

Cabinet – 7 March 2016

Approval of the Order to establish the West Midlands Combined Authority

Portfolio: Councillor M Bird Leader of the Council

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

Service: Chief Executive

Wards: All

Key decision: No

Forward plan: No

1. Summary

- 1.1 The report provides Cabinet with a further update on the progress that has been made since 19 October 2015 towards the creation of a Combined Authority for the West Midlands. It provides an outline of the review undertaken by government, and consultation completed locally, to take forward the legislative process (preparation of the Order) that creates the Combined Authority. The Order (see **appendix 1**) formalises the governance arrangements previously set out in the West Midlands Combined Authority Scheme (see **appendix 2**) as approved by Council 19 October 2015. The recommendations set out in this report have been made further to the Secretary of State for Communities and Local Government (SoS). The SoS is considering the supporting documents provided by the West Midlands including the Governance Review (see **appendix 3**), the Scheme, and engagement and consultation summaries (see **appendix 4**), to establish a Combined Authority. The report also provides information on the revised timeline for making and enacting the Combined Authority Order.
- 1.2 The report provides Cabinet with an opportunity to review and note the draft West Midlands Combined Authority Constitution (see **appendix 5**), via the full website address in the background papers section of this report and through copies being made available to Members in their respective group rooms. The Constitution builds upon the membership, functions, powers and voting rights set out in the Combined Authority Scheme.

2. Recommendations

- 2.1 That Cabinet agree to recommend to Council that it should, as a Constituent Member of the West Midlands Combined Authority, consent to the draft Order (**appendix 1**) being submitted to government.
- 2.3 That Cabinet agree to delegate to the Chief Executive, in consultation with the Leader, approval to accept any minor drafting amendments to the draft Order being made prior to final submission to government.
- 2.4 That Cabinet, and subsequently Council, note the draft Constitution (**appendix 5**)
- 2.5 That Cabinet agree to use revenue reserves in 2016/17 to contribute to a non-reoccurring budget of up to £500,000 towards the continued work of the West Midlands Combined Authority.

3. Report detail

West Midlands Combined Authority- Decisions Made to Date

- 3.1 Cabinet received a report in 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 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 proposed WMCA. Cabinet will recall the document 'Growing the UK Economy through a West Midlands Powerhouse-Statement of Intent'- July 2015' which set out the ambition, and will recall the decision by the Leaders of the Metropolitan area to support this activity by forming the WMCA Shadow Board that held its inaugural meeting 21 August 2015.
- 3.2 Cabinet then received a report 19 October 2015 which served to update further on the outcomes of the WMCA 'Governance Review' and to seek agreement to the proposed 'WMCA Scheme'. The draft Governance Review covered the seven local authority areas of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton ('the West Midlands'). There was recognition that the three LEP areas of the Black Country LEP, the Greater Birmingham and Solihull LEP and the Coventry and Warwickshire LEP also constituted a Functional Economic Market Area. However, for the purposes of the draft review, the governance arrangements of the seven

metropolitan local authorities were considered. 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.

- 3.3 The draft Governance Review considered three options available to the West Midlands; to 'maintain the status quo' scenario whereby the existing arrangements for collaborative working would continue; to create an economic prosperity board; or to create a combined authority. The review demonstrated that the seven councils in the West Midlands 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 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. Cabinet will recall that the 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.
- 3.4 At that same Cabinet meeting 19 October 2015, Cabinet resolved to approve the WMCA Scheme, which followed the Governance Review recommendations to form a combined authority, and recommended to Council 19 October 2015 that the Scheme be adopted. The WMCA Scheme sets 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 Members are set out in **appendix 2**; these are matters upon which each of the seven Councils will use their 'one vote' rights to make decisions to reach a consensus but should this not be possible then votes will only be carried when a 2/3 majority of the Constituent Councils is achieved. 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 (see **appendix 5**) but there has been recognition by the Constituent Members of the role these areas have in supporting the economic prosperity of the region. As such the Constituent Councils have explored a way of creating a forum for collaborative working. A number of District Councils have resolved to be part of the WMCA (see **appendix 2**), as have the LEP Chairs. The Non-Constituent members are afforded limited voting rights on matters not specifically reserved to the Constituent Councils
- 3.5 Following a 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 26 October 2015 for their review ahead of the drafting of the Order.

