

10 September, 2015

A Proposed Combined Authority for the West Midlands

Ward(s) All

Portfolios: Cllr M Bird – Leader, Walsall MBC
Cllr A Andrew - Deputy Leader, Portfolio Holder Economy,
Infrastructure and Development

Executive Summary:

This report provides an introduction and overview of the role of a combined authority and the consideration that is being given to the formation of this governance arrangement here in the West Midlands. The report builds upon the resolutions of Cabinet at its meeting 12 August 2015 to engage with stakeholders on the proposals to create a combined authority via the West Midlands 'Strategic Governance Review'. The report also provides an introduction to the proposals to form a West Midlands 'Devolution Deal' as considered by Cabinet at its meeting on the 12 August 2015.

Such is the pace of work that it is involved in the creation of the proposed West Midlands Combined Authority (WMCA) that at the time of writing this report information provided to the Scrutiny Committee takes account of decisions made up until the meeting of Cabinet 12 August 2015 but a verbal update will be given at the meeting on 10 September 2015. Future decision making will be required by the Cabinet and by full Council on matters relating to the outcome of the engagement on the Governance Review and the WMCA 'Scheme', currently anticipated to be taken at special/ extraordinary meetings in October 2015. This decision making will be required prior to submission to the Secretary of State for Communities & Local Government for approval to create the Combined Authority.

Reason for scrutiny:

This report forms a response to the request made at the meeting of the Scrutiny Committee 27 July 2015 to receive an update report on the proposals to create a combined authority for the West Midlands. The report will provide Members of the Scrutiny Committee with the opportunity to understand the events that have taken place thus far in the consideration being given to create the Combined Authority.

Recommendations:**That:**

1. Committee is asked to note the content of this report.

Background papers:

- Cabinet Report– 12 August 2015 ‘Proposals for a combined authority for the West Midlands’
- ‘Growing the UK Economy through a West Midlands Powerhouse-Statement of Intent’- July 2015’

Resource and legal considerations:Resource Considerations

At its meeting 12 August 2015 Cabinet resolved to set aside a budget of £300,000 from reserves to support the set up costs associated with the proposed Combined Authority. This was a contribution to a total budget for ‘set up costs that is being shared equally between the seven proposed constituent members of the proposed WMCA (the seven metropolitan councils). To date expenditure has been associated with the commissioning of consultancy teams who have provided fresh capacity and expertise to assist the local authorities through the statutory process, drawing upon their experience of undertaking similar roles for other combined authorities. There are currently no direct staffing implications arising from the proposals to form a combined authority. Existing staff resources from across a number of service areas are providing support to the formation of the Combined Authority.

Legal Considerations

Many of the legal considerations arising from the proposals to create a combined authority for the West Midlands are set out in the report detail section of this report. The formation of a combined authority will create a new tier of local government and as a result there will be a statutory process to be undertaken, and a constitution for the Combined Authority will be required. A combined authority is a separate corporate body which derives its legal powers from those given to it by the Secretary of State. A combined authority can hold the same powers that local authorities hold in relation to transportation and regeneration, and can exercise those powers concurrently with the local authorities within its area as well as having legal powers transferred to it from a local authority by order of the Secretary of State. The Secretary of State is currently considering widening the powers that can be given to a combined authority to include all powers currently exercised by Local Authorities.

Citizen impact

The proposed Combined Authority has an overall ambition to increase the economic prosperity of the West Midlands area through reformed public services and in doing so will have a positive impact on communities in Walsall. The outcomes of the Combined Authority's activities may have positive impacts on residents' economic situations, local environments, and health and well being due to the opportunity for collaborative working on interventions that support both economic and social prosperity. The ambition of the Combined Authority is set out in the 'West Midlands Combined Authority Statement of Intent' July 2015.

Environmental impact:

There are no direct environmental impacts arising from the proposals to create the Combined Authority at this time (see Citizen Impact above).

Performance management:

The Council's Corporate Plan 2015-2019 seeks to ensure that with fewer resources available there is concentration on protecting the most vulnerable and reducing inequalities through a number of key priorities:

- Support with cost of living
- Helping local high streets and communities
- Creating jobs and helping people get new skills
- Helping create more affordable housing
- Improving educational achievements
- Promoting health and well being

The proposed Combined Authority has an overall ambition to increase the economic prosperity of the area through reformed public services and in doing so will have a positive impact on communities in Walsall and support the priorities contained in the Corporate Plan 2015-2019.

Equality Implications:

At this stage of the proposals there are no immediate equality implications. Equality analysis, legal requirements and good practice issues will be considered throughout the project, and will include engagement and consultation

Consultation:

An engagement process on the draft 'Governance Review' commenced on 3 August 2015 which sought the views and feedback of local shareholders on the proposed WMCA.

