

Cabinet – 20 September 2023

Approval of the West Midlands Combined Authority West Midlands Trailblazer Deeper Devolution Deal and Implementation Plan

Portfolio: Councillor Bird, Leader of the Council

Related portfolios:

Service: Chief Executive

Wards: All

Key decision: Yes

Forward plan: Yes

1. Aim

- 1.1. The deal aims to reboot the economy, provide vital housing, jobs and skills, build on existing strengths in transport, and drive net zero ambitions. This will generate economic growth and levelling up outcomes for all our residents, businesses and communities.

2. Summary

- 2.1. The West Midlands deeper devolution deal was agreed in principle at the Mayor of the West Midlands and portfolio leaders (MPL) group on 10 March 2023 and announced in the Chancellor's spring statement the following week.
- 2.2. The deal will mark a new phase of devolution by bringing new powers and control over investment to the region. The deal includes several provisions that will enhance the existing functions of the WMCA and will unlock over £1.5 billion of funding for the region. The deal recognises that the WMCA has lacked the key levers and flexibility to 'unleash the potential of devolution', and addresses this through a range of new powers, responsibilities and resources. Many of the offers in the deal are firsts for regional devolution. It commits government to a single, departmental-style settlement with the WMCA at the next spending review, in return for new accountability arrangements and a single outcomes framework.
- 2.3. The devolution proposals will enable the region to locally prioritise, control and decide how funding is spent within devolved area, and therefore ensure greater local alignment with the council's existing policies and strategies for sustainable

economic growth and levelling up across our communities. The acceptance and implementation of the deal will have positive benefits and impacts across the borough and is therefore a key decision.

- 2.4. The deal that was agreed in principle in March 2023 has been subjected to on-going negotiations and dialogue with government and the WMCA constituent members, including the development of a more detailed implementation plan. The WMCA has requested that the constituent authorities consider and, if acceptable, approve the new proposals and implementation plan, as set out in section 4 and **Appendix 1 and 2**. Subject to approval by all the constituent authorities, formal ratification of the deal will be sought at WMCA board in October 2023.

3. Recommendations

- 3.1. That Cabinet endorse the West Midlands deeper devolution deal and implementation plan (**Appendix 1 and 2**).
- 3.2. That Cabinet delegates authority to the Chief Executive in consultation with the Leader of the Council to take part in the continuous negotiations that form part of the evolution and development of the West Midlands deeper devolution deal and implementation plan, and to agree the order and other documentation required to implement the deal.
- 3.3. That Cabinet note that a further report may be brought before Cabinet in the event of any material or significant changes as a result of the ongoing negotiations.

4. Report detail – know

Context

- 4.1. The West Midlands Combined Authority (WMCA) was formed in 2016, with all seven West Midlands councils as constituent members, together with 10 councils joining as non-constituent members and the (then) three local enterprise partnerships (LEPs). Following the agreement and approval of the first two devolution deals in 2016 and 2018 respectively, further devolution from central government, a new deeper devolution deal (DDD) is now proposed.
- 4.2. Since reaching an in-principle agreement on the DDD in March 2023, the WMCA and local authority representatives have continued to undertake significant work, in consultation with central government, to work-up the further detail and a delivery strategy through the development of an implementation plan.
- 4.3. The DDD contains over 190 commitments of different types. Taken together, the deal represents a significant step forward for the region's multi-year financial stability, particularly over local government revenue retention. This will help to reduce financial risks, de-risk investment decisions, provide new funding to deliver affordable housing, regeneration and transport schemes and give the

region an influential role in shaping government policy in line with our shared inclusive growth agenda. The commitments include:

