

Appendix 5 – second revision 13/10/15

(includes minor alteration to wording in paragraph 34 to better reflect legislation)

Scheme for the establishment of a Combined Authority for the West Midlands

Introduction - Engagement with the three Local Enterprise Partnerships (“LEPs”) and the wider business community

The establishment of a Combined Authority represents a major opportunity to have a strong, shared voice for the region and to make a step change in our collective efforts to drive the economic prosperity of the area. Effective engagement with the LEPs and the wider business community is critical to the delivery of this ambition.

The relationship between the LEPs and the Combined Authority will be seamless and will engage the wider business community, ensuring that all partners play to their strengths in contributing to a wider ambition for more and better jobs.

The Leaders of the seven constituent authorities are members of the LEPs and the Chair of the LEPs will have non-constituent status in respect of the Combined Authority.

A Combined Authority Strategic Economic Plan will be developed and agreed. This will build on the findings of the economic evidence commissioned to support the establishment of the Combined Authority which identified the 3 LEP geography as the functional economic area.

Investment decisions taken by the Combined Authority will reflect business views. These views, both in terms of shaping prioritisation and scheme design, will ensure that public investment is targeted to maximise business benefit, which is key to economic growth.

The Combined Authority and the LEPs will ensure that executive and staff resources are used in the most effective way to deliver the Combined Authority Strategic Economic Plan. The Strategic Economic Plan will be underpinned by the principle that all communities benefit, but not necessarily at the same time and in the same way. The Combined Authority would seek to achieve this by using evidence based objective means by which to assess interventions, or the design of interventions, so that these are aligned to our balanced economic outcomes for the West Midlands Combined Authority area.

Section 1 – Intention to establish a Combined Authority

Establishment of the Combined Authority

1. A Combined Authority will be established pursuant to section 103 of the Local Democracy, Economic Development and Construction Act 2009 (“LDEDCA”). It shall come into existence on 1 April 2016.

Area of the Combined Authority

2. The Combined Authority’s area shall be the whole of the following seven constituent authority areas:

Birmingham City Council
City of Wolverhampton Council
Coventry City Council
Dudley Metropolitan Borough Council
Sandwell Metropolitan Borough Council
Solihull Metropolitan Borough Council and
Walsall Metropolitan Borough Council

Each of the above authorities will be the Combined Authority’s constituent members (“Constituent Authority” and “Constituent Authorities” will be construed accordingly).

Within this scheme “West Midlands” refers to the area covered by the seven local authorities of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton.

Name of the Authority

3. The name of the Combined Authority will be the West Midlands Combined Authority.

Membership of the Authority

4. The Combined Authority shall consist of [] members as set out below:-

- Seven members of the Combined Authority shall be elected members of the constituent authorities, referred to as “Constituent Members” namely

Birmingham City Council
City of Wolverhampton Council
Coventry City Council

Comment [RR]: This will be the total of 7 constituent authorities, the three LEPs and the Councils that have confirmed non-constituency membership.

Lichfield District Council are the final to decide, on the afternoon of 13 October 2015.

Dudley Metropolitan Borough Council
Sandwell Metropolitan Borough Council
Solihull Metropolitan Borough Council and
Walsall Metropolitan Borough Council

- Non-constituent members will be appointed, one each from the following Councils and LEPs:
 - Greater Birmingham and Solihull LEP
 - Black Country LEP,
 - Coventry and Warwickshire LEP
 - Cannock Chase District Council
 - Nuneaton and Bedworth Borough Council
 - Redditch Borough Council
 - Tamworth Borough Council
 - Telford and Wrekin Borough Council
 - [REDACTED]

Comment [RR]: Awaiting
Lichfield District Council
decision – 13 October
2015.

The term “Members” will refer to both Constituent Members and Non-constituent members

5. Each Constituent Authority, non-constituent authority and LEP will also appoint two other people (“Substitute Members”) to act as members of the Combined Authority in the absence of the named member. Any Substitute Member will have the same decision-making authority and voting rights as the person whose place they are taking.

6. Each Member will act in the best interests of the Combined Authority as a whole, taking into account all relevant matters.

7. Where a Member, or Substitute Member, of the Combined Authority ceases (for whatever reason) to be a member of the constituent or non-constituent authority/LEP which appointed them, the Member will cease to be a member of the Combined Authority, and the constituent or non-constituent authority/LEP will appoint a replacement member as soon as possible.

8. Each Constituent Authority, non constituent authority and LEP may at any time terminate the appointment of a Member or a Substitute Member appointed by it to the Combined Authority.

9. The Combined Authority may co-opt additional non-voting representatives to the Combined Authority.

10. The Chair and Vice Chair are appointed from its Constituent Members by majority and appointed annually.

11. No Basic or Special Responsibility Allowance will be payable by the Combined Authority to its Members.

12. The reimbursement of travel and subsistence expenses will be the responsibility of the Member's authority/body.

Voting

13. All Constituent Members of the Combined Authority will have one vote. The Chair and Vice Chair will not have a second or casting vote.

