers and Functions' Scheme is approved. However in the spirit of all other decisions that are related to the WMCA and the decisions of the Cabinet, the proposals are also being set out in order to provide all Members with information that enables them to consider the matters.
- 1.6 The decisions of Cabinet are needed ahead of the process to establish the Mayoral WMCA being commenced in statute. Cabinet are asked to note that all previous functions of the WMCA as set out in the 'Establishment' Order presented to them in March 2016 will continue to be delivered by the WMCA, and that the 'powers and functions' provided for in the Mayoral Scheme are in addition to these original powers and functions; they two documents therefore need to be read together.

## **2. Recommendations**

- 2.1 That Cabinet considers as a Constituent Member of the West Midlands Combined Authority if it agrees with the Mayoral Governance Review (**appendix 1**), and if so, recommends to Council the approval of the Mayoral Governance Review.
- 2.2 That Cabinet considers, as a Constituent Member of the West Midlands Combined Authority, the draft West Midlands Mayoral 'Elections' Order (**appendix 3**) establishing the position of Mayor and enabling elections to occur in 2017, and if agrees with the content, recommends to Council the approval of the Mayoral Order subject to recommendation 2.3 below.
- 2.3 That Cabinet delegates authority to the Chief Executive in consultation with the Leader of the Council to agree minor non-material amendments to the West Midlands Mayoral 'Elections' Order.
- 2.4 That Cabinet considers as a Constituent Member of the West Midlands Combined Authority whether to approve the draft Mayoral West Midlands Combined Authority Scheme (**appendix 2**) setting out the Mayor's 'Powers and Functions' to deliver the West Midlands Devolution Deal, and in doing so, agrees for the Mayoral Scheme to be consulted upon.

- 2.5 That Cabinet considers and if satisfied with the content, agree to recommend to Council the, approval of the West Midlands Devolution Deal (**appendix 4**)
- 2.6 That Cabinet agrees to receive a future report containing the draft Mayoral West Midlands Combined Authority 'Powers and Functions' Order
- 2.7 That Cabinet agrees, subject to the terms of a agreement, to underwrite one seventh of Birmingham City Council's revenue account losses arising from its role as Accountable Body for the West Midlands Collective Investment Fund ('CIF') until such time that the West Midlands Combined Authority is able to borrow funds for non-transportation purposes in its own right. This would support early implementation of the CIF (see paragraph 6.4).

## Report detail

### West Midlands Combined Authority- Decisions Made to Date

- 3.1 Cabinet received a report on 12 August 2015 outlining proposals to form a combined authority for the West Midlands and sought agreement for the Leader of the Council to continue to participate in negotiations to form a Combined Authority covering the Metropolitan area and geography of the three Local Enterprise Partnership (LEP) areas forming the wider West Midlands. It was resolved at that Cabinet meeting that the Leader would continue the negotiations and participate in the work being undertaken to establish the strategic vision and associated work programme priorities for the proposed Combined Authority, and also to continue to shape the future governance and functions of the then proposed WMCA. The document 'Growing the UK Economy through a West Midlands Powerhouse-Statement of Intent' was published in July 2015 which set out the ambition of the then proposed WMCA, and the decision by the Leaders of the Metropolitan area to support an inaugural meeting of the WMCA Shadow Board which was held in 21 August 2015.
- 3.2 Across the West Midlands a Governance Review was prepared for stakeholder engagement in August 2015 and the results of the engagement exercise were provided to Cabinet at the meeting 19 October 2015. The report to Cabinet also sought agreement to the proposed 'WMCA Scheme'. In accordance with Section 108 of the Local Democracy, Economic Development and Construction Act (LDEDCA) 2009 a governance review in relation to a potential combined authority addresses the effectiveness and efficiency of: (a) transport within the area covered by the review and (b) arrangements for economic development and regeneration within the review area. The review demonstrated that the seven councils in the West Midlands Metropolitan area have a track record of working together on areas of mutual benefit. After evaluating the current evidence, the conclusion from the strategic Governance Review was to recommend a combined authority model as this would give legal form to the close working relationships which already exist between the seven local authorities, the Intergrated Transport Authority (ITA) and the LEPs by creating a sub-regional body with legal personality and a governance mechanism that can act across the combined area.

- 3.3 At that same Cabinet meeting 19 October 2015, Cabinet resolved to approve the WMCA 'Establishment' Scheme, which followed the Governance Review recommendations to form a combined authority. The WMCA 'Establishment' Scheme set out the overall framework for the powers, duties and functions of the combined authority, what it will do and how it will operate. The Scheme sets out the functions and powers to be held by the Constituent Members of the WMCA and the voting rights afforded through the Scheme to the Constituent and Non-Constituent Members. In law the Scheme cannot deal with the functions and powers of the Non-Constituent members, this has to be dealt with in the Constitution of the Combined Authority. Following the resolution of this Council on 19 October 2015 to agree the WMCA Scheme, and the resolutions of the other Constituent Councils, the Scheme was submitted to Government on 26 October 2015 for their review ahead of the drafting of the Order.
- 3.4 At a meeting 7 March 2016 Cabinet resolved to approve the draft 'Establishment' Order for the West Midlands Combined Authority and agreed to delegate to the Chief Executive, in consultation with the Leader, approval to accept any minor drafting amendments to the draft Order. At that same meeting Cabinet were also provided with a copy of the draft WMCA Constitution. During the week commencing 25 April 2016 government provided a copy of the final 'establishment' Order to the Constituent Members for their final approval. The laying of the parliamentary Order is therefore now underway and at the time of writing this report it is understood that the inaugural meeting of the WMCA Board will be held in June 2016.
- 3.5 During the intervening period between the early agreements to establish a WMCA, the work to prepare new governance arrangements and the negotiations for a first devolution deal (see paragraph 3.6 onwards), the WMCA Shadow Board has continued to uphold its founding principles that seek to ensure economic growth objectives and investment decisions are formed and made in a transparent and balanced way, to ensure all communities benefit from the WMCA (albeit with the continued recognition that not all communities will benefit at the same time and in the same ways). These principles are now being formed into key policy documents and established in decision making processes. The principles of 'balance' feature within the emerging West Midlands Strategic Economic Plan (WMSEP) and through a framework of decision making tools that will be used to make investment decisions; tools such as the draft WMCA Assurance Framework and Dynamic Economic Impact Model (DEIM). All such policies and tools are expected to be approved by the WMCA Board after the inaugural meeting in June 2016.

#### The West Midlands Devolution Deal

- 3.6 In March 2016 an update was provided to Cabinet on the progress of a proposed devolution agreement for the Metropolitan area. Negotiations had commenced in July 2015 and culminated in an initial proposed devolution deal for the West Midlands on 17 November 2015, which demonstrated the intent of the Government and the WMCA to move towards greater devolution. The devolution deal can be found in **appendix 4** of this report. Since November 2015, officers have been engaged in a process of detailed super clarification with Government officials. This process has served to ensure the WMCA and government fully understand how and when the devolution deal will be implemented. This process of clarification is now complete.

- 3.7 The WMCA 'Establishment' Order approved by Cabinet in March 2016 was formed prior to the completion of super clarification period. The Devolution Deal therefore now requires amendments to be made to the WMCA 'Establishment' governance arrangements to take account of specific devolution powers and functions afforded to an elected mayor. The proposed powers and functions required to deliver the Devolution Deal are contained with the draft Mayoral WMCA 'Powers and Functions' Scheme (**appendix 2** and paragraph 3.17 onwards). The position of a directly elected Mayor is not a legal requirement of a combined authority but the Government is 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 to provide the direct accountability required by Government.
- 3.8 This first devolution deal, along with any subsequent deals, aims to maximise economic growth and reduce the total cost of delivering public services. National programmes and funding streams to the proposed Mayoral WMCA will enable the WMCA to align those programmes and funding streams to local priorities, enabling a focus on investment in growth and on taking demand out of the system through better joined up public services. Further devolution from central Government may strengthen the Combined Authority with additional powers. 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.
- 3.9 This first Devolution Deal is formed of asks, functions and powers that have been identified in WMCA's draft Strategic Economic Plan (SEP) 2016-2030. Presently the Deal will see Government making an annual contribution of £36.5 million over a 30 year period to help support an overall proposed investment package worth £8 billion, leading to the creation of up to half a million jobs. The proposed investment package of £8bn is formed of a number of programmes of intervention which locations and projects within the WMCA will have the ability to access; such programmes include the HS2 Growth Strategy, the Land Remediation Fund, the Housing Loan Fund and the Collective Investment Fund. Future investment decisions will be supported by the processes summarised in paragraph 3.5 and will be subject to thorough business case tests and processes; similar to those already in operation in the Black Country. It will therefore be important for the Council and its' partners to continue to develop a pipeline of investment opportunities, and to ensure that resources are made available to support such activity if Walsall projects are to maximise the opportunities presented by this and future devolution deals.
- 3.10 The financing of the proposed £8bn Investment package includes assumptions around various income streams, including; the generation of supplementary business rates; the retention of business rate growth; the government revenue grant (£36.5m per annum) and partner funds. There is also an assumption that the Mayor will raise a precept although this income stream can only be used for mayoral functions. If any of these assumptions change or sources of income do not materialise, then a funding gap may arise against the £8bn propose Investment package. In such circumstances, there would need to be prioritisation of projects within the Investment plan, using the framework of decision making tools noted above, to ensure that secured and available funding is provided to

strategic priorities. It may not necessarily be the case that access to funding opportunities and financial and economic gains to members of the WMCA will be in the same proportion to the amount of resource or finances that a member invests into the Combined Authority. Gains are likely to be returned to members at difference rates and at varying timescales.

- 3.11 The Devolution Deal is intended as the first step in wider devolution with Central Government. Further powers may be agreed over time and included in future legislation, as Government may decide to use future legislation to bestow additional powers on directly elected mayors. The Government has committed to continue to work with the West Midlands on important areas of public service reform to enable people to reach their full potential, including policing, mental health, troubled individuals and youth justice

#### Mayoral Governance Review

- 3.12 In January 2016 the Cities and Local Government Devolution Act 2016 gave the statutory power for devolution and enabled the Secretary of State to devolve any central and local government powers to a combined authority. The 2016 Act (makes provision for conferring additional functions on combined authorities established under Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (the “2009 Act”). The Government and the WMCA are in agreement that the powers which are to be conferred on the proposed elected Mayor and on the WMCA will be more effectively exercised at a West Midlands level than by central Government. The Governance Review details the functions and governance arrangements that are more effectively and efficiently carried out by the Mayoral WMCA. A further governance review is required as constitutional changes, such as additional functions, powers and membership are being proposed. This Mayoral Governance Review builds upon that undertaken in 2015 which demonstrated a good track record of collaboration on matters of economic development and transportation.