- a. Providing new funds to the WMCA and its constituent authorities, such as for housing and regeneration;
 - b. Increasing flexibility and local decision-making power over existing and future funds, particularly through the single settlement;
 - c. New partnerships and co-working with government to design and deliver programmes, such as employment support, culture and heritage and working with Great British Railways; and
 - d. Undertaking further work with government on regional priorities, including transport innovation.
- 4.4. The implementation plan is structured around the 8 thematic summaries (**Appendix 1**) and 25 different workstreams. It sets out for each commitment the approach to administration, delivery, co-development, milestones and deliverables, and issues/ area of concern. There is variation in the commitments set out in the deal. For some commitments, there are deliverables or activities with set deadlines, which means the implementation plan is relatively definitive in these areas. For other commitments, particularly those that commit to further development of policy, the outputs and deadlines are less tightly defined. The implementation plan provided in **Appendix 2** reflects the diverse nature of the commitments.
- 4.5. Some of the key provisions in the deal are set out below:
- 4.6. **Housing deal and affordable housing programme** - a new landmark housing deal worth up to £500 million, offering greater flexibility to drive brownfield regeneration and unique powers and funding to deliver affordable housing at pace, including a route to full devolution of the affordable housing programme funding.
- 4.7. **Growth zone/ investment zone** - the creation of up to six growth zones (formerly known as levelling up zones (LUZ)), backed by 25-year business rate retention, with an expected total value to the region of at least £500 million, to target investment and encourage jobs and regeneration in areas agreed between the WMCA and government. This includes proposals for a Walsall specific zone. In addition, whilst the government's investment zones policy was not part of the formal deal, it was announced at the same time and significant effort is going into the development of an investment zone (IZ) proposal for the West Midlands to help drive the economy of the region forward in line with the plan for growth. The implementation plan seeks to align these two policy initiatives and other related initiatives already underway in order to ensure a strategic approach is taken to investment and development of key sites and corridors across the region.

- 4.8. **Single settlement** - there is a commitment to a single funding settlement, where for the first time, a region will be treated as if it were a government department with a new departmental-style budget arrangement. WMCA currently manage in the region of 100 individual grants from government, all with their own declaration requirements and monitoring and reporting requirements. The implementation of a single settlement will simplify the overall funding landscape. The intention is to develop a memorandum of understanding with government about how the process of a single pot of funding will work, including the scope of the funds included in the settlement, how it will be apportioned, and assurance and accountability arrangements. Fiscal devolution will include retention of business rates for the next 10 years – worth an estimated £45 million a year to the WMCA and local authorities.
- 4.9. **Bus Service Operators Grant** - the proposed devolution of the bus service operators grant (BSOG) will enable the WMCA to change the mechanisms for providing public subsidy to private bus operators which will improve accessibility across the region and support the decarbonisation of bus fleets.
- 4.10. **Governance and Accountability** - the deal makes provision for enhanced accountability arrangements, including the development of a ‘scrutiny protocol’ and mayoral scrutiny by MPs. Discussions with government on these topics have commenced and WMCA Overview & Scrutiny Committee members will continue to be engaged as appropriate. Any proposed changes will require WMCA board approval.
- 4.11. Other provisions in the DDD include:
- A commitment to be involved in decisions on major government land disposals and reconfiguration, driving regeneration and unlocking private investment through repurposing and redeveloping publicly owned land.
 - A new role for the WMCA in integrating and promoting business support services across the region. This will be powered by a new strategic productivity partnership with departments across government, greater involvement in the governance of the British Business Bank’s UK funds, and collaboration with the UK Investment Bank on commercial arrangements for infrastructure finance.
 - A new strategic innovation partnership will give the West Midlands a unique voice in setting out regional innovation opportunities to inform the UK research and innovation’s future funding strategies.
 - The Department for Business and Trade (‘DBT’) will recognise the West Midlands Growth Company as the lead agency for investment in the region and work with them to develop a West Midlands international strategy.
 - Measures to tackle digital exclusion including greater influence over high-speed broadband investment across the region and a £4 million fund for devices and data to get more people online.

