

Cabinet – 6 December 2016

Approval of the Draft West Midlands Combined Authority (Functions and Amendments) Order 2016

Supplemental Report

Portfolio: Councillor Sean Coughlan, Leader of the Council

Related portfolios: Councillor Lee Jeavons, Deputy Leader and Portfolio Holder
Regeneration

Service: Chief Executive

Wards: All

Key decision: Yes

Forward plan: Yes

1. Summary

1.1 Cabinet will be in receipt of a report published on 28 November 2016 pertaining to the draft West Midlands Combined Authority (Functions and Amendments) Order 2016. The report highlighted that a supplemental paper(s) may be produced because at the time of writing the Cabinet report a small number of drafting matters were outstanding. Therefore the purpose of this supplemental report is to update Cabinet on the current position arising out of discussions with the Government in relation to the draft Functions Order. Further it is to inform members specifically in relation to two areas of development relating to matters set out with in paragraphs 3.13 and 3.19 of the main report these being Voting and Mayoral Development Corporation (MDC) powers.

1.2 At the time of writing this supplemental report the Council is still not in receipt of the any further versions of the draft Functions Order. The Civil Servants responsible for the drafting of the Order have indicated that it will made available at some point during the week ending 9th December. It is increasingly likely that a revised version of the Order will not available for the 6 December 2016 Cabinet meeting and therefore Cabinet is unlikely to be in a position to consider it at its meeting.

2. Details

2.1 Civil Servants have confirmed their intention to provide within the draft functions Order that the Mayor must also vote in favour along with the Constituent Councils on all items relating to the powers and functions in the next version of the draft Functions Order. This is because these items set out in the Devolution Deal and form the basis of the provision of a Mayor. Notwithstanding this, Cabinet will recall that certain protections have been put in place in relation to voting and they

provide that, other than the unanimous list of items, decisions are subject to a two thirds vote in favour by the Constituent Councils. As regards the unanimous list of items reserved to the Constituent Councils, as set out below, the Civil Servants are proposing that the Mayor will have a vote but that vote can only be treated as part of the unanimous where the matter being voted upon has an effect upon, or is in relation to, the Mayor's specific powers and functions. The unanimous lists of voting matters as contained in the 'Establishment Order' 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")²;

(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.

- 2.2 With regards the Mayoral Development Corporation, the reason it is given this particular title/description is because the primary legislation created a development corporation for the Mayor of London. The West Midlands model is different in that whilst it has this title it will be a West Midlands Combined Authority Development Corporation and not one set up by the Mayor.
- 2.3 Cabinet will recall that paragraph 3.19 of the main report set out, at subparagraphs (c) and (d); the powers that an MDC has to Compulsory Purchase any land within the Combined Authority area as well as having the ability to waiver the payment of non-domestic rates. In further discussions with the Government it has been confirmed by the Civil Servants that it is proposed to include within the next version of the draft Functions Order a requirement for the consent of any Constituent Council who area includes land being proposed for a Compulsory Purchase Order (CPO).
- 2.4 With regards the power to waiver nondomestic rates, this provision remains unchanged however it is subject to the restriction that the MDC can only exercise that power within an area for which it has been established, and any decision to establish an MDC is subject to the consent of all the Constituent Council's whose area will be included under the MDC. Further all Constituent Councils who have consented to an MDC in part or all of their area will have a primary right in legislation to appoint an Elected Member from their Council as a member of the MDC.



Paul Sheehan
Chief Executive Walsall Council



Councillor Sean Coughlan
Leader of the Council

5 December 2016