- 3.13 The Governance Review therefore proposes specific ‘mayoral powers and functions’ which are then translated into the draft Mayoral ‘Powers and Functions’ Scheme (**appendix 2**). If there are to be any additional functions and powers devolved to the WMCA in relation to other items contained within the first devolution deal, such as those for preparing for local commissioning of skills, employment support, business innovation, role of Traffic Commissioners, the relationship between the Mayor and Police & Crime Commissioner and Fire & Rescue, Youth Justice, Mental Health Commission and relationships between the WMCA and ‘East Midlands Combined Authority’ to deliver the ‘Midlands Engine’, then these will all require a governance review to be undertaken and further schemes to be drawn up, and in some cases further legislation will be needed.

#### Mayoral (Elections) Order

- 3.14 The purpose of this Order is to create the role of a directly elected Mayor for the Metropolitan area of the WMCA. The amended 2016 Act requires the position of a combined authority mayor to be established either after constituent councils of a combined authority have published a scheme seeking a mayor, or as in this case here, where the Government seeks consent of the Constituent Councils and the Combined Authorities consent. The role of a mayor has to firstly be established through legislation before any powers and functions can be devolved to that role. The draft WMCA (Elections) Order 2016 (**appendix 3**) made under the amended 2016 Act will establish the post of WMCA Mayor only- it will

establish the office of the Mayor and provision for the Mayoral elections, including the proposed length of term for their tenure which is still being discussed with Government. Noting also that the matter of establishing the role of a mayor carries no statutory requirement for constituent councils to consult on this specifically therefore the Secretary of State determines whether to establish the role of mayor.

- 3.15 In the case of an existing combined authority, where the combined authority and at least two constituent councils consent to the Mayoral (Elections) Order but one or more do not, the law currently requires that the Secretary of State must, by an Order, remove the non consenting councils from the existing combined authority area. Only once a mayoral elections order has been approved by all of the constituent councils, can it be laid before Parliament. By agreeing to the role of a mayor, this will add a further layer of approval should any council choose to leave a combined authority in the future. In addition to needing the agreement of the combined authority itself, the Government and the elected mayor will also be legally required to permit any council to leave a combined authority.
- 3.16 Cabinet is asked to note that the role of a directly elected mayor for a combined authority is distinct from that of a civic mayor whose civic duties and responsibilities will remain and will be a matter for individual councils and their respective constitutions.

#### Mayoral 'Powers and Functions' Scheme

- 3.17 The proposed 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"). All Constituent Councils will need to approve the Mayoral Scheme, and dependent on the outcome of this and a Parliamentary process, an election for a Mayor could be in May 2017. This Mayoral WMCA Scheme (**appendix 2**) 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 deal. The Mayoral WMCA builds on the 'establishment' Order May 2016 and all functions and powers as set out will remain with the Mayoral WMCA, including those functions previously undertaken by the Integrated Transport Authority (ITA), with voting rights resting with the Constituent Members unless otherwise stated.
- 3.18 The Mayoral CA Scheme proposes a number of additional powers and functions that could be conferred to a Mayoral WMCA, these functions will either rest with a Mayor, the Mayor in conjunction with the WMCA Constituent Councils ('the Cabinet') or the WMCA as established by the first Scheme where Constituent Members may also give voting rights to Non- Constituent Members. The Mayoral WMCA will continue to operate under the founding principles of the WMCA and will use evidence based objectives to assess interventions or the design of interventions to achieve balanced economic outcomes. Voting rights apportioned to the individual powers and functions are set out in the Mayoral CA Scheme and an overview of the rights is detailed in paragraph 3.21 onwards. The legislation that enables a Mayoral CA to be established provides for government to devolve powers that are held centrally to the local level, and provides for these powers to be run concurrently or in consultation with local councils- the objective being that no powers are removed from local government. The Mayoral WMCA has this same objective, with the only exemption being proposals for the Key Route

Network (see **Table 1**) which will be functions and powers held by the Mayor but may be operated by local councils.

- 3.19 The draft Mayoral CA Scheme proposed that the elected Mayor for the West Midlands will be a member of the Mayoral WMCA and as required by law, it's Chair. This is specified in the Devolution Deal and provides the direct accountability required by Government for the powers and functions being devolved to the Mayoral WMCA, The Mayor will work alongside a Cabinet of the seven Constituent Councils; proposals exist that the seven will be represented by their respective Leaders. The Mayor will also be subject to the WMCA Constitution. It is also proposed that 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 known as the Cabinet operating with collective responsibility. It is not envisaged that the 'Cabinet' holds a separate meeting outside of the WMCA Board. Instead it is proposed in the Scheme that 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 budget and the ability to reject the Mayor's annual draft budget if two thirds of Cabinet members agreeing to do so. In the intervening period between the Mayoral WMCA being established and the mayoral election, it is proposed that a Chair and up to two Vice Chairs will be appointed from the Constituent Members by majority. Once elected, the Scheme set out that the Mayor will appoint a Deputy from one of the Constituent Members.
- 3.20 As can be seen in **appendix 2** there is still an undetermined number of further Non-Constituent Councils that may be included in the Mayoral WMCA Order when it is eventually drafted later this year. Since the last Cabinet meeting of 7 March 2016 three further local councils have taken a decision to join the WMCA. Shropshire County, Stratford on Avon, and Warwickshire County Council's have chosen to join as Non-Constituent Members, and other Councils in the existing 3 LEP area have been given a timeline of the 10 June 2016 to determine whether they wish to be included in the Mayoral CA Scheme. Whilst this will not be the last time a local council can resolve to participate, any additional Non-Constituent membership will be subject to further Orders.
- 3.21 The voting arrangements that are proposed to be apportioned between the Mayor, the Mayor alongside the Mayoral WMCA, and the Mayoral WMCA (where the Mayor's vote is not required) are detailed within the Scheme (**appendix 2**) and is summarised in Table 1 of this report. These voting arrangements are in line with the West Midlands Devolution Deal and the Cities and Local Government Devolution Act 2016. This serves to provide the Mayor with specific powers and functions that only the Mayor has the ability to exercise, although in many cases, the Mayor is proposed to decide how these functions are exercised in consultation with the Mayoral WMCA, the WMCA Cabinet or local councils. On matters requiring a vote, the Mayor or any member of the Mayoral WMCA can put forward a proposal and any questions that are to be decided by the Mayoral WMCA are to be decided by way of two thirds majority of the Constituent Members, and an overall majority of all Members present and voting. It is also proposed that the WMCA 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. This provision, within the Scheme, is seeking to ensure that the will of the WMCA Cabinet prevails.

- 3.22 In the situation where a function is held jointly by the Mayor and the Mayoral CA then decisions taken on these matters will be subject to the Mayor's vote being included in the majority in favour h the two-thirds of the Constituent Member voting. The remaining 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 and Cabinet will recall these to be;

Items 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 Authorities;
- (d) the exercise of its functions in accordance with section 113A of the LDEDCA 2009(1);
- (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.

The Mayor's vote will be included in the overall member vote on WMCA matters, but not a unanimous Constituent Member vote.

- 3.23 As stated in the Cabinet report of 7 March 2016 the Cities and Local Government Devolution Act makes provisions for a Mayoral CA to have scrutiny arrangements. In accordance with the 2016 Act, the Mayoral WMCA Scheme proposes that Overview and Scrutiny arrangements and an Audit Committee will be established. The Audit Committee will include at least one independent person, and no members of the Mayoral WMCA will be able to participate in the scrutiny arrangements. The detail on the roles and responsibilities of such committees are contained in the WMCA Constitution. However it should be noted that the Government is preparing to issues draft secondary legislation that will regulate the detail of the operation of these committees in line with the 2016 Act. This may impact upon appointments made to those committees by Annual Council, and if so required further reports will be submitted to Full Council.

- 3.24 **Table 1** serves to set out a summary of the Mayoral powers and functions as negotiated through the West Midlands Devolution Deal, and serves to detail the powers and functions provided by that same first devolution deal which are proposed to be exercised jointly by the Mayor and the Mayoral CA, and finally serves to articulate those powers and functions of the devolution deal which will not be subject to the mayors vote unless agreed by the WMCA. Noting here that these are the additional functions and powers of the WMCA and therefore do not supersede the powers and functions set out in the WMCA 'establishment' Order.
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The summary does not therefore include all elements of the negotiated devolution deal which are set out in the Deal (**appendix 4**) and Governance Review (**appendix 1**). These documents provide in more detail the elements of the Deal that presently do not require specific powers or functions to be devolved to the Mayoral WMCA and are instead a commitment between Government and the WMCA to work towards devolution in these areas.