14. Non-constituent members in accordance with section 85(4) LTA2008, shall be non-voting members of the Combined Authority. The Constituent Members may, in accordance with section 85(5) LTA2008, resolve to extend voting rights to all or any non-constituent members.

15. Subject to the provisions of any enactment, the Combined Authority will aim to reach decisions by consensus. If, exceptionally, it is not possible to reach consensus on any matter on which it is necessary to reach a decision, the matter will be put to a vote which will be decided in accordance with paragraph 16 below.

16. It is intended that decisions will be made by consensus. When this is not possible, matters will be put to a vote and will require a 2/3 majority vote of Constituent Members of the Combined Authority present and voting, apart from the following matters which require unanimity of Constituent Members present and voting:

- Approval of land use plans
- Such other plans and strategies as determined by the Combined Authority
- Financial matters which may have significant implications on Constituent Authorities' budgets
- Approval of borrowing limits, treasury management strategy including reserves, investment strategy and capital budget of the Combined Authority
- Agreement of functions transferred to the Combined Authority
- Extension of voting rights to all or any non-constituent member
- Approval of specific proposals for individual co-optees to the Combined Authority
- Use of general power of competence beyond the powers provided within the Local Democracy Economic Development and Construction Act 2009, including in relation to spatial strategy, housing numbers and compulsory purchase powers
- Establishment of arms-length companies
- Approval to seek such other powers as may be appropriate and any new powers granted by government.
- Amendments to the Constitution

- Changes to transport matters currently undertaken by the ITA

17. It is a requirement of the Local Transport 2008 85(1)(a) that the majority of members of the Combined Authority are appointed by the Combined Authority's Constituent Authorities. Therefore, one additional representative will be appointed from each Constituent Authority.

Executive Arrangements

18. Executive arrangements (within the meaning of the Local Government Act 2000) shall apply to the Combined Authority. The discharge of the functions of the Combined Authority will be subject to scrutiny arrangements set out in paragraph 22 and 23 below.

Dissolution of West Midlands Integrated Transport Authority

19. The West Midlands Integrated Transport Authority (WMITA) will be dissolved pursuant to section 91 of the Local Transport Act 2008 (LTA). Upon the abolition of the WMITA the functions, powers and duties and the properties, rights and liabilities of the WMITA shall be transferred to the Combined Authority.

Passenger Transport Executive and ancillary functions

20. The West Midlands Passenger Transport Executive ("Centro") shall be dissolved and the functions, powers and duties and the properties, rights and liabilities of Centro shall be transferred to the Combined Authority.

21. The Combined Authority will fulfil the role of a Transport Authority for each of the seven Constituent Authorities, replacing the existing West Midlands Integrated Transport Authority (WMITA). Individual Constituent Authorities will also continue to exercise some delivery functions, for example in respect of highways management, but will operate within an agreed framework and plan established through the Combined Authority.

Scrutiny Arrangements

22. The Constituent Authorities of the Combined Authority will establish joint overview and scrutiny arrangements which reflect the political balance of the Combined Authority, to exercise scrutiny functions over the Combined Authority and any sub-boards and structures.

23. The Combined Authority may co-opt additional non-voting representatives to the joint overview and scrutiny arrangements as necessary.

Section 2 - Functions, Powers and Duties of the CA

24. The Combined Authority's ambition will be to help to increase competitiveness and productivity, create more skilled and better paid jobs, bring more investment into the area, reform public services and reduce the region's welfare bill.

25. The Combined Authority will drive these ambitions through its primary focus to improve the effectiveness and efficiency of transport in the area, the exercise of statutory functions relating to economic development and regeneration in the area, and economic conditions in the area.

26. The Combined Authority will manage a significant programme of investment in transport and economic infrastructure, and influence and align with government investment, in order to boost economic development and regeneration.

27. The related interventions will have differential impacts across the Combined Authority area - Underpinned by the principle that all communities benefit, but not at the same time and not in the same way. The Combined Authority would seek to achieve this by using evidence based objective means by which to assess interventions, or the design of interventions, so that these are aligned to our balanced economic outcomes for the West Midlands Combined Authority area.

Functions – Economic Growth

28. By virtue of sections 99 and 102A of the Local Transport Act 2008 (LTA) the Combined Authority will have broad well-being powers to promote economic growth which can be exercised in conjunction with the general powers granted to it by section 113A of the LDEDCA (as amended by the Localism Act 2011).

29. It is proposed that the Combined Authority will be focused, through the Combined Authority Strategic Economic Plan, economic growth issues that could include, but are not restricted to, functions such as:

- Setting the Combined Authority Strategic Economic Plan and investment strategy, in consultation with the LEPs and non-constituent Members of the Combined Authority
- Ensuring effective alignment between decision making on transport and decisions on other areas of policy such as land use, economic development and wider regeneration.
- Using Combined Authority wide economic intelligence and analysis as a basis for strategic planning and coordination.

