

Cabinet – 20 October 2021

Approving amendments to the Black Country Executive Joint Committee Collaboration Agreement

Portfolio: Councillor Mike Bird, Leader of the Council and Portfolio Holder for Finance

Related portfolios: Councillor Adrian Andrew, Deputy Leader of the Council and Portfolio Holder for Regeneration and Development

Service: Resources & Transformation

Wards: All

Key decision: Yes

Forward plan: Yes

1. Aim

To obtain authorisation to enter into the Deed of Variation to record changes to the 2014 Black Country Executive Joint Committee Collaboration Agreement arising from the amended and current Black Country Executive Joint Committee governance, and to note the removal of the Joint Committee Advisory Board and transfer of some of its responsibilities to the Black Country Heads of Regeneration Working Group, taking responsibility for briefing respective Cabinet Portfolio Holders. The aim is to simplify the governance arrangement and reduce timeframes for project approvals.

2. Summary

2.1 In 2013 the four Black Country Local Authorities (Dudley, Sandwell, Walsall and Wolverhampton) approved the formation of the Black Country Executive Joint Committee (BCJC), subsequently granting it the functions and powers to administer the City Deal and Growth Deal programmes. Walsall's Cabinet approved these arrangements on 11 September 2013.

2.2 These roles, functions and powers, together with how the Black Country Local Authorities and the Black Country Consortium Ltd. (BCC Ltd.), being the five partners, will work together are recorded in the Collaboration Agreement. This included an acceptance of delegated authority from each council's Cabinet for the BCJC to act as the decision making body for the identified programmes.

2.3 Since then, further amendments to the Collaboration Agreement have been made as set out in paragraph 4.2 of this report.

- 2.4 More recently, Walsall Council, as Single Accountable Body (SAB) for the Black Country Local Enterprise Partnership (BC LEP) has led a review of the Collaboration Agreement with the engagement of all parties to it, with the aim being to simplify arrangements and reduce project approval timeframes. This report asks Walsall's Cabinet to approve amendments, as set out in paragraph 4.10 of this report (additions highlighted in light blue in the Collaboration Agreement at **Appendix A**) that have resulted from that review, as set out within the proposed revised version of the Collaboration Agreement at **Appendix A**, effectively reflecting the changes agreed to BCJC governance structure and, if authorised, to implement these changes through a Deed of Variation.
- 2.5 Should there be any minor amendments required in addition to those already proposed in the Collaboration Agreement at **Appendix A** as a result of negotiations following approval by Cabinet, delegation is sought for the Council's Chief Executive in consultation with the Leader of the Council to take part in any negotiations and to make any minor amendments prior to sealing of the Deed of Variation.
- 2.6 This is a Key Decision as Cabinet have delegated the authority to BCJC to act as the decision making body for the identified Black Country programmes. BCJC decisions in turn enables significant savings through the receipt of funding awards to support the implementation of the strategic importance projects within the borough, across all wards.

3. Recommendations

- 3.1 That Cabinet approve the proposed amendments to the *Collaboration Agreement in relation to the Black Country Executive Joint Committee for the funds secured by the Black Country Local Enterprise Partnership dated 7 May 2014* as set out in further detail in this report, with the proposed revised version of the Collaboration Agreement at **Appendix A** of this report.
- 3.2 That Cabinet delegate authority to the Executive Director, Resources and Transformation, to authorise the sealing by the Council of a Deed of Variation in respect of the proposed amendments to the Collaboration Agreement.
- 3.3 That Cabinet delegate authority to the Chief Executive in consultation with the Leader of the Council to take part in any further negotiations and to make any minor amendments to the above Collaboration Agreement prior the Council endorsing changes to it by entering in to the Deed of Variation.

4. Report detail

Context

- 4.1 Walsall's Cabinet approved entering into a Joint Executive Committee with the other Black Country Local Authorities for the purposes of the City Deal and Growth Deal in September 2013; this approval included entering into a Collaboration Agreement with the four Black Country Local Authorities and the Black Country

Consortium (acting as secretariat to the Local Enterprise Partnership) on 7 May 2014.