Contact Officers:

Paul Sheehan
Chief Executive

☎ 652006

✉ paul.sheehan@walsall.gov.uk

Jo Nugent
Team Leader Borough Wide Development
Economy & Environment Directorate

☎ 654752

✉ joanne.nugent@walsall.gov.uk

Simon Neilson
Executive Director Economy and
Environment

☎ 652004

✉ simon.neilson@walsall.gov.uk

1 Report

West Midlands Combined Authority

- 1.1 Over recent months there have been continued discussions held across the West Midlands on the formation of a combined authority for the purposes of enhancing and maximising the economic performance of the wider region. The formation of a combined authority is a new way for local authorities to work together on key strategic functions that cross geographic council boundaries. Combined authorities can provide better collaboration between local councils on the key strategic issues that are more effective when delivered together or when they cannot be decided upon alone, such as transport investment or strategies for skills and economic development.
- 1.2 Combined authorities are legal structures that may be set up by local authorities in England, following a governance review. Their power is granted by Parliament and can be a powerful tool to:
 - secure greater resources from Government over the long-term (10 years+)
 - collectively engage with Government on issues and functions that cross local authority boundaries
 - influence and ultimately change the delivery of national programmes to address local needs.

Noting that a combined authority enables powers to be devolved from Whitehall to the local area, it should equally be noted that in passing powers and budgets to devolved bodies, each local authority would also pass some of its powers and budgets to the combined authority. They have a power of general competence and can be passed functions by the Secretary of State under the general power to pass ministerial functions down in the Localism Act 2011.

- 1.3 It should also be noted that a combined authority is not a merger or a takeover of existing local authority functions nor would it be a 'Super-Council'. Local authorities will remain in place but collectively will create a combined authority; the local authorities will remain sovereign and the principle of subsidiarity, whereby decisions are made at the spatial level closest to the people 'on the ground', applies. Instead a combined authority would seek to complement local authority functions in economic development, regeneration and transport, and enhance the effectiveness of the way they are discharged.
- 1.4 The Black Country Leaders and the Leader of Birmingham City Council agreed to the principle of establishing a combined authority in March 2015, and more recently Coventry and Solihull have made a commitment to explore the possibility of forming this new tier of local government, based upon an emerging and sound economic rationale as detailed in the work to define the 'Functional Economic Market Area (FEMA)' of the region. The work to establish the FEMA has also considered the wider regional geography

covered by the 3 Local Enterprise Partnerships (LEPs) and the District Councils within them. As such the Leaders of the seven metropolitan councils have given a commitment to engage with these district councils with the intention of understanding whether they share the ambition of the Combined Authority for the West Midlands and wish to participate in it, and on what the nature of their participation in it may be.

The Governance Review

- 1.5 A draft Governance Review (appended to the Cabinet report 12 August 2015) currently covers the seven local authority areas of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton ('the West Midlands'). There is recognition that the three LEP areas of the Black Country LEP, the Greater Birmingham and Solihull LEP and the Coventry and Warwickshire LEP also constitute a Functional Economic Market Area. However, for the purposes of this current review, it is the governance arrangements of the seven metropolitan local authorities that are being considered. Based upon the evidence of the FEMA and the opportunity that the West Midlands has to have an even greater impact upon the Gross Added Value (GVA) of the UK, the Leaders of the seven local authority areas have formed an ambition for the region formed around principles of collaborative working and a vision articulated through a programme of early priorities. This ambition is articulated in the 'Growing the UK Economy through a West Midlands Powerhouse' Statement of Intent. Locally the ambition for the combined authority must seek to protect Walsall's priorities and seek the best advantage for our communities.
- 1.6 In accordance with Section 108 of the Local Democracy, Economic Development and Construction Act 2009 a governance review in relation to a potential combined authority addresses the effectiveness and efficiency of: (a) transport within the area covered by the review and (b) arrangements for economic development and regeneration within the review area. The statutory tests for the governance review in relation to a potential combined authority are set out in the Local Transport Act 2008 and the Local Democracy, Economic Development and Construction Act 2009. The process of the review examined the options available to the West Midlands in relation to each of the following and evaluates the likely improvement going forward:
 - The exercise of statutory functions relating to economic development, regeneration and transport;
 - The effectiveness and efficiency of transport; and
 - The economic conditions in the area.
- 1.7 The process to establish a combined authority or economic prosperity board (similar legal entity as a combined authority but without transport functions) has three main steps: First, a review of existing governance arrangements for the delivery of economic development, regeneration and transport. This must lead to the conclusion that there is a case for changing these arrangements based upon real improvements. Second, drawing up and consulting on a