- Acting as an accountable body for a range of devolved funding.
- Strategic decision-making on the skills agenda across the West Midlands.

- Enabling the Combined Authority to act as the forum for local authorities to exercise the Duty to Cooperate, in respect of strategic planning matters.

- Coordinating inward investment activity through the development of a range of investment mechanisms.

30. The General Power of Competence under Section 1 of the Localism Act 2011 will enable maximum flexibility in dealing with economic development and regeneration powers provided in the Local Democracy, Economic Development and Construction Act 2009. Accordingly the Combined Authority requests that the Secretary of State exercises his power and to provide that the Combined Authority has been delegated General Power of Competence under section 1 of the Localism Act 2011.

31. In addition to the above, the Combined Authority will have the following specific powers. These are viewed as complementary to the broader powers to address economic development and regeneration identified above:

- The duties under section 15ZA, 15ZB, 15ZC, 17A, 18A (1)(b), of the Education Act 1996 and the power under sections 514A and 560A of that Act (duties and powers related to the provision of education and training for persons over compulsory school age).
- The Power under section 144 of the Local Government Act 1972 (the power to encourage visitors and provide conference and other facilities).
- The duty under section 69 of the Local Democracy, Economic Development and Construction Act 2009 (duty to prepare an assessment of the economic conditions of the local authority's area).
- Such other powers as may be appropriate and any new powers granted by government.

32. Unless otherwise stated, these powers will be exercised by the Combined Authority on a concurrent basis i.e. no powers have been ceded to the Combined Authority from the Constituent Authorities

Functions - Transport

33. All functions powers and duties of the WMITA and the WMPTE (Centro) shall be transferred to the Combined Authority and shall be functions exercisable by the Combined Authority. Specific powers required for bus franchising or similar and the prioritisation, assessment, allocation of funding, and the monitoring and evaluation of major schemes (currently a LEP function) within the Combined Authority area are exercisable by the Combined Authority.

34. In the application of s101 of the Local Government Act 1972 and regulations under s9EA of the Local Government Act 2000 any transport functions delegated to the Combined Authority from time to time by the Constituent Authority (or any of them) shall be functions of the Combined Authority. Any functions which the Constituent Authorities might subsequently choose to delegate to the Combined Authority, the intention being that in application of these sections by the Constituent Authorities subsequently choosing to delegate as considered appropriate to enable the Combined Authority to have concurrent street, highways and transport powers with the Constituent Authorities.

35. The Power of Wellbeing under chapter 3 of the LTA 2008 will apply to the Combined Authority by virtue of that Act.

36. The Combined Authority will have ancillary general powers pursuant to section 113A of the LDEDC 2009.

37. The Combined Authority will exercise any function of the Secretary of State delegated to the Combined Authority by the order of the Secretary of State pursuant to section 86 of the Local Transport Act 2008 (LTA) and section 104(1)(b) LDEDC. Such functions will be exercised subject to any condition imposed by the order.

Incidental Provisions

38. The Combined Authority shall exercise any function of the Secretary of State delegated to the Combined Authority by order of the Secretary of State pursuant to Section 86 of the LTA 2008 AND Section 104(1) (b) of the LDEDC 2009. Such functions shall be exercised subject to any condition imposed by the order.

Section 3 - Funding, Transfer of Property, rights and liabilities.

39. The Combined Authority as a levying body under section 74 of the Local Government Finance Act 1988 shall have the power to issue a levy to its Constituent Authorities in respect of the expenses and liabilities of the Combined Authority which are reasonably attributable to the exercise of its functions relating to transport.

40. The costs of the Combined Authority that are reasonably attributable to the exercise of its functions will be met by its Constituent Authorities Such costs shall be apportioned between the Constituent Authorities in proportion to the total resident population. The Combined Authority will agree an annual budget for the purpose of expenditure.

41. On the abolition of the WMITA and the WMPTE (Centro) their property, rights, assets and liabilities will be transferred to the Combined Authority, including any rights and liabilities (if any) in relation to contracts of employment.

Section 4 – Substructures and Internal Scheme of Delegation

42. The Combined Authority will take over responsibility for the local transport authority and local transport executive for the Combined Authority area and act as the strategic decision making body. Therefore, in order to fulfil the significant range of operational duties, powers and functions transferred, which are currently delivered by the local transport authority and executive, the Combined Authority and the Constituent Authorities will establish a committee under section 101(5) of the Local Government Act 1972 to be called the Transport Delivery Committee. The Transport Delivery Committee will be a sub-committee of the Combined Authority providing oversight of operational delivery and as requested advice on transport policy matters and will be responsible for the discharge of specified transport functions delegated by the Combined Authority.

43. The Combined Authority may establish further joint committees or sub-committees and delegate powers and functions as considered by it to be appropriate.