- Greater local responsibility for developing and delivering careers advice and a partnership with Department for Work and Pensions to target employment support.
 - A new partnership with Great British Railways to offer greater local oversight and control of public transport services and support the roll out of integrated smart ticketing.
 - The UK's first formally designated transport 'regulatory sandbox' to enable the region to test and develop cutting-edge transport solutions. This will deliver cleaner and safer vehicles and innovative transport services to our streets faster while supporting new jobs and investment.
 - A commitment to devolve retrofit funding from 2025, to allow the WMCA, and partners, to set priorities for investment in insulation and green energy for homes. This will provide the certainty and consistency to build confidence in the marketplace and accelerate the delivery of warmer homes and net zero targets.
 - A commitment to a new partnership with national arts and culture organisations to shape their investment in regional cultural priorities.
 - The creation of a joint governance board to provide oversight of post-16 technical education and skills in the WMCA area. This will ensure that the training offer is aligned with local skills needs, provide strategic oversight of the local skills improvement plan, support better data sharing and the development of an all-age careers' strategy. A commitment to the creation of a new regional labour market partnership board to oversee the development and implementation of a regional labour market strategy.
- 4.12. Since the in-principle agreement in March 2023, a collective decision has been taken at WMCA board not to pursue the statutory process to provide WMCA with the 'health improvement duty' offered through the deal. This duty does not form part of the deal that the council and the West Midlands local authorities are being asked to ratify.

Council Plan priorities

- 4.13. The Council Plan 2022-2025 identifies 5 key priorities:
- **Economic** - enable greater local opportunities for all people, communities and businesses.
 - **People** - encourage our residents to lead more active, fulfilling and independent lives, and maintain or improve their health and wellbeing.
 - **Internal focus** - council services are customer focused, effective, efficient and fair.
 - **Children** - our children should: have the best possible start, be safe from harm, and be happy, healthy, and learning well.

- **Communities** - empower our communities so that they feel connected and that they belong in Walsall. Create safe and healthy places whilst building a strong sense of community.
- 4.14. The proposed DDD will support all five council priorities and help to increase the economic prosperity of the area and provide healthy and positive community impact for the people of Walsall, by aiding, funding and delivering strategic economic and development priorities.
- 4.15. The WMCA's strategic economic plan (Making our Mark) sets out how the West Midlands will become the best region in the UK to do business. It included the delivery of a set of objectives including economic growth, employment & skills, accessibility, business competitiveness & productivity, land, public service reform, housing and environment. The strategy is for a rapid acceleration in growth, employment and productivity through targeted actions in key sectors, enhanced innovation incubation and skills development alongside public sector reform. The proposed deal will support the implementation of the strategic economic plan objectives and build upon the progress and success to date.

Risk management

- 4.16. There is a risk that, despite the commitment to working closely with government to secure the devolution provisions and funding commitments, any changes in policy or government could prevent the DDD plans from coming to fruition. There is also a risk that negotiations with government do not lead to the expected level of devolutionary commitment currently envisioned. Council officers will continue to work with the WMCA and government to secure the best possible deal and benefits for Walsall.
- 4.17. The deal is a non-statutory agreement between different government departments and WMCA and its constituent authorities. Therefore, if the necessary two-thirds agreement at WMBC board in October to ratify the deal is not obtained, the consequences are at the discretion of the secretary of state (SoS) for DLUHC. Should the necessary agreement not be obtained, there is a risk that all or some of the commitments in the deal, and their benefits to the region, may be withdrawn or modified. There is recent precedent for this outcome in other parts of England that are in the process of seeking (non-deeper) devolution deals. In particular, non-ratification of the deal and accompanying governance review and scheme would end the statutory process required to progress the devolution of the bus service operators grant (BSOG).
- 4.18. 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 appropriately. This is a low risk that will continue to be mitigated through the established governance arrangements and the single assurance framework agreed with government.

Financial implications

- 4.19. As referenced above, there is a commitment to a single funding settlement with government, which will be set out through the development of a memorandum of understanding (MOU). The MOU will be co-developed and negotiated by WMCA officers with HM Treasury and DLUHC, with support from local authority senior officers and finance directors. The negotiations on the MOU are expected to conclude post the October WMCA board meeting, therefore approval will be sought at a subsequent board meeting, with the council's delegated authority to approve sought under this reports' recommendation. Fiscal devolution will also include the 10-year business rate retention; the workings of this scheme offered through the deal will also form part of this latter approval process.
- 4.20. The commitments in the deal provide a mixture of new funding streams for the region, as summarised in the following table.