**Table 1- Summary of Mayoral WMCA additional powers and functions**

<p><b>Mayoral Power/ Function</b> The Mayoral WMCA does not have a vote or there is a limitation on these functions unless it is explicitly stated.</p>	<p><b>Joint Mayoral WMCA Power/ Function</b> Is exercised by the Mayor, and exercised jointly by/maintained and managed by the WMCA. The exercise of these functions is subject to the Mayor's vote in favour.</p>	<p><b>WMCA Power/ Function</b> Exercised by the WMCA and not subject to the Mayor's vote in favour, the Mayor votes as a member. This applies to the powers and functions identified in the current WMCA establishment Order.</p>
<p><b>Homes &amp; Communities Agency Compulsory Powers-</b> The HCA CPO powers in Section 9 of the H&amp;R Act 2008 to be exercised by the Mayor with the consent of the Mayoral WMCA Cabinet Member(s) for the area(s) of the land to be compulsorily acquired</p>	<p><b>The West Midlands Key Route Network (WMKRN)</b> The Mayor will exercise responsibility for the WMKRN that will be managed and maintained at the Metropolitan level by the WMCA on behalf of the Mayor. The Mayoral WMCA can enter into agreements with the Secretary of State or Highways England in relation to the construction, improvement or maintenance of trunk roads, enter into agreements with the Constituent Highway Authorities in relation to the construction, improvements etc. of a highway, with consent, provide WMCA with general power of improvement with appropriate highways authority(ies) consent, ability to tackle smoking on buses, antisocial behaviour Orders, powers to promote road safety etc.</p>	<p><b>Current WMCA powers and Functions-</b> WMCA functions and powers contained within the WMCA establishment Order will not be subject to the Mayor vote in favour – i.e. transport functions currently undertaken by the PTE and economic development and regeneration functions.</p>
<p><b>Grants to Bus Service Operators-</b> The Secretary of State for Transport, in consultation with the Mayor, to exercise the current function of the Secretary of State to make grants to bus service operators, in relation to services which operate wholly or mainly within Mayoral WMCA Area.</p>	<p><b>Low Emissions and Clean Air Zones-</b> The Mayor and the WMCA will have the power, subject to proposals being brought forward, to create Low Emissions Zones and Clean Air Zones.</p>	<p><b>HS2 Growth-</b> 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 (“WMCADCs”).</p>
<p><b>A devolved and consolidated transport budget-</b> The Mayor will have responsibility for a devolved and consolidated multi-year transport budget for subsequent allocation to the Constituent Councils. As this responsibility is part of the Mayoral budget, the exercise of the budget is subject to the examination of the Cabinet, who will be able to reject it if two-thirds of the Cabinet agree to do so.</p>	<p><b>HCA Objectives-</b> It is proposed that the Mayoral WMCA should have the objectives and functions of the HCA, to be exercised concurrently with the HCA. It is also proposed that the Mayoral WMCA should have the benefit of exemption from Section 23 of the Land Compensation Act 1961 enjoyed by the HCA</p>	<p><b>Encouragement of visitors-</b> The WMCA will have the same powers of Local Authorities to encourage visitors including providing and supporting cultural events and activities</p>

<p><b>Key Route Network</b> – reporting only. The Mayor, 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. Associated WMKRN functions exercised with the Mayoral WMCA.</p>	<p><b>Bus re-franchising and enhanced quality contracts-</b> the Mayoral WMCA is seeking enhanced powers to deliver integrated smart ticketing across all local modes of transport in the Mayoral WMCA Mayor Area.</p>	<p><b>Data Sharing-</b> The WMCA will have the same competencies as other public bodies to share information with other public bodies</p>
<p><b>Mayoral Precept</b> <b>Mayoral Precept-</b> It is proposed that the Scheme seeks to secure the provisions enabling the Mayor to raise a precept in connection with the exercise of the Mayoral functions and to aid the delivery of the investment programme.</p>		
<p><b>Business rate supplement-</b> It is proposed that the Mayor will have the ability, in consultation with Businesses, with agreement of the relevant LEP 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.</p>		
<p><b>Functional Power of Competence-</b> The Mayor should have, as an ancillary power, a functional power of competence. The functional power of competence would enable the Mayor to do things connected with, the Mayor's functions.</p>		

- 3.25 Following agreement by all the Constituent Councils to the draft Mayoral WMCA Scheme, then as previously, consultation will be undertaken on both the Governance Review and draft Scheme. This is a statutory process and is the same process that was undertaken for the establishment of the WMCA Order approved by Cabinet and Council in March 2016. This process is undertaken after the Council approves the draft Mayoral Scheme and is done on behalf of the Secretary of State to help inform any decision made by the Secretary of State to draft the WMCA Mayoral ‘Powers and Functions’ Order. The consultation results are then published and made available to the Secretary of State. Under the amended Act 2016, the Secretary of State must be satisfied that consultation has been undertaken, and he must have regard to the consultation responses when drawing up the draft WMCA Mayoral ‘Powers and Functions’ Order. At this time of writing this report consideration is being given to the consultation approach but it likely to take a similar form as previously, utilising the WMCA digital resources. It is presently envisaged that in line with the timeline set out in paragraph 3.27, that the consultation responses will form part of the information made available to Cabinet and Council later this year when they will be asked to approve the draft Mayoral CA Order.
- 3.26 Once the WMCA Mayoral “Powers and Functions” Order is drafted the Secretary of State has to obtain further Council consent to the draft order for Local Authority powers to be shared with the Combined Authority. As regards Public Authority powers, for example central Government powers, the Secretary of State does not necessarily require the Councils consent to the Order if a Scheme setting out those powers has been published by the Council, however early indications from the Government are that consent will be sought
- 3.27 Orders and regulatory amendments relating to constitutional or electoral issues, in particular the position and elections arrangements of a Mayor are required to be in place by November 2016 to allow sufficient time for Mayoral candidates to be fully aware of the powers of the elected Mayor and to prepare a manifesto. This is a timeline that has been requested of the WMCA by Government (see **Table 2** below).

**Table-2 Mayoral CA Timeline**

<p><b>May/ June 2016</b> The Constituent Councils are presented with:</p> <ol style="list-style-type: none"> <li>1. Mayoral (elections) Order, to create the position of a Mayor and allow for the election of a Mayor <i>only</i></li> <li>2. The Mayoral Combined Authority ‘functions’ Scheme, for approval to consult on the proposals in the Scheme</li> </ol>
<p><b>June 2016</b> The Combined Authority is presented with:</p> <ol style="list-style-type: none"> <li>1. Mayoral (elections) Order, to create the position of a Mayor and allow for election of a Mayor <i>only</i></li> <li>2. The Mayoral Combined Authority ‘functions’ Scheme, for approval to consult on the proposals in the Scheme</li> </ol> <p>The above approvals dependent, the Mayoral (elections) Order is laid in Parliament in June 2016 The above approvals dependent, the Mayoral Combined Authority, ‘functions’ Scheme will be published and consulted on.</p>
<p><b>July – August 2016</b> Consultation on the proposals in the Scheme takes place.</p>
<p><b>September 2016</b> The consultation responses are collated and submitted to the Secretary of State and DCLG</p>
<p><b>September – October 2016</b> The Mayoral Combined Authority ‘functions’ Order is drafted based on the Mayoral Combined Authority ‘functions’ Scheme The Mayoral Combined Authority ‘functions’ Order is presented to Constituent Councils for consent to lay the Mayoral Combined Authority ‘functions’ Order in Parliament.</p>

<b>November 2016</b> The Mayoral (elections) Order is in place at least 6 months before the election of an Mayor
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<b>November 2016 – February 2017</b>
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Any further Orders required are required to be in place by February 2017 to allow sufficient time for Mayoral candidates to be fully aware of the powers of the elected Mayor and to prepare a Manifesto
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<b>May 2017</b> First Mayoral election
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#### **4. Council priorities**

- 4.1 The Council's Corporate Plan 2015-2019 seeks to improve lives and life chances for everyone who lives and works in the Borough of Walsall and in so doing minimise the help that residents need from the state.

The five priorities that will support this purpose are;

- Supporting business to thrive and supporting local people into work
- Improving health and well being, including independence for older people and protection of vulnerable people
- Creating safe, sustainable and inclusive communities
- Improve safeguarding, learning and life chances of Children and Young People, raising aspirations
- Create a modern, dynamic and efficient workforce designed around what residents need.

- 4.2 The proposed Combined Authority has an overall ambition to increase the economic prosperity of the area through reformed public services and in doing so should have a positive impact on communities in Walsall and support the priorities contained in the Corporate Plan 2015-2019. In its Statement of Intent July 2015, the proposed Combined Authority stated that its principles are:

- We are committed to collaborative working on the creation of a Combined Authority at the heart of a Midlands Engine covering the geography of the three LEAs.
- The prize is strong economic growth for the West Midlands as part of Midlands Engine and a rebalancing of the UK economy.
- Growth requires smart investment; investment will be focussed where the biggest outcome for the Combined Authority can be achieved.
- Our pursuit of growth will be accompanied by an agenda of innovation and public service reform that will reduce the overall level of public spending
- We are committed to collaborative working with the private sector as the primary driver of economic growth and will work with them in establishing the economic priorities of the West Midlands Combined Authority.
- All communities will benefit from growth but not necessarily at the same time or in the same way.

Since July 2015, the Shadow Board for the WMCA has had oversight to the emerging policies and plans for the WMCA, and specifically the draft West Midlands Strategic Economic Plan (WMSEP). As set out in paragraph 3.5, the WMSEP is based on local economic evidence and forms projections for the level of economic growth that might be required to raise the region's economic performance. The WMSEP sets out the economic policies of the WMCA and forms a framework upon which actions plans and interventions can be designed.

The WMSEP follows the themes of 'people, place and business' and provides a baseline position upon which future performance can be measured against. It will therefore be an important tool in WMCA investment decision making operated alongside other tools such as those set out elsewhere in paragraph 3.5.

4.3 The Marmot Review ('Fair Society, Healthy Lives') presented a national strategic review of health inequalities post 2010. It concluded that reducing inequalities will require action on six policy objectives, being:

1. Give every child the best start in life.
2. Enable all children, young people and adults to maximise their capabilities and have control over their lives.
3. Create fair employment and good work for all.
4. Ensure a healthy standard of living for all.
5. Create and develop healthy and sustainable communities.
6. Strengthen the role and impact of ill-health prevention.

4.4 The Combined Authority will, as can be seen in its Statement of Intent, will aim to contribute towards health inequalities through direct interventions such as the Mental Health Commission and through indirect interventions which aim to improve the economic prosperity and the well being of local communities.

## **5. Risk management**

5.1 Risks associated with the WMCA are managed at both a local level through the Council's corporate risk register, and through programme management governance that supports the WMCA Shadow Board. The associated risk management activity is undertaken on a monthly basis and is management by the Council's existing governance arrangements including through the Corporate Management Team and the Corporate & Public Services Overview Scrutiny Committee. At WMCA level these risks are managed by the various workstream leads and overseen by the Programme Board formed of the Chief Executives and Executive Officers of the Constituent and Non-Constituent Members.