- 4.2 The Collaboration Agreement has since been updated following BCJC approvals on:
- (i) 7 September 2016 to incorporate all funding opportunities administered by or resulting from the West Midlands Combined Authority;
 - (ii) 12 February 2020 to incorporate all current and future funding opportunities secured or operated by or through the BC LEP;
 - (iii) 9 December 2020 via a Supplemental Deed of Variation to add the governance and processes in relation to the Black Country Enterprise Zones.
- 4.3 The arrangements covered by the Collaboration Agreement have successfully administered a number of complex government programmes over the past five years, including - but not limited to - the annual Growth Deal spend profiles set by Government being met in full, with all funding claimed, audit requirements fulfilled and government evaluations met.
- 4.4 At its meeting on 5 November 2020, the Association of Black Country Authorities (ABCA) Chief Executives considered and endorsed proposals for streamlining the BCJC governance arrangements and processes, the option of removing Joint Committee Advisory Board approval stage and increasing the number of BCJC meetings. This was followed by ABCA Leaders (9 December 2020) and Joint Committee Advisory Board (1 February 2021) endorsements.
- 4.5 The removal of the Joint Committee Advisory Board resulted in Heads of Regeneration Working Group holding the responsibility for consultation on all reports requiring recommendation to BCJC, including with the Cabinet Portfolio Holders. To ensure continuous visibility and transparency Heads of Regeneration now brief their Regeneration Cabinet Portfolio Holder on all of the reports, from across the Black Country, which require Heads of Regeneration Working Group endorsement.
- 4.6 The increase of BCJC meeting frequency ensures that key time-bound projects can receive approvals as required, reducing any delays. However if there are no items on the BCJC Forward Plan, meetings will be cancelled.
- 4.7 The revised process is still compliant with requirements set out within the National and Local Assurance Frameworks, following individual project assessments and spend recommendations by the BC LEP.
- 4.8 BCJC approved and adopted the current governance arrangements at its meeting on 17 February 2021. The BCJC Constitution and Protocols and the BCLEP Local Assurance Framework have been updated to reflect these changes and were approved by the BCJC at its Annual General Meeting on 23 June 2021.
- 4.9 The parties to the Collaboration Agreement have and continue to use the governance and operational arrangements as set out within the Collaboration Agreement to successfully deliver the programmes.

4.10 The overview of the changes made to the Collaboration Agreement at **Appendix A** are as follows:

4.10.1 References to the Joint Committee Advisory Board removed from the Collaboration Agreement and its Schedules, and references to the HoR Working Group updated throughout Collaboration Agreement and its Schedules to reflect transferred responsibilities from the Joint Committee Advisory Board (Definitions, Clause 2 – Collaboration, Clause 4 - Project Approval, Clause 5 - Project Management , Clause 9 – Documentation, Clause 16- Publicity and Public Relations, Clause 18 - Priority of documents; removed Joint Committee Advisory Board Constitution, previously included as Schedule 1).

4.10.2 Clauses updated as follows:

- Reference to four Councils are now replaced by Black Country Local Authorities;
- Heads of Regeneration Working Group are now referred to as HoR Working Group;
- Funding agreement between the Single Accountable Body and a Party of Collaboration Agreement defined as Grant Agreement (definition added);
- Clause 2 (Collaboration) list of material variations (clause 2.8) are removed and instead referenced within the BC LEP Assurance Framework, Appendix 25; clause 2.10 with programmes list removed;
- Clause 5 (Project Management) updated to reflect the Governance Principles for the Enterprise Zones;
- Clause 15 (Variation) amended to remove the prescribed frequency requirement to vary the Collaboration Agreement;
- Clause 23 on data protection – updated to reflect changes in Law post United Kingdom exit from European Union.

4.10.3 Schedules appended as follows:

- SCHEDULE 1 - Constitution and Functions of the Heads of Regeneration Working Group (as agreed/adopted by the members of the HoR Working Group and appended to the BC LEP Assurance Framework, approved by BCJC on 23 June 2021);
- SCHEDULE 2 - BC LEP Initial Proposal and Full Business Case Templates (as agreed by the BC LEP Board and appended to the BC LEP Assurance Framework, approved by BCJC on 23 June 2021);
- SCHEDULE 3 - Black Country Executive Joint Committee (Constitution, Functions, Report template as agreed by BCJC on 23 June 2021);
- SCHEDULE 4 - Decision and oversight Flow Chart (updated to reflect Joint Committee Advisory Board removal, approved by BCJC on 17 February 2021);
- SCHEDULE 5 - Supplemental Deed - Governance Principles: Enterprise Zones (approved by BCJC on 9 December 2020), note this is currently undergoing a separate review with Parties to the agreement.

Council Corporate Plan priorities

- 4.11 The amended and current BCJC governance links to the current corporate plan priorities for 2021 – 2022, which seeks to reduce inequalities and maximise the potential for all, by delivering against the strategic priority of:

- Internal Focus: All Council services are efficient and effective.

Risk management

- 4.12 The risk that the amendments to the Black Country Assurance Framework and the BCJC governance do not comply with National Government requirements has been mitigated by a review by BCC Ltd and the Accountable Body team to ensure that the governance is still robust and consistent with the requirements of the National Growth Assurance Framework, published by the Ministry of Housing, Communities and Local Government in January 2019.
- 4.13 There is a risk that removal of the Joint Committee Advisory Board results in reduced engagement with Portfolio Holders. However, the new process requires each council's voting member at the Heads of Regeneration Working Group to brief Cabinet Portfolio Holders on all reports. This will ensure Cabinet Portfolio Holders are properly consulted and have oversight of all project and programme funding recommendations.