| Fund | Value | New Money |
|---|-----------------------|---------------------|
| Growth zones | c.£0.5bn (min) | Yes |
| Business rates retention | c.£450m | Difficult to Assess |
| Affordable housing programme | £200-400m | Yes |
| Single regeneration fund | £100m | Yes |
| Wednesbury to Brierley Hill metro extension | £60m | Yes |
| Smart city region | £10m | Yes |
| Air quality sensors | £0.5m | Yes |
| Digital devices | £4.0m | Yes |
| Industrial decarb | £10.5m | Yes |
| Natural environment | £1m | Yes |
| Cultural infrastructure fund | £5m | Yes |

- 4.21. The potential value of the deal to the region is, to a large extent, influenced by the region's ability to establish growth zones as intended, and the retained revenue which will flow back to local authorities through the business rates system.
- 4.22. In addition to the sums in the table above, the deal, particularly through single settlement and other initiatives like the affordable housing programme, provides

greater flexibility on how funding is used and brings decision-making over spending closer to the region.

- 4.23. The WMCA has a budget setting process similar to councils that require the consent of its board. In addition, the Mayor has the power to set the budget for his functions subject to restrictions. For the WMCA budget (including Mayors), where no funding has been provided for its activities and/or functions, and no other funding stream is available, the constituent members are responsible for the funding. If no local agreement is made, then it is apportioned according to population.
- 4.24. As the scope and budgets, including the additional monies in relation to DDD, grows there is a risk that the devolution activities may result in an overspend on operational and capital budgets. As the WMCA has limited revenue income streams, there is a risk that it may result in an increase to constituent subscriptions. If capital budgets overspend it may fall onto constituents to service the debt if external funding fails or is clawed back, as the WMCA is underwritten by the constituent members.
- 4.25. As stated in paragraph 4.18, there is a risk that future investment decisions of the WMCA fail to benefit all communities appropriately. This is a low risk mitigated through the established governance arrangements and the single assurance framework agreed with government. In relation to regeneration schemes, Strategic Investment Board has approved business case development funds for key pipeline projects to ensure that Walsall projects will be ready to bid for funding i.e. the single regeneration fund at the appropriate time.

Legal implications

- 4.26. The deal states that the new proposed functions and devolved powers in relation to the payment of the bus service operators grant (BSOG) is a public authority function that will require a formal statutory process. The devolution of such powers can be dealt with under section 105b of the Local Democracy, Economic Development and Construction Act 2009 as amended by the Cities and Local Government Devolution Act 2016 (the 2009 Act) but requires a governance review, scheme and currently the consent of the constituent authorities to the laying of the order. There are currently proposals in the Levelling-up and Regeneration Bill to make changes to the consent requirements, for example, where the devolution of new powers and functions are to be excisable by the Mayor, whereby only the consent of the Mayor is required. There are also proposals that remove the consent requirements for constituent authorities where there is a proposal to add further areas to a mayoral combined authority the effect of which is only the consent of the Mayor and the joining authority are required.
- 4.27. The WMCA, in consultation with the leaders of the constituent local authorities, have undertaken a governance review across the whole geography of the WMCA area in accordance with section 111 of the 2009 act to consider how the transfer of the delivery of the BSOG from the secretary of state to WMCA

(as a mayoral function) would impact on the effectiveness of service delivery. As outlined in the deal, this is an administrative function that will be exercised by the Mayor, with decisions from WMCA board inputting into the policy of allocation taken by a two-thirds majority and subject to consultation on the national reforms of grant that the government is currently working on.

- 4.28. Having considered the findings of the governance review as set out in **Appendix 3**, the WMCA conclude that an order by the secretary of state to make the changes considered in the review, including delegating additional functions to the WMCA, would be likely to improve the exercise of statutory functions in relation to the WMCA area. The WMCA have therefore resolved to prepare and publish a scheme under section 112 of the 2009 act for the devolution of the BSOG.
- 4.29. A draft scheme has been prepared by the WMCA for the BSOG devolution in consultation with the constituent authority leaders that will confirm the adoption of the new powers and duties detailed in the draft scheme at **Appendix 4**.
- 4.30. The decision to submit the governance review and scheme to the secretary of state will require a unanimous decision of all the WMCA members under the terms of the constitution.
- 4.31. Formal ratification of the deal by WMCA board in October will take place at the same time as the board formally asking the secretary of state to lay a draft order with respect to the formal statutory functions arising from the deal.