scheme for the new body upon which the authorities are required to engage to secure support amongst stakeholders. All constituent Councils (those with full voting rights) are required to approve the scheme for submission to the Secretary of State (SoS) for Communities and Local Government. Finally, the Secretary of State will consider the scheme and undertake a formal consultation. If the SoS is satisfied that the proposals are 'likely' to make improvements then a draft Order will be laid before both Houses of Parliament for adoption by affirmative resolution. At this stage in the establishment of the WMCA it is not known what powers will be passed from the SoS through the creation of the Combined Authority. Neither is it known exactly what powers any of the Local Authorities will be asked to cede to the Combined Authority itself. This is envisaged to come through the negotiation phase, including the 'Devolution Deal' (see paragraph 1.12 onwards) that will only be exercised once the Combined Authority is formally constituted.

- 1.8 The draft Governance Review has considered three options available to the West Midlands: a 'maintain the status quo' scenario whereby the existing arrangements for collaborative working would continue; create an economic prosperity board; or create a combined authority. The draft Governance Review has considered three options available to the West Midlands. The review demonstrated that the seven councils in the West Midlands have a strong track record of working together on areas of mutual benefit. Collaborative working has evolved over the years bringing together democratic leadership and senior business leaders, including the LEPs. However, the overarching arrangements remain informal without any independent legal status and could be improved, particularly around providing democratic leadership, transparency and accountability. There is a general consensus that the region has outgrown these existing arrangements and it is now time to take the strategic governance arrangements to the next level, moving from a process of informal collaboration to joint decision making. The draft Governance Review proposes that the West Midlands Joint Committee and the ITA are dissolved under the proposed arrangements for the Combined Authority and their responsibilities formed into those of the Combined Authority itself.
- 1.9 After evaluating the current evidence, the conclusion from the draft strategic Governance Review is to recommend a combined authority model. This would give legal form to the close working relationships that already exists between the seven local authorities, the ITA and the LEPs by creating a sub-regional body with legal personality and a governance mechanism that can act across the combined area. An engagement process on the draft 'Governance Review' commenced on 3 August 2015 which sought the views and feedback of local shareholders on the proposed WMCA. At a special/ extraordinary meeting in October 2015, Cabinet will be asked to review the feedback on the draft Governance Review and asked to approve the final Governance Review ahead of decisions that full Council will be invited to take on the same subject matter.

The Scheme

- 1.10 The process by which the proposed WMCA will make its application to Government to form a combined authority is through a scheme. A scheme sets out the overall framework for the powers, duties and functions of a combined authority, what it will do and how it will operate. It will therefore form the basis of the WMCA Constitution. At a special/ extraordinary meeting in October 2015 Cabinet will be invited to agree the Scheme for the WMCA where information in relation to membership, rights, voting powers, functions, and responsibilities will be set out. Should the Scheme be approved by Cabinet then it will recommend to Council that they approve the Governance Review and Scheme at a special/ extraordinary meeting in October 2015.
- 1.11 The decision to set up the WMCA rests with the Secretaries of State for Communities and Local Government, and for Transport. Government will consider the submission and conduct statutory consultation. If it is found that the Combined Authority meets the statutory tests and has local support, then an Order will be laid before Parliament. It is therefore anticipated that this process will take place during the latter part of 2015 and into early 2016, with the Combined Authority being formally established in April 2016. During this intervening period whilst Government undertake their work, it is fully anticipated that the work programme of the WMCA will continue; Leaders will meet as a Shadow Board of the WMCA and continue to take decisions in the best interests of moving forward the economic vision for the West Midlands, including the development of the Constitution and writing of an economic plan- the WMCA Strategic Economic Plan.

The 'Devolution Deal'

- 1.12 In late July, the West Midlands Leaders were invited by Government to commence negotiations on an initial 'Devolution Deal' as the means by which Government might conceive devolving powers and resources from Whitehall to the region in support of local economic outcomes. Work has been undertaken to identify local economic priorities and propositions for devolution prepared that seek to address the barriers to the West Midlands economic performance. The propositions for devolution have been informed through both best practice and lessons learnt and a view that these powers and budgets could be deployed more effectively at a regional level. In due course it is expected that the propositions for devolution will be formed into a series of programmes and only fully formed after the Autumn Comprehensive Spending Review.
- 1.13 It should be noted that the request by Government to the West Midlands Leaders to commence its consideration of the 'Devolution Deal' is a separate process from that of the administrative and political process to create a combined authority. To commence the devolution negotiations the seven Leaders do not need a formally constituted body to be in place, they will however need the Combined Authority to be in place to receive the negotiated deal.