5.2 The overarching risks for the WMCA have therefore been identified as:

- There is a risk that the West Midlands cannot close the gap in economic performance to England. This will be mitigated by proposing the establishment of a combined authority to draw together strategic work across economic development, transport, housing and employment and skills and to potentially access additional funding from Government.
- There is a risk that the advantages and disadvantages of the proposal to create the WMCA may not be fully appreciated by local communities and the benefits not seen as being tangible at the outset. This has been mitigated to date through the continued engagement process and the more recent consultation.
- There is a risk that the investment package presently envisaged to be provided to the WMCA by Government is curtailed by a change in Government policy, resulting in funding gaps to deliver the investment strategy objectives. This is being mitigated through the development of an investment strategy that will be under continual review but which cannot fully take account of any Government deciding to change its policy

direction. In this regard, it should be noted that a change in Government or indeed Government policy will not amend the WMCA governance arrangements which can only be amended through further changes in legislation (see paragraph 3.15)

- There is a risk that future investment decisions of the WMCA fail to be made in an open and transparent way, or embrace the founding principles of how investment will seek to benefit all communities, albeit not at the same time or in the same ways. This is being mitigated through the WMCA Shadow Board's decision to invest resources into the preparation of the WMSEP, the WM Performance Management Framework, the West Midlands Assurance Framework with Government and the Dynamic Economic Impact Model which will look to 'test' programme interventions to ensure that meet the policy objectives and targets of the WMSEP. These mechanisms will come to be used increasingly as the WMCA moves forward and commences delivery.
- There is a risk that the investment package and the subsequent Mayors and WMMCA budgets formed from this will encounter cost and time overruns which can be the case with major infrastructure projects such as those envisaged in the Devolution Deal. To mitigate this robust programme management governance and processes will need to be put in place with significant resources placed into risk management, change control and project reviews. The WMCA Shadow Board is developing the necessary processes and thematic governance arrangements to have greater overview of specific work activity as a means of supporting good practice programme management.
- There is a risk that the Mayoral WMCA cannot implement its Devolution Deal within the 5-year gateway programme and is unable to secure future devolution powers, functions and powers through other devolution deals. This has been mitigated through the changes being proposed by the Mayoral Scheme, the accountability required by the elected Mayor and a rigorous monitoring and performance management regime which is being developed jointly between the WMCA and government.
- There is a risk that, despite substantial financial funding packages being made available through the first and possibly subsequent devolution deals, Walsall is unable to respond positively and robustly with a deliverable pipeline of investable opportunities. Whilst increased efforts have been made by the Council to work with public and private sector partners to undertake 'pipeline development' activity that is associated with development and transport projects together with skills and business engagement programmes, there is a risk that continued budget pressures facing the authority will remove the Council's ability to sustain this type of activity. This may result in limited opportunities for Walsall to benefit from WMCA investment. Whilst this activity has been supported through additional income into the Council through our adopted Economic Growth Programme (which safeguards significant external funding for economic development activities), the Council's mainstream revenue funding position may continue to place limitations on our ability to resource such work. Ultimately, it will be a political choice through Cabinet the extent to which Members will want to protect such capacity when balanced against other significant funding pressures across the authority of equal merit.

## **6. Financial implications**

- 6.1 Cabinet at its meeting 7 March 2016 resolved to set aside a further £500,000 as part of a budget request being made of each of the Constituent members, with a further £25,000 being sought from Non Constituent members. This budget would provide a transition fund to be established for 2016/17, enabling the WMCA to continue its work into the formal establishment of the Mayoral CA. The drafting of the budgets for the first financial year of the WMCA is in progress,
- 6.2 As noted above (see paragraph 3.10), a potential funding package as been drafted which has identified possible sources of income. The value and timings of assumed income supporting this Investment package may change; therefore the funding model will evolve as assumptions become more certain. At the time of writing this report, no decisions have been made as to which funding sources will fund the different elements of the Investment package or how the programme will be prioritised. This will be managed through the framework of decision making tools as discussed in paragraph 3.5 to ensure that investments made by the WMCA meet the policy objectives and targets of the WMSEP.
- 6.3 The scheme proposes 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 non-Mayoral. However, there is a risk that this power may not be granted for non-transport functions, hence there may be a need for Local Authorities to act as Accountable Bodies and borrow on behalf of the WMCA. This would increase financial risk to the Constituent Members, as any borrowing may need to be underwritten by fellow Constituent Members.
- 6.4 The £8bn Investment Package includes the establishment of a Collective Investment Fund (CIF) which aims to provide capital for projects at competitive commercial rates where funding sources are proving difficult to find in ordinary capital markets. The CIF will have an initial pool of £70 million to invest. Money from repayment of these loans will be recycled back into the fund to finance new projects. The fund will commit capital to eligible commercial, light industrial and residential regeneration opportunities, which will help to achieve WMCA's Gross Value Added (GVA) growth target. In order to secure some 'quick wins' for the WMCA and to get some of the planned funds working to its advantage as soon as possible, it is proposed that Birmingham City Council will act as Accountable Body for the CIF until such as time that the WMCA is able to borrow funds for non-transportation purposes in its own right.
- 6.5 The WMCA Shadow Board is anticipated to approve Birmingham City Council using its wholly owned company Finance Birmingham as fund managers for the CIF. It is required that each of the remaining six metropolitan authorities that will comprise the WMCA underwrite one seventh of Birmingham City Council's revenue account losses arising from its role as accountable body for the CIF. To support the position being taken by Birmingham City Council it is proposed that the remaining Constituent Members enter into a form of written agreement. Although there is an initial pool of £70 million to invest, the amount of outstanding investment at any point in time will be a significantly lower figure. In addition, the underwriting will only be triggered in the event that loans default and the WMCA is unable to fund any losses from its own financial resources. Due diligence completed by Finance Birmingham will help to mitigate this risk and the likelihood

that there will be multiple defaults in the period between the time the CIF is established and the date investments are transferred to WMCA is low to moderate. As noted above, there is a risk that the WMCA may never be given the power to borrow for non-transport purposes and constituent councils will be required to underwrite the CIF on a long term basis. Management fees payable to Finance Birmingham are estimated at £350,000 per annum. These will ultimately be funded from the surplus generated from the interest charged on the loans made from the CIF. Until loans have been made and surpluses generated it is recommended that the WMCA funds the net cost of the CIF (i.e. management fee less surplus from loans) from within the total of £3.5 million that has been set aside by the seven Metropolitan District Councils to support the CA in its first year of operation

## **7. Legal implications**

- 7.1 As set out in the Cabinet report 19 October 2015, the formation of a combined authority will create a new form of public body responsible for the carrying out of certain public functions. A combined authority is a separate corporate body which derives its legal powers from those given to it by the Secretary of State. At the time of that report a combined authority could hold the same powers that local authorities hold in relation to transportation and regeneration, and could exercise those powers concurrently with the local authorities within its area as well as having the legal powers transferred to it from a local authority by order of the Secretary of State.
- 7.2 The Cities and Local Government Devolution Act 2016 amended the Local Democracy and Economic Development Act 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 constituent authorities as well as an existing combined authority to undertake a 'review of one or more combined matters' in respect of proposed changes to the Combined Authority. Once a review has been undertaken any potential changes need to be identified in a Scheme.
- 7.3 In addition the amended 2009 Act presently allows for a mayor to be provided for the area of a combined authority; 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 detailed in the body of the report, in the case of an existing combined authority where the combined authority and at least two constituent councils consent to the mayoral (elections) order but one or more do not, the law currently requires that the Secretary of State must by order remove the non consenting councils from the existing combined authority area.
- 7.4 Further, in the amended 2009 Act presently provides that by way of order any function of a combined authority which has an elected mayor (a "mayoral combined authority") can be a function only exercisable by the elected mayor, subject to any requirements or limitations imposed in the order. The consent of the mayor, combined authority and each constituent council is needed before any such order can be made.

- 7.5 The 2016 Act has made significant amendments to the 2009 Act to reflect the fact that combined authority constituent councils, that is councils whose area is covered by the combined authority, as well a combined authority are 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). Notwithstanding any request being made, the amended 2009 Act presently provides that the consent of all the constituent councils to the order is required.
- 7.6 The 2009 Act also allows combined authority constituent councils as well as the combined authority itself to propose that the Secretary of State make an order similar to the order mentioned in paragraph 7.5 but in relation to functions of a “public authority” (e.g. a Central Government department or a Secretary of State) so that they will be conferred on a combined authority in relation to its area.. Where the proposal is made as in this case in a scheme by all the constituent councils and the combined authority, then no further consent is required albeit can be sought by the Secretary of State. Where however, the proposal is not made by all the constitute councils and combined authority, then consent is required. Where it is the first such “public functions” order relating to a non mayoral combined authority and such consent is given by at least two constituent councils and the combined authority, then the order can be made however any non-consenting constituent councils are required by law to be removed.

## **8. Property implications**

- 8.1 There are currently no property implications arising directly from this report.

## **9. Health and wellbeing implications**

- 9.1 There are currently no direct health and well being implications arising from this report.

## **10. Staffing implications**

- 10.1 Existing staff resources from across a number of service areas are providing support to the formation of the Combined Authority; their role is to represent Walsall Council and its priorities through partnership working in officer-led working groups. Staff are therefore being encouraged to play a active role in the discussions and negotiations. As a result of this active role, some staff continue to be asked to prioritise this activity above their existing work programmes, which from time to time may have a short term impact on the delivery of services locally. If a Combined Authority is formally approved, it will continue to be important that Walsall officers play a full part in its activities into staffing arrangements for the Council.

10.2 There are no other direct staffing implications arising from this report however Cabinet are asked to note paragraphs 3.9 and 5.2 in relation to the potential need to provide continued staff and other resources towards the securing of a robust investment pipeline to position Walsall projects effectively.

## 11. Equality implications

11.1 An initial equality impact assessment (**appendix 5**) has been carried out and there were found to be no immediate equality implications. Once consultation on the proposal has been completed and analysed then the assessment can be completed.