Financial implications

- 4.14 There are no financial implications associated with this report at the time of drafting. All costs associated with the delivery of the SAB functions by Walsall Council and the Project Management Office at BCC Ltd., including making amendments to the Collaboration Agreement and Assurance Framework, are covered from 'top-slicing' of the grants managed, or from the interest generated from funding held, or a mixture of both, as agreed by the BC LEP and the BCJC.

Legal implications

- 4.15 Under the Local Government Act 1972 and Local Government Act 2000 as amended by the Localism Act 2012 and regulations issued by the Secretary of State, the Council's Executive has the power to setup an Executive Joint Committee.
- 4.16 An Executive Joint Committee is effectively an extension of Cabinet, making decisions on behalf of Cabinet where it has delegated authority to do so. Delegation does not prevent Cabinet from choosing to excise the powers instead of the Executive Joint Committee, nor withdrawing at any time the delegation for a specific matter or item or in its entirety.
- 4.17 The proposed amendments to the Collaboration Agreement set out in this report, will be incorporating current BCJC governance arrangements, with the parties to the Collaboration Agreement being required to enter into the Deed of Variation. The SAB team will prepare the Deed of Variation to record these changes and will arrange for its execution and completion by all parties to the Collaboration Agreement, with the assistance of Legal Services.

Procurement Implications/Social Value

- 4.18 There are currently no procurement or social value implications arising directly from this report.

Property implications

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

Health and wellbeing implications

- 4.20 There are currently no direct health and wellbeing implications arising from this report.

Staffing implications

- 4.21 There are no staffing implications arising directly from this report. All costs associated with the delivery of the SAB functions by Walsall Council and the PMO, including amendments to the Collaboration Agreement and Assurance Framework, are covered as set out in the Financial Implications sections of this report.

Reducing Inequalities

- 4.22 There are no direct equality implications arising from this report.
- 4.23 Indirectly, the Collaboration Agreement governance arrangements, when implemented via BCJC decision making, addresses growing concern about the impact of climate change on inequalities, enabling the Council to deliver against its current Corporate Plan priorities which seeks to reduce inequalities and maximise the potential for all.

Climate Change

- 4.24 There are no direct Climate Change implications arising from this report.
- 4.25 The Council declared a climate emergency on 16 September 2019 and resolved to develop strategies to become carbon neutral by 2050 in line with national government targets. In 2020, a Climate Change Action Plan was presented to Cabinet, which set out meaningful and effective measures to enable the Council to deliver against its vision.
- 4.26 To meet the net zero carbon by 2050 target, and fully respond to the declaration of a Climate Emergency, the Council needs to ensure that reducing greenhouse gas emissions (mitigation) and increasing climate resilience of our operations and assets is central to the work of the organisation. Including climate change as a mandatory element of Cabinet reports shows that the Council is taking measures to embed climate change within operations and normalise it as a key consideration for all projects. It will support the Council in reducing its own carbon footprint and help drive us to be carbon net zero by 2050.

Consultation

- 4.27 ABCA Chief Executives considered the proposals set out in this report at its meeting on 5 November 2020 and recommended to proceed with removing the Joint Committee Advisory Board approval stage and increasing number of BCJC meetings.
- 4.28 ABCA Leaders endorsed the ABCA Chief Executives' recommendation at its meeting on 9 December 2020.
- 4.29 Heads of Regeneration Working Group had an early sight of the recommended proposals at its meeting on 3 December 2020, via a verbal update and briefing note and are now undertaking Cabinet Portfolio briefings on all reports, following BCJC approval of revised governance arrangements on 17 February 2021.
- 4.30 Legal and Finance Officers for all parties to the Collaboration Agreement were briefed on the proposed governance changes and its impact on their roles and responsibilities at the Collaborative Working Group meeting on 27 January 2021.
- 4.31 Joint Committee Advisory Board endorsed the proposals and agreed to recommend it to BCJC at its meeting on 1 February 2021, and following BCJC approval on 17 February 2021 ceased its activity.

5. Decide

Cabinet is asked to:

- 5.1 Approve all proposed amendments to the Collaboration Agreement covering the Joint Committee Advisory Board removal, provided as **Appendix A** to this report.
- 5.2 Authorise SAB officers to prepare the Deed of Variation to record these changes who will arrange for its execution and completion by all parties to the Collaboration Agreement, with the assistance of Legal Services, including delegating authority to the Chief Executive in consultation with the Leader of the Council to take part in any negotiations and to make any minor amendments prior to execution of the Deed.

6. Respond

Enter into a further Deed of Variation in respect of the Collaboration Agreement.

7. Review

The Collaboration Agreement and the consequences of the proposals set out in this report will be reviewed from time to time as local and national policies and practises evolve.

Background papers

Black Country Executive Joint Committee Collaboration Agreement

Attachments

Appendix A –Collaboration Agreement with proposed amendments highlighted in light blue

Author

Mark Lavender
Head of Programme Management
☎ 01922 654772
✉ Mark.Lavender@walsall.gov.uk



Deborah Hindson
Executive Director
Resources & Transformation, s151

20 October 2021



Councillor Mike Bird
Leader of the Council

20 October 2021