Procurement Implications/Social Value

- 4.32. There are currently no procurement implications arising directly from this report.

Property implications

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

Health and wellbeing implications

- 4.34. Under the health workstream in the implementation plan, the deal seeks commitments to digital and data pilots which will empower residents to improve their understanding and use of health data through education and skills development; work on innovations to include artificial intelligence (AI) labs; and shared data and care records, building on the West Midlands' smart city region strengths. Taken together, the commitments set out in the deal will collectively improve health and wellbeing of communities across the region.

Reducing Inequalities

- 4.35. An equalities impact assessment (EqIA) is appended to this report (**Appendix 5**).

Staffing implications

- 4.36. Existing staff resources from across several service areas, in particular economy, environment & communities and resources & transformation directorates, are providing support to the work of the WMCA. Officers work to represent the council and its priorities through partnership working in office-led working groups across the region. Officers continue to play an active role in discussions and negotiations to ensure the council is effectively engaged and can respond and receive the benefits of the devolution deal.

Climate Impact

- 4.37. The deal will help drive the net zero ambitions for the West Midlands by devolving tools and funding that will remove uncertainty and inefficiencies in the existing funding system, such as devolving housing retrofit funding and incentivising net zero bus service transition. There is recognition of the region's involvement in wider energy system management and planning, and responsibility for heat zone designation, energy efficiency advice and attracting private sector finance. In addition, funding is anticipated for industrial decarbonisation programmes for regional businesses, natural environment finance models and air quality monitors to support the region's wider environment and net zero ambitions.

Consultation

- 4.38. The deal and agreement in-principle were prepared by the WMCA in consultation with the constituent members and government. Dialogue also has continued throughout the development of the implementation plan.
- 4.39. Public consultation will be undertaken as required, subject to legal guidance, for any new proposed functions that require a formal statutory process (see Legal section).

5. Decide

- 5.1. Options considered include:

- a) Preferred approach as recommended in this report. Approval of the West Midlands DDD and implementation plan will enable Walsall to secure economic and inclusive growth benefits for its communities and residents as set out in local policies and strategies. The devolution 'offers' will provide flexibilities in the way tools and funding are implemented and delivered across the area.
- b) Do-nothing. Without the necessary local authority approval, the WMCA board would not be able to recommend approval of the deal and the devolved funding and powers to deliver economic, social and environmental benefits would be lost. This would disadvantage the area by limiting opportunities for development and transition and slowing growth.

6. Respond

- 6.1. Subject to approval of the report recommendations and the appropriate approvals from the other constituent members, formal ratification of the deal will be sought at WMCA board in October 2023. This will occur at the same time as the board formally asking the secretary of state to lay a draft order with respect to the formal statutory functions arising from the deal.

7. Review

- 7.1. Delivery of the deal and implementation plan will be delivered through the established WMCA governance arrangements, including WMCA board, sub-committees and overview and scrutiny, and portfolio leads.
- 7.2. The WMCA will be held accountable through the local government accountability framework, English devolution accountability framework and enhanced scrutiny measures. In addition, the Mayor and WMCA will be expected to present to parliamentary select committees as requested, in conjunction with Mayor's question time and quarterly engagement with West Midlands MPs.

Appendices

Appendix 1: West Midlands Deeper Devolution Deal: Thematic Summaries

Appendix 2: West Midlands Deeper Devolution Deal: Implementation Plan

Appendix 3: Governance Review for the devolution of the Bus Service Operators Grant

Appendix 4: Draft Scheme for the devolution of the Bus Service Operators Grant

Appendix 5: Equality Impact Assessment

Background papers

- Cabinet Report 7 March 2016 'Approval of the Order to establish the West Midlands Combined Authority.
- Cabinet Report 2 June 2016 'Approval of the West Midlands Combined Authority Draft Mayoral Scheme, Mayoral Elections Order, and West Midlands Devolution Deal (1)'.
- Cabinet Report 20 June 2018 'Approval of the West Midlands Combined Authority West Midlands Devolution Deal 2 and Implementation Plan'.

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08 September 2023



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