## 12. Consultation

12.1 See paragraph 3.25

### Background papers

- Cabinet Report 12 August 2015 'Proposals for a combined authority for the West Midlands' (and its appendices)
- Cabinet Report 19 October 2015 'A combined authority for the West Midlands' (and its appendices)
- Cabinet Report 7 March 2016 'Approval of the Order to establish the West Midlands Combined Authority' (and its appendices)



Paul Sheehan  
Chief Executive Walsall Council



Councillor Mike Bird  
Leader of the Council

24 May 2016



## **Governance Review**

Review of West Midlands Combined Authority  
Functions and Governance Arrangements

**May 2016**

DRAFT



# 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 1<sup>st</sup> 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 West 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 (WMRKN)** – 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 State<sup>1</sup> 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 ability<sup>2</sup> to tackle smoking in public places, most specifically on buses and in enclosed bus stations; and
  - provide powers<sup>3</sup> 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 enforcement<sup>4</sup> of bus lane penalty charges etc. are applied.

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<sup>1</sup> Section 154 of the Transport Act 2000

<sup>2</sup> Section 10 of the Health Act 2006

<sup>3</sup> Anti-Social Behaviour, Crime and Policing Act 2014

<sup>4</sup> 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 defined<sup>5</sup> 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 agreements<sup>6</sup> 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 power<sup>7</sup> 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 defined<sup>8</sup> 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 duty<sup>9</sup> be placed on the Mayoral WMCA, in consultation with the relevant local highway authorities, to report to the Secretary of State on an

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<sup>5</sup> Road Traffic Act Regulations 1984 – General Interpretation of the Act – definition of WMKRN

<sup>6</sup> Sections 6 and 8 of the Highways Act 1980

<sup>7</sup> Section 62 of the Highways Act 1980 – General Power of Improvement

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

<sup>9</sup> 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 area<sup>10</sup> 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 functions<sup>11</sup> 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 duties<sup>12</sup> 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.

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<sup>10</sup> Section 74 and Schedule 8 of the Traffic Management Act 2004

<sup>11</sup> Sections 39 (2) and (3) of the Road Traffic Act 1988

<sup>12</sup> 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 powers<sup>13</sup> 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.

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<sup>13</sup> 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 power<sup>14</sup> 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**.

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<sup>14</sup> 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 powers<sup>15</sup> 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.

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<sup>15</sup> 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 power<sup>16</sup> 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 power<sup>17</sup> **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 Authority<sup>18</sup>.

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<sup>16</sup> Section 144 of the Local Government Act 1972

<sup>17</sup> Section 145 of the Local Government Act 1972

<sup>18</sup> 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 provider<sup>19</sup>.

When exercising its functions to consider crime and disorder implications the Mayoral WMCA seeks relevant authority status<sup>20</sup> 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 provision<sup>21</sup> 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 authority<sup>22</sup> in order to facilitate the exchange of information for employment and training purposes in order to share the following information:

- Social Security Information<sup>23</sup>
- To enhance a person’s skills and qualifications with a view to improving their prospects of finding and retaining employment<sup>24</sup>

<sup>19</sup> Section 122 of the Apprenticeships, Skills, Children and Learning Act 2009

<sup>20</sup> Part 1 Chapter 1 (1A) Crime and Disorder Act 1998

<sup>21</sup> Section 113 of the Environment Act 1995

<sup>22</sup> Section 72 of the Welfare Reforms and Pensions Act 1999

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

<sup>24</sup> 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 evaluation<sup>25</sup>

The Mayoral WMCA seeks designation<sup>26</sup> 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 designation<sup>27</sup> 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)

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<sup>25</sup> Regulation 13(4) of the Social Security (Claims and Information) Regulations 1999

<sup>26</sup> Section 131 of the Welfare Reform Act 2012

<sup>27</sup> 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 precept<sup>28</sup>.

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.

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<sup>28</sup> 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 made<sup>29</sup> 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.

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<sup>29</sup> 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 Authority<sup>1</sup> 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.

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<sup>1</sup> 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
- *[10<sup>th</sup> 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")<sup>2</sup>;
- (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.

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(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.

**DRAFT**

*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.*

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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

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**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);

“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).

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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).

### **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 [date], 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.

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(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

# WEST MIDLANDS COMBINED AUTHORITY DEVOLUTION AGREEMENT



**HM Treasury**



**WEST MIDLANDS**  
COMBINED AUTHORITY

.....  
**The Rt Hon George Osborne**  
Chancellor of the Exchequer

.....  
**Cllr Bob Sleigh**  
Chair, Shadow West Midlands  
Combined Authority  
Leader of Solihull Metropolitan  
Borough Council

.....  
**Cllr Darren Cooper**  
Vice-Chair, Shadow West Midlands  
Combined Authority  
Leader of Sandwell Metropolitan  
Borough Council

.....  
**Lord O'Neill**  
Commercial Secretary to  
the Treasury

.....  
**The Rt Hon Sajid Javid**  
Secretary of State for  
Business, Innovation and  
Skills

.....  
**Sir Albert Bore**  
Leader of Birmingham City Council

.....  
**Cllr Ann Lucas OBE**  
Leader of Coventry City  
Council

.....  
**Cllr Peter Lowe**  
Leader of Dudley Metropolitan  
Borough Council

.....  
**Cllr Mike Bird**  
Leader of Walsall Metropolitan  
Borough Council

.....  
**Cllr Roger Lawrence**  
Leader of the City of  
Wolverhampton

.....  
**Stewart Towe CBE**  
Chairman of the Black  
Country Local Enterprise  
Partnership

.....  
**Jonathan Browning**  
Chairman of the Coventry &  
Warwickshire Local  
Enterprise Partnership

.....  
**Andy Street**  
Chairman of the Greater  
Birmingham & Solihull  
Local Enterprise Partnership

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## DEVOLUTION AGREEMENT BETWEEN GOVERNMENT AND THE WEST MIDLANDS COMBINED AUTHORITY SHADOW BOARD

This document sets out the terms of a proposed agreement between the West Midlands Combined Authority Shadow Board and the government to move forward with a radical devolution of funding, powers and responsibilities. Final agreement is conditional on the legislative process, the Spending Review, further public engagement, agreement by the constituent councils, and formal endorsement by the Shadow Board and Ministers early in the New Year.

The local authorities and the Greater Birmingham and Solihull, Coventry and Warwickshire and the Black Country Local Enterprise Partnerships (LEPs) have made significant progress in a very short time, coming together, not only to publish proposals for the creation of a West Midlands Combined Authority, but to secure an ambitious devolution agreement at the same time. This agreement is recognition of that unique shared commitment to the future of the West Midlands.

The West Midlands stands at a moment of great economic potential, as it performs increasingly strongly on growth, inward investment and exports and looks forward to the game changing investment in HS2 over the next decade. The above three LEPs have indicated their intention to work together to form an ambitious single Strategic Economic Plan. The government welcomes and supports this cooperation. The government will work with the proposed Combined Authority to ensure that devolution supports the public and private sector of the West Midlands to grasp these opportunities, including taking forward the HS2 Growth Strategy.

On an even larger scale, there is the opportunity to deliver significant additional economic growth and job creation through the Midlands Engine. The government has set out its support for the Midlands Engine and applauds the West Midlands Combined Authority Shadow Board's continuing positive engagement with this agenda, including the Midlands Connect programme of cross-regional transport connections.

Devolution must enable the West Midlands to tackle the economic and social challenges that the region faces. The 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.

This agreement is the first step in a process of further devolution. The government will continue to work with the West Midlands on important areas of public service reform to enable people to reach their full potential, including policing, mental health, troubled individuals and youth justice.

The agreement is based on the establishment of a mayor for the West Midlands metropolitan area working as part of the combined authority with a cabinet of council leaders and subject to local democratic scrutiny. However, given the importance of existing collaboration across the three LEP geography, which is an important economic geography for the West Midlands area, as well as with neighbouring areas, the agreement

recognises that the wider partnership with business through the LEPs and with neighbouring councils will be critical to success.

The formal deal would enable the Combined Authority to create an investment fund of over £1 billion through a 30 year revenue stream and locally raised finance. An incoming Mayor would have the option, on the basis of support from business, to raise up a business rate supplement. Further details will be set out at and following the Spending Review through a place-based settlement.

We have a shared confidence in the economic potential of the West Midlands and a shared belief in the power of devolution to help fully realise that potential. Devolution will enable the proposed West Midlands Combined Authority to 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. The government and local political and business leaders have worked together to reach this agreement, and will now work together to champion further meaningful and radical devolution and to secure strong public support for this devolution deal.

**Summary of the proposed devolution deal agreed by the government and the West Midlands Combined Authority Shadow Board supported by the Greater Birmingham and Solihull, Black Country and Coventry and Warwickshire Local Enterprise Partnerships.**

A new, directly elected Mayor for the West Midlands will act as Chair to the West Midlands Combined Authority (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.
- Planning powers will be conferred on the Mayor, to drive housing delivery and improvements in housing stock, and give the same competencies as the HCA. The government will also work with the WMCA Land Commission.

The WMCA will receive the following powers:

- 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 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.

## Governance

1. The proposal for a Mayoral Combined Authority is subject to the final formal consent of the West Midlands Combined Authority Shadow Board, the constituent councils, agreement of ministers, and to the Parliamentary process for the necessary primary legislation (The Cities and Local Government Devolution Bill and the proposed Buses Bill) and subsequent orders.
2. The Mayor will be the Chair and a member of the proposed Combined Authority and subject to the Authority's Constitution and associated procedures (to be amended in the light of the introduction of a Mayor). The powers contained in this deal document will be devolved from the government to the Mayoral Combined Authority. The Mayor will exercise certain powers, with personal accountability to the electorate, devolved from central government and set out in legislation:
  - Responsibility for a consolidated, devolved transport budget to be agreed at the Spending Review.
  - Powers over the franchising of bus services in the Combined Authority area, subject to necessary legislation and local consultation.
  - Responsibility for an identified Key Route Network of local authority roads that will be collaboratively managed and maintained at the Metropolitan level by the Combined Authority on behalf of the Mayor.
  - 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.
- Planning powers will be conferred on the Mayor, to drive housing delivery and improvements in housing stock, and give the same competencies as the HCA. The government will also work with the WMCA Land Commission.
3. Other members of the proposed West Midlands Combined Authority (to be renamed as a Cabinet) will become portfolio leads for aspects of the combined authority's responsibilities, on the basis to be set out in its constitution, and agreed with the Mayor.
4. The Mayor for the West Midlands Combined Authority area will be elected by the local government electors for the area of the proposed West Midlands Combined Authority – the areas of the constituent councils of Birmingham City Council, City of Wolverhampton Council, Coventry City Council, Dudley Metropolitan Borough Council, Sandwell Metropolitan Borough Council, Solihull Metropolitan Borough Council and Walsall Metropolitan Borough Council. Subject to parliamentary time allowing for the passage of legislation through parliament, the first election will be held in May 2017. Any powers devolved in the interim will, subject to its establishment, be exercised by the West Midlands Combined Authority.
5. Proposals for decision by the Combined Authority may be put forward by the Mayor or any Cabinet Member. Any questions that are to be decided by the Combined Authority are to be decided by way of two thirds majority of constituent members and overall majority of all members present and voting, subject to those majorities including the vote of the Mayor, unless otherwise specifically delegated through the Authority's Constitution or where it is agreed that specific issues will be reserved for unanimous or constituent member majority voting only.