WMCA Scheme and Order

- 3.6 Under the Local Democracy, Economic Development and Construction Act (LDEDCA) 2009, once consultation on a combined authority scheme is completed then a statutory Order can be drafted. However, the WMCA Scheme was submitted to government at a time when changes to the legislation that govern combined authorities was being made. In response to these changes in the legislation brought about through The Cities and Local Government Devolution Act, 2016 the WMCA has sought advice from the Department for Communities and Local Government to ensure we are future proofing the governance arrangements that we are seeking to create now and into the future. The Cities and Local Government Devolution Act has created the statutory power for devolution that enables the Secretary of State to devolve any central and local government powers to a combined authority.
- 3.7 The Constituent Members have carried out consultation upon the Scheme as approved by Council 19 October 2016. The consultation builds upon the previous engagement exercise in June 2015- the outcome of which was reported to Cabinet 19 October 2015. Under the amended LDEDCA a local area can undertake consultation to inform the Secretary of State's decision to create a combined authority. The consultation was undertaken between 18 January 2016 and 8 February 2016. The report that details the responses to the consultation can be found in **appendix 4**. Following submission of the consultation report to the Secretary of State, government has now confirmed their intention to create the combined authority and has prepared the draft Order that forms **appendix 1** to this report.
- 3.8 The draft Order if approved by the Constituent Councils will then be finalised and returned to the Secretary of State who will invite Parliament to approve the Order. At present the timeline for this process being undertaken is during spring 2016 and it is anticipated that Parliament will make its decision in May 2016. If this timeline is achieved then the inaugural meeting of the WMCA will be in June 2016.

The WMCA Constitution

- 3.9 As a statutory organisation the WMCA is required to have a Constitution, approved by the WMCA itself and reviewed on annual basis. The draft Constitution describes how the WMCA will operate and the functions it will carry out. The Constitution, alike to the Council's own Constitution, will provide the necessary powers to enable the WMCA to exercise its duties. The inaugural meeting of the WMCA will approve the Constitution.
- 3.10 In anticipation of the WMCA being created and the Constitution being adopted, three appointments to the WMCA need to be nominated before the inaugural meeting in June 2016; these nominated Members will then appear as named Members of the WMCA in the final Constitution. Contained within the draft Order is a reference to the nominations that will be sought from each Constituent member to the WMCA board, this will be formed of two nominated members, one of whom will be the Leader of the Council, along with a nominated substitute member. The membership has been apportioned in this

way to ensure the Constituent Members are the majority, with the Non-Constituent Members having one representative each. It is anticipated that Council will be asked to make its nominations in the new municipal year.

- 3.11 As referenced in the draft Constitution and in line with the changing legislation that governs combined authorities, scrutiny arrangements will be required for the WMCA. At the point of drafting this report the scrutiny arrangements for the WMCA are not fully formed due to the changes in legislation but are anticipated to be 'politically balanced' and will be worked upon during the coming months. Following the inaugural meeting of the WMCA then appointments to the Scrutiny Committee will be made.