6. The Cabinet will examine the Mayor's draft annual budget, plans and strategies and will be able to reject them if two-thirds of the constituent council members agree to do so, subject to the circumstances set out in the Mayoral Order.
7. The proposed Combined Authority would have Overview and Scrutiny arrangements and these will be retained, subject to any amendments required to reflect the introduction of the Mayor and any new statutory provisions.
8. Any transfer to the Combined Authority or Mayor of existing powers or resources currently held by the constituent authorities must be by agreement of all constituent members.
9. Further apportionments of funding streams that are already allocated to the Greater Birmingham and Solihull LEP on the basis of the existing overlap formula with Stoke and Staffordshire LEP and Worcestershire LEP will continue to be allocated in this way. This only applies to the Greater Birmingham and Solihull LEP as there are no overlaps with other LEPs for Black Country and Coventry and Warwickshire.
10. Additional funding or budgets that are devolved as a result of this agreement will go to the West Midlands Combined Authority, subject to its establishment. The West Midlands Combined Authority must exercise functions in relation to its area (i.e. it may invest outside the constituent members of the Combined Authority if that investment can be said to relate to its area – in other words not only in its area).
11. This deal relates to the devolution of funding and powers to a Combined Authority with constituent councils as currently proposed. However, following this deal, where appropriate and with local agreement, the government commits to exploring with the West Midlands how best to extend devolved budgets and powers across the three LEP geography and include neighbouring councils in devolution where possible.
12. It is essential that Birmingham continues to robustly pursue the implementation of the improvements recommended by the Kerslake Review. This will ensure that the benefits intended from the creation of the proposed West Midlands Combined Authority and through this devolution deal can be fully realised.

## **Finance and Funding**

13. If established, the Combined Authority will create a fully devolved funding programme covering all domestic budgets for devolved functions ("The West Midlands Investment Fund"), accountable to the Combined Authority subject to the details set out in this document. The Fund will operate as a single programme, bringing together resources for economic growth, skills and employability, regeneration, transport and housing; including future allocations from the Local Growth Fund if agreed locally. The Combined Authority will demonstrate an objective means with which to assess interventions and programme design so that these are aligned to their balanced economic outcomes for the area.
14. The agreement of this deal shall not in any way limit or prevent the proposed West Midlands Combined Authority from bidding for future allocations of national funding nor will it change any previous funding agreements made with the West Midlands.

15. As an initial allocation to the Investment Fund, the government will make an allocation of £36.5 million a year for 30 years in revenue funding, allowing the West Midlands Combined Authority to create an investment fund of over £1 billion, subject to a jointly agreed 5-yearly gateway assessment process to confirm the investment has contributed to economic growth. The emerging West Midlands Combined Authority Performance Framework is being developed as a local monitoring tool and government will discuss with the Combined Authority whether this can be incorporated into the assessment process. In addition, the Mayor will be given the power to place a supplement on business rates to fund infrastructure, with the agreement of the relevant Local Enterprise Partnership boards, up to a cap.
16. The Cities and Local Government Devolution Bill currently in Parliament makes provision which will govern further prudential borrowing for Combined Authorities. Following Royal Assent, the government will work with the West Midlands Combined Authority Shadow Board to determine how these powers could apply within a framework of fiscal responsibility and accountability to the Combined Authority and local authorities.
17. The Combined Authority and government will pilot a scheme which will enable the Combined Authority to retain all 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. The government and the Combined Authority will also discuss wider localisation of business rates.
18. The West Midlands Combined Authority Shadow Board has supported bids for additional Enterprise Zones at Brierley Hill, Dudley, and extensions to the Black Country Enterprise Zones – i54 and Darlaston - as part of the current bidding round for further Enterprise Zones. The government is actively considering the business cases and will bring forward decisions as part of the Spending Review.
19. However, in order to support the Combined Authority Shadow Board's HS2 Growth Strategy, the government agrees to support the Curzon Street Enterprise Zone and approves the business case.
20. The government is committed to working with the Combined Authority to achieve Intermediate Body status for European Regional Development Funding and European Social Funding for the Greater Birmingham and Solihull LEP, to complement other aspects of this devolution deal. The government will work with the Combined Authority Shadow Board to test whether it will be possible to implement and if so, government and Greater Birmingham & Solihull LEP will work together to agree a timetable to put this in place

## Skills

21. The government recognises the importance of the existing collaboration between the three Local Enterprise Partnerships on employment and skills. The government is committed to working with the Combined Authority Shadow Board to ensure that, subject to the readiness conditions being met, when skills devolution to the proposed Combined Authority occurs it supports the creation of an effective and coherent Employment and Skills Strategy, which addresses shared challenges over the geography of the three LEPs.

22. The government commits to working with the Combined Authority on Area Reviews of post-16 education and training across the West Midlands. The reviews will be chaired by the Combined Authority and will include all post-16 education and training provision in the initial analysis phase. Recommendations will be focused on general Further Education and Sixth Form Colleges, however the Regional Schools Commissioner and the relevant local authorities will consider any specific issues arising from the reviews for school sixth form provision.
23. The government commits to working with the Combined Authority to support the further development and implementation of the Employment and Skills strategy. This will draw on an evidence base informed by the Area Reviews and labour market intelligence to create the overarching strategic framework for delivering devolved responsibilities. The Employment and Skills Strategy will cover the Combined Authority area, but will also take into account the broader geography of the three LEPs.
24. The government will enable local commissioning of outcomes to be achieved from the 19+ adult skills budget starting in academic year 2016/17; and will fully devolve budgets to the Combined Authority from academic year 2018/19 (subject to readiness conditions). These arrangements do not cover apprenticeships.
25. Devolution will proceed in three stages, across the next three academic years:
  - Starting now, the Combined Authority Shadow Board will begin to prepare for local commissioning. 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. This new arrangement will allow the Combined Authority Shadow Board 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.
  - For the 2017/18 academic year, and following the area review, the government will work with the Combined Authority to vary the block grant allocations made to providers, within an agreed framework
  - From 2018/19, there will be full devolution of funding. The Combined Authority 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. A funding formula for calculating the size of the grant to local / combined authorities will need to take into account a range of demographic, educational and labour market factors.
26. The readiness conditions for full devolution are that:
  - a. Parliament has legislated to enable transfer to local authorities of the current statutory duties on the Secretary of State to secure appropriate facilities for further education for adults from this budget and for provision to be free in certain circumstances
  - b. Completion of the Area Reviews process leading to a sustainable provider base

- c. After the Area Reviews are complete, agreed arrangements are in place between central government and the Combined Authority to ensure that devolved funding decisions take account of the need to maintain a sustainable and financially viable 16+ provider base
  - d. Clear principles and arrangements have been jointly agreed between central government and the Combined Authority for sharing financial risk and managing failure of 16+ providers, reflecting the balance of devolved and national interest and protecting the taxpayer from unnecessary expenditure and liabilities.
  - e. Learner protection and minimum standards arrangements are agreed.
  - f. Funding and provider management arrangements, including securing financial assurance, are agreed in a way that minimises costs and maximises consistency and transparency.
27. To ensure continued local collaboration following the Area Reviews, the Combined Authority Shadow Board will work in partnership with local colleges and providers to develop the local Skills and Employment Strategy. This will aim to ensure that post-16 providers are delivering the skills that local employers require. It is expected that the Combined Authority Shadow Board will then collaborate with colleges and providers, with appropriate support from the Education Funding Agency, to work towards that plan.
28. The government will work with the Combined Authority Shadow Board to ensure that local priorities are fed into the provision of local careers advice in line with the Employment and Skills Strategy, such that it is employer-led, integrated and meets local needs. In particular, the Combined Authority Shadow Board will ensure that local priorities are fed into provision through direct involvement and collaboration with government in the design of local careers and enterprise provision for all ages, including collaboration on the work of the Careers and Enterprise Company and the National Careers Service.

## **Employment**

29. The proposed West Midlands Combined Authority 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 will influence the co-design.
30. The respective roles of DWP and the Combined Authority in the co-design will include:
- DWP sets the funding envelope, the Combined Authority can top up if they wish to, but are not required to.
  - The Combined Authority will set 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 set the high-level performance framework. The primary outcomes will be to reduce unemployment and move people into sustained employment. West Midlands Combined Authority 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). In determining the local outcome(s) the Combined Authority should work with DWP to develop the Employment and Skills Strategy which will take account of the labour market evidence base and articulate how the additional outcome(s) will fit within the wider strategic and economic context and deliver value for money.
- Before delivery commences, DWP and the Combined Authority will set out an agreement covering the respective roles of each party in the delivery and monitoring of the support, including a mechanism by which each party can raise and resolve any concern that arise.

31. In addition, in the event employment support for this group is delivered through a contracted-out programme, the respective roles of DWP and the Combined Authority will include:

- DWP sets the contracting arrangements, including contract package areas, but will consider proposals from the Combined Authority on contract package area geography.
- The Combined Authority will be involved in tender evaluation.
- Providers will be solely accountable to DWP, but DWP and the Combined Authority's above-mentioned agreement will include a mechanism by which the Combined Authority can escalate to DWP any concerns about provider performance/breaching local agreements and require DWP to take formal contract action where appropriate.

32. In the event that alternative delivery mechanisms are put in place, comparable arrangements will be put in place.

33. The Combined Authority will develop a business case for an innovative pilot to support those who are hardest to help. The business case should set out the evidence to support the proposed pilot, cost and benefits and robust evaluation plans, to enable the proposal to be considered for funding at a later date, subject to Ministerial approval.