The 'Devolution Deal'- Update

- 3.12 Cabinet will recall that the West Midlands CA Shadow Board have led a process of negotiations with government on a proposed devolution agreement for the Metropolitan area. These negotiations commenced in July 2015 and culminated in an initial proposed agreement for the West Midlands on 17 November 2015, which demonstrated the intent of the Government and the WMCA towards greater devolution. The devolution deal can be found in **appendix 6** 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. As such a devolution deal implementation plan is being prepared and in due course the final 'clarified' devolution deal will be presented to Council for final approval.
- 3.13 The proposed WMCA is based upon the Scheme in **appendix 2** that was approved prior to the announcements that a devolution deal would be agreed for the West Midlands. The devolution deal (and any subsequent deals as has been the case for other combined authorities) is a separate process and is dependent on a future approval by the Constituent Councils. Therefore this report does not deal with the approval of the first devolution deal due to the process of super clarification that is underway with government. It has not been possible to complete this exercise in time for the Secretary of State creating the WMCA itself. Therefore the proposals on which the consultation has sought to seek views are separate from what is in the devolution deal where there are proposals for powers and functions exercised through an elected mayor. Although a combined authority is pre-requisite for delivering devolution, setting up a combined authority has no bearing on whether there is a future mayoral combined authority in the West Midlands. This process would indeed be subject to further local decision making and a revised scheme that would set out the mayoral powers.

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, 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 LEPs.
- 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.

- 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 results set out in **appendix 4**. Elected Members who represent Walsall communities have been engaged in the process to date via meetings of its Scrutiny Committee, Cabinet and Council.

6. Financial implications

6.1 Cabinet at its meeting 12 August 2015 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 that is being shared equally between the seven proposed constituent members. 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.

- 6.2 At a recent meeting of the WMCA Shadow Board it was resolved that each Member would make provisions for a transition fund to be established for 2016/17, enabling the WMCA to continue its work into the formal establishment of the CA and until the powers set out in paragraph 6.3 are created. A further non recurring £500,000 has been sought from each of the Constituent members, with £25,000 from Non Constituent members. This funding will be used to support the continued work in establishing the Combined Authority. This will be funded from reserves.
- 6.3 It should also be noted that the draft Scheme for the WMCA is also proposing that the Combined Authority be set up in such a way that enables it to become a levying body under section 74 of the Local Government Finance Act 1998 (as is, for example, the current West Midlands Integrated Transport Authority). The Act enables the Combined Authority to issue a levy to its Constituent Members in respect of the expenses and liabilities of the Combined Authority which are reasonably attributable to the exercise of its functions relating to transport. The matter of whether an elected Metro Mayor may have the power to set a local precept is still being explored through the devolution deal discussions

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. 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 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 was agreed by Parliament and achieved Royal Assent 28 January 2016 which has created the statutory power for devolution, by amendments permitting any power or function to be devolved, and enabling the Secretary of State to devolve central and local government powers to a Combined Authority, as well as the power to create a mayor. The Act requires the consent of the Constituent Members of the Combined Authority before the establishment of a mayor, and/ or any legal powers are transferred to a combined authority or mayor can be put in place. The Act requires that this decision is made by the Constituent Council's.

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

- 10.2 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.
- 10.1 There are no other direct staffing implications arising from this report

11. Equality implications

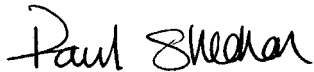
- 11.1 An Equality Impact Assessment (EqIA) Initial Analysis (see **appendix 7**) has been carried out and there were found to be no immediate equality implications. Equality analysis, legal requirements and good practice, including engagement and consultation will be embedded throughout the development of the WMCA.

12. Consultation

- 12.1 As set out in paragraph 3.7 and **appendix 4** a process of consultation has taken place on the proposals to create a WMCA. This consultation follows the previous engagement exercise in August- September 2015. In addition to these specific exercises, the Council continues to use its existing networks and forums to talk to stakeholders about the WMCA and its ambition. This continued engagement is important as the agenda surrounding the WMCA and devolution continues to evolve. Future opportunities will therefore be taken to engage our partners and stakeholders over the coming period.

Background papers

- Cabinet Report 12 August 2015 'Proposals for a combined authority for the West Midlands'
- Cabinet Report 19 October 2015 'A combined authority for the West Midlands'
- <https://westmidlandscombinedauthority.org.uk/media/1112/item-2-1-working-draft-ca-constitution.pdf>



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9 September 2015



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