### **Supporting and Attracting Business and Innovation**

34. The government commits to working with the Combined Authority Shadow Board and the Greater Birmingham and Solihull, Black Country and Coventry and Warwickshire LEPs to support the further development and implementation of the three LEP Integrated Business Support Ecosystem. In particular, the government 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, currently in 8 locations nationally. The aim will be to seek to

agree options for co-location, under UKTI/IST management, without harming the overall efficiency of the working of the investment model.

- Establish a joint governance structure with quarterly meetings attended by a Director level representative from both UKTI investment and the Combined Authority. These will provide a forum to discuss progress on co-location, and on account management activity by both parties. Wherever possible, this structure will be used to review key decisions and initiatives planned and/or implemented by both parties.
- Provide significant closer working with sector specialists in the transport related sectors (Auto, Rail and Aerospace). This will be within a shared governance structure with resources, under UKTI control.
- Ensure a portion of the GREAT campaign budget for overseas based activity is aligned to appropriate West Midlands sector strengths. This activity should be supported by sector based resource in overseas posts who have been specially briefed to have a strong understanding of Midlands Engine and posts who are Matchmaker partners for West Midlands sector strengths.
- Work together on an appropriate portfolio of investable urban regeneration projects which government would help promote to appropriate international investors (through the Regeneration Investment Organisation), potentially as part of a new Midlands Engine proposition.
- 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 Combined Authority area based on an agreed export plan with a dual key approach to activities and reporting on outputs and outcomes to the Combined Authority. Ring fenced resource remains subject to departmental budget changes.
- Develop an export plan between the Combined Authority and UKTI HQ which will allow the Combined Authority flexibility, such as a specific local sectoral focus for Passport to Export and mid-sized business schemes or a different mix of products.

35. On other business services, the government will:

- For the Business Growth Service, seek to devolve responsibility through the Growth Hubs within existing contracts as far as possible, subject to agreed protocols for the interface with national schemes.
- Work with the Combined Authority Shadow Board to develop a devolved approach to delivery of business support from 2017 onwards, although what is ultimately devolved will reflect the decisions taken in the Spending Review on the shape of – and level of spending on – business support schemes.
- Work with the Combined Authority to design a joint approach to enterprise start-up activity

- Enter into discussion regarding the Combined Authority's access to finance needs and how these interact with national access to finance programmes, such as the British Business Bank.

36. On innovation:

- The government recognises the many innovation strengths of the West Midlands, across multiple sectors, and values the contribution they have made towards delivering growth, productivity and high value employment.
- The government will offer the Combined Authority Shadow Board expert advice and support to ensure they are able to put forward a strong proposal for science and innovation audit. An audit would allow the Combined Authority Shadow Board to work with universities, businesses and the Local Enterprise Partnerships to map its strengths, with support from government. Audits will provide a new and powerful way to build on regions' strengths and maximise the economic impact from the UK's research base nationally. They will, for example, provide the government with part of the evidence base on which to make decisions on any further catapults.

### **Public Service Reform**

37. The government will engage with the Combined Authority Shadow Board to discuss the outcomes of their Mental Health Commission.

38. The government will support the Combined Authority Shadow Board to co-design and implement approaches to improving the life chances of troubled individuals (those with multiple problems of homelessness, substance misuse, offending and mental health) and in doing so reduce their cost to public services. The first phase of policy co design will take place within the next months, to be followed by a series of early adoption/ experimentation areas within the region in early 2016, which will be funded by the constituent councils of the proposed Combined Authority. Depending on the outcome of these, the Combined Authority Shadow Board will prepare a business case for further funding, in advance of moving to scale. Relevant early implementation projects and subsequent roll-outs will be agreed jointly with NHS England.

39. The government commits to support the programme of public service reform across the West Midlands. HMT and DCLG will continue to engage with the Ministry of Justice, Department of Health and Home Office to ensure that appropriate support is provided to facilitate the implementation of these reforms.

40. The government commits to a discussion with the Combined Authority Shadow Board about how the government can improve the Combined Authority's ability to use the following national administrative data sets in order to support the Combined Authority's 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 discussions will be informed by the Cabinet Office led data sharing work and commence with the government in early 2016. Subject to further discussion this may include:

- The Prisons Database (held by the Ministry of Justice)
  - The Work and Pensions Longitudinal Study (held by the Department for Work and Pensions)
41. Discussions will also take place as to how the government can support the shadow Combined Authority 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)
42. The government recognises that the Birmingham City Council is a member of the One Public Estate Programme, and envisages that the proposed Combined Authority will become a member. The Government Property Unit (GPU) has discussed plans for a major public sector locational hub in Birmingham to allow local, regional and national government bodies to co-locate and take advantage of modern integrated working to reduce costs and increase productivity. This will be run as a joint programme between the Combined Authority and GPU and is envisaged to involve the development of a substantial shared office requirement. In addition, the government commits to support community hub proposals in the two other cities of Wolverhampton and Coventry and a series of neighbourhood service integration pilots across the area of the constituent authorities of the proposed Combined Authority.

### **More and Better Homes**

43. The Combined Authority and its constituent authorities will support an ambitious target for the increase in new homes, and will report annually on progress against this target. To ensure delivery of this commitment, the Shadow Board of the Combined Authority and the government agree that:
- Existing Local Authority functions, which include compulsory purchase powers, will be conferred concurrently on the Combined Authority to be exercised by the Mayor. These powers, which provide the same competencies as the Home and Community Agency, will enable the Combined Authority to deliver its housing and economic growth strategies. The government will bring forward further proposals for consultation in the New Year and will, as part of that consultation, discuss how they can be applied to support housing, regeneration and growth.
  - The Homes and Communities Agency and the Combined Authority 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 Combined Authority 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 Combined Authority will also be able to use their proposed Land Remediation Fund to support bringing brownfield sites back into use for employment and housing provision.

44. The Combined Authority Shadow Board and the government will continue to discuss the devolution of housing loan funds. The Combined Authority Shadow Board intends to develop further a proposition on a Housing Investment Fund, for discussion with government.

## Transport

45. The government is committed to building the Midlands Engine for Growth and supports the emerging proposals for Midlands Connect. The balance of interests across the West and East Midlands is critical to success and the government supports the full engagement of West Midlands partners in the creation of a Midlands Connect Strategic Board and supporting officer structures to provide leadership and accountability. The government commits to ensuring the direct involvement of the Department for Transport, HS2 Ltd, Highways England and Network Rail in the arrangements and considers them critical to the successful delivery of the transport objectives of this deal.

46. The Mayor will:

- a. Receive a devolved and consolidated local transport budget for the area of the Combined Authority (i.e. the areas of the constituent councils), including all relevant local highways funding, with a multi-year settlement to be agreed at the Spending Review. Functions will be devolved to the West Midlands Combined Authority accordingly, to be exercised by the Mayor.
- b. Receive powers for the franchising of bus services in the Combined Authority area, subject to necessary legislation and local consultation. This will be enabled through a specific Buses Bill, to be introduced during the first Parliamentary session, which will provide for the necessary functions to be devolved. This will help the proposed Combined Authority, on behalf of the Mayor, to deliver integrated smart ticketing across all local modes of transport in the Combined Authority area. This will align with the work of Midlands Connect on smart and integrated ticketing across the Midlands.
- c. Take responsibility for a new Key Route Network of local authority roads; the management and maintenance of which will be undertaken at the Metropolitan level by the West Midlands Combined Authority on behalf of the Mayor. To support this all relevant local roads maintenance funding will be placed under the control of the Combined Authority, subject to its establishment, until the Mayor takes office, as part of the single local transport settlement to be agreed at the Spending Review, which 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.

47. In addition, and as part of the deal:

- a. The government and the West Midlands Combined Authority will work together through the development of the second Roads Investment Strategy to examine options for the most effective way to facilitate the movement of goods and people, and manage congestion within the region on the strategic road network. This will include consideration of options for reducing congestion, such as a joined up approach to dynamic demand management and implementing an integrated intelligent transport system which will help improve journey time reliability and allow people and businesses to make informed decisions about their travel choices.
- b. The West Midlands Combined Authority will have the opportunity to bring forward alternative proposals for the management of current and new rail stations in the Combined Authority area (i.e. the areas of the constituent councils). If such proposals would lead to the transfer of any rail stations to the West Midlands Combined Authority, the Combined Authority, with West Midlands Rail, will be obliged to bring forward a business case for consideration by government.
- c. The government will work with the West Midlands Combined Authority to establish any appropriate local traffic and highway powers to be conferred on to the Mayor as part of the Key Route Network.
- d. To support better integration between local and national networks, the government and the West Midlands Combined Authority Shadow Board will enter into joint working with Highways England and Network Rail on operations, maintenance and local investment through a new Memorandum of Understanding, which will be established by 2016.
- e. On strategic transport issues and investment, the government, Network Rail and Highways England will continue to work with the West Midlands Combined Authority through the Midlands Connect Partnership.
- f. The West Midlands Combined Authority Shadow Board will bring forward proposals for potential inclusion in the West Midlands Mayoral Parliamentary Order that would enable the Mayor and Combined Authority to implement safer vehicle standards for freight vehicles entering the areas of the Combined Authority's constituent councils, such as safety measures to protect cyclists.
- g. The West Midlands Combined Authority Shadow Board will bring forward proposals for potential inclusion in the West Midlands Mayoral Parliamentary Order that would enable the West Midlands Mayor and West Midlands Combined Authority to implement Low Emission Zones and potentially Clean Air Zones in the West Midlands Combined Authority area. This will help achieve Air Quality Plan objectives at both the national and local level.

## **HS2 Growth Strategy**

48. The government welcomes the significant progress made to date by the West Midlands in developing its HS2 Growth Strategy. Demonstrating government's

support for the Strategy, this deal provides the proposed Combined Authority with a range of new mechanisms that will help local partners to deliver their ambitions.

49. As stated previously in this agreement, the government will provide the Mayor of the West Midlands with the power to raise supplementary business rates to fund infrastructure, as well as other funding to support local growth. The government also approves the business case for a significant extension of the Enterprise Zone at Curzon Street in order that the funding raised through these mechanisms will support the delivery of the HS2 Growth Strategy, which includes proposals for the Curzon Masterplan, the UK Central Interchange triangle interchange plans, the UK Central infrastructure package, connectivity to Coventry and enhanced accessibility from the Black Country to Birmingham city centre, alongside further government support.
50. The Combined Authority Shadow Board will develop an implementation plan setting out how it intends to deliver the objectives of the HS2 Growth Strategy. The government remains committed to working with the Combined Authority Shadow Board as they develop their implementation plan to help manage risks and support delivery. This should include a prioritised programme of projects and their milestones; the input, output, outcome and benefit indicators that local partners will use to track delivery; the Combined Authority resources being committed to ensuring delivery; and the remit and governance of a Combined Authority-led Development Corporation to deliver the local growth. As part of establishing their prioritised investment programme, the Combined Authority Shadow Board will bring forward business cases for individual transport projects for the government to consider, where required in line with existing agreements and processes, including the interlinked Metro extensions to Brierley Hill and HS2 Interchange. As the most immediate priority in the HS2 Growth Strategy, government also commits to providing funding for the Eastside Metro extension to Digbeth subject to government approval of the business case.
51. The implementation plan will describe how the HS2 Growth Strategy is being delivered in the short-medium (up to 5 years) and longer (5 years plus) term. The Combined Authority Shadow Board, government and HS2 Ltd will work closely on the development of the plan and identification of the resources within it to ensure that local delivery and construction of the HS2 railway are integrated wherever appropriate with implementation plans for local schemes (such as those mentioned above) and any joint opportunities are maximised. The plan will be locally owned, but progress will be regularly reported to the HS2 Local Growth Programme Board. An outline of the implementation plan should be submitted by 31 Jan 2016, with the aim of completing it by spring 2016.

## **Other areas**

52. This deal represents a first step in a progressive process of devolution of funding, powers and responsibilities to the West Midlands Combined Authority (subject to its establishment). As well as the areas set out in this deal, the West Midlands Combined Authority Shadow Board and government will consider further opportunities for devolution and will continue to discuss these. These will include but not be limited to:
  - Proposals for an appropriate relationship between the functions of a Mayor and future role of the Police and Crime Commissioners (PCCs), including in

relation to fire services, to be developed, subject to local consent and a business case developed jointly by the PCC and council leaders, and in consultation with the Fire and Rescue Authorities.

- The government's review of the youth justice system will work with the Combined Authority Shadow Board to consider scope for further devolution of youth justice services to the region, and will look for opportunities to work with the region to test the review's proposals.
- The government will engage with the Combined Authority Shadow Board to discuss the outcomes of their Mental Health Commission.
- The government and the West Midlands Combined Authority will work with the East Midlands to take forward the Midlands Engine project to secure wider transport investment and growth.

### **Delivery, Monitoring and Evaluation**

53. The West Midlands Combined Authority, subject to its establishment, is accountable to local people for the successful implementation of the devolution deal; consequently, the government expects the Combined Authority to monitor and evaluate their deal in order to demonstrate and report on progress. The Cities and Local Growth Unit will work with the West Midlands Combined Authority to jointly agree a monitoring and evaluation framework that meets local needs and helps to support future learning.
54. The government will support the West Midlands Combined Authority by leveraging existing monitoring and evaluation frameworks and, where applicable, by providing assistance to ensure consistency and coordination of metrics and methodologies with other areas receiving a devolution deal. As part of this commitment, the government will work with the West Midlands Combined Authority to explore options for the coordinated application of high quality impact evaluation methods in relation to i) local commissioning of 19+ skills; and ii) employment support.
55. West Midlands Combined Authority Shadow Board will work with the government to develop a full implementation plan, covering each policy agreed in this deal, to be completed ahead of implementation. This plan will include the timing and proposed approach for monitoring and evaluation of each policy and should be approved by the DCLG Accounting Officer.
56. The West Midlands Combined Authority will continue to set out their proposals to the government for how local resources and funding will be pooled across the area.
57. The West Midlands Combined Authority will agree overall borrowing limits with the government and have formal agreement to engage on forecasting. The West Midlands Combined Authority will also provide information, explanation and assistance to the Office for Budget Responsibility where such information would assist in meeting their duty to produce economic and fiscal forecasts for the UK economy.
58. The West Midlands Combined Authority will agree a process to manage local financial risk relevant to these proposals and will develop written agreements jointly with the

government on every devolved power or fund to agree accountability between local and national bodies on the basis of the principles set out in this document.

59. The West Midlands Combined Authority will continue to progress programmes of transformation amongst authorities and with partner agencies.
60. The West Midlands Combined Authority will continue to adhere to their public sector equality duties, for both existing and newly devolved responsibilities.
61. The provisions of this deal will be monitored by a Steering Group of senior officials from the Combined Authority Shadow Board and government, and private sector LEP representatives, meeting at least quarterly, with any issues of concern escalated to Ministers and Leaders to resolve, in keeping with the letter and spirit of this deal.

## Equality Impact Assessment (EqIA) for Policies, Procedures and Services Initial Analysis

Proposal name	<b>Scheme for the establishment of a Mayoral West Midlands Combined Authority</b>		
Directorate	Economy & Environment Directorate		
Service	Borough Wide Development		
Responsible Officer	Simon Neilson		
EqIA Author			
Proposal planning start	April 2016	Proposal start date (due or actual)	October 2016

1	What is the purpose of the proposal?	Yes / No	New / revision
	Policy	Yes	New
	Procedure	No	
	Internal service	No	
	External Service	No	
	Other - give details		
2	What are the intended outcomes, reasons for change? (The business case)		
	<p>The proposed Mayoral WMCA 'powers and functions' 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 deal.</p> <p>The establishment of a West Midland Combined Authority represented a major opportunity to have a strong, shared voice for the West Midlands and to make a step change in our 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.</p> <p>A devolution agreement has been negotiated with central government which supports the public and private sector of the West Midlands to reach its economic potential.</p> <p>The 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 implement the Agreement.</p> <p>Implementation of the Agreement will enable the West Midlands to tackle the economic and social challenges that the region faces.</p> <p>The Agreement is 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 and subject to local democratic scrutiny.</p>		

	<p><b>Mayoral Powers and Functions:</b>  The Mayoral WMCA's ambition 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.</p> <p>The Mayoral WMCA 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.</p> <p>In addition to the existing economic development and regeneration WMCA powers, the Mayoral WMCA will have functions in the following specific areas:</p> <ul style="list-style-type: none"> <li>• Culture</li> <li>• Skills</li> <li>• Employment</li> <li>• Supporting and Attracting Business and Innovation</li> <li>• More and Better Homes</li> <li>• Transport</li> <li>• HS2 Growth</li> <li>• Data Sharing</li> <li>• Finance and Funding</li> </ul>		
<b>3</b>	<b>Who is the proposal potential likely to affect?</b>		
	<b>People in Walsall</b>	<b>Yes / No</b>	<b>Detail</b>
	All	<b>Yes</b>	Residents of the West Midlands region
	Specific group/s	<b>No</b>	
	Council employees	<b>Yes</b>	
	Other	<b>Yes</b>	Businesses in the West Midlands region Visitors to the West Midlands region
<b>4</b>	<b>Evidence, engagement and consultation</b>		
<b>4.1</b>	<p>The creation of the combined authority aims to improve economic outcomes across the region, through increased investment and more effective use of devolved powers. Protected groups are often disproportionately economically disadvantaged, so an improvement in employment and reduction in deprivation would advance the equality of opportunity for these groups. Furthermore, increased powers and a linked up approach to transport will enable a combined authority to improve transport services to protected characteristic groups. Often protected groups feature disproportionately in isolated areas of the region and an improved transport offer will further their opportunities.</p> <p>The 7 metropolitan council areas of the WMCA will be affected by this proposal. The 6 non-constituent council areas will also be affected, but to a lesser degree. Intervention within a</p>		

non-constituent area will only be done where it can demonstrate that it benefits the CA area and agreed with the non-constituent in question. Particular groups affected will be residents, businesses and visitors to the West Midlands region.

There is a national appetite to devolve powers to the regions. Combined Authorities have already been created in Manchester, West Yorkshire, South Yorkshire, Liverpool and the North East. Devolved powers include transport, skills and housing. The Cities and Local Government Devolution Bill gained royal assent in January 2016

A public consultation was undertaken between 18 January and 8 February 2016 asking all stakeholders (public, businesses partners) what their views were of the establishment of the Combined Authority with 1907 responses received.

There was no strong evidence that suggested there was public concern that the proposal is being operated in a discriminatory manner, however the public consultation survey results did not break down responses by different equality protected characteristics.

Consultation regarding the establishment of a Mayoral West Midlands Combined Authority in summer 2016 and then both the Scheme and the Consultation outcomes will be forwarded to the Secretary of State who will develop a draft order for councils to agree (Sept 16 / Oct 16).

Once the consultation has been completed and analysed then this Equality Impact Assessment can be completed.

## 4.2 Future work and monitoring

The CA Programme Team, in consultation with the Equality Officers of the West Midlands Local Authority Equality Network (WMLAEN), are developing an approach to embed equalities across the work of the Combined Authority which will be signed off formally at the Programme Board later this year. This approach will ensure a consistent approach to each major initiative of the CA being assessed and monitored in order to meet the Public Sector Equality Duty (PSED).

Members of the WMLAEN are providing the Programme Team with initial ideas which will help to integrate equalities into the Combined Authority (e.g. training, measurement mechanisms etc.). These will be refined collectively with the WMLAEN. Following initial feedback, the work to integrate equalities robustly into the Combined Authority will be done with reference to the Brown and Gunning Principles which will be used to develop our work. The WMLAEN will be used as a reference group specifically in relation to policies as they arise. Consideration will be given to having a dedicated resource on equalities embedded into the structure of the Combined Authority.

We recognise that the public sector equality duty sets an ongoing requirement to examine policies and strategies as they are developed.

### Legal Aspects

PSED requires those bodies subject to it to have due regard to proposals when they are deciding upon them. Since the Combined Authority is not yet a legal entity, decisions to participate in one fall to local authorities that will become part of the Combined Authority.

Once in place, the legal responsibility for complying with the Equality Act falls upon the

	Combined Authority. In advance of the establishment, authorities will work collaboratively to comply with the Equality Act.
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