

Cabinet  
Council

31 May 2016  
31 May 2016

**Name of Cabinet Members:**

Cabinet Member for Policy and Leadership

**Director Approving Submission of the report:**

Chief Executive

**Ward(s) affected:**

City-wide

**Title:**

Implementing the Devolution Agreement - Provision for Mayoral West Midlands Combined Authority

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**Is this a key decision?**

Yes

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**Executive Summary:**

A combined authority is a statutory body that facilitates the collaboration and joint working between local authorities to drive economic prosperity for the area. On 23 February 2016 Coventry City Council consented to a Draft Order to be laid before Parliament to allow for the creation of the West Midlands Combined Authority (WMCA), this initial "Establishment Order" is currently before parliament and is anticipated to come into force on 10th June 2016 on which date the WMCA will be established.

Negotiations with Government have continued to ensure that the WMCA creates the right economic development incentives for the people of Coventry. The "Devolution Deal" is the basis of this agreement and underpins the first stage of devolution. Assurance work around the Devolution Deal has been undertaken by PWC and Grant Thornton and is attached to this report. On the 13 October 2015 Council resolved that the "Devolution Deal" should come back before Cabinet and Council for full consideration and debate.

The Devolution Deal stipulates that the Chair of the WMCA will be a newly, directly elected Mayor. A draft order, the "Mayoral Election Order" is appended to this report for consideration. Subject to consent it is anticipated that the order will be laid before Parliament in June 2016 providing for the Election of a Mayor for the WMCA on 4 May 2017.

In conjunction with the "Mayoral Election Order" a draft scheme has been prepared which will be the subject of public consultation. The draft scheme deals with the proposed functions and powers of the WMCA and the Mayor in line with the Devolution Deal. Following consultation the scheme will form the basis of a third order, the "Functions Order". It is anticipated that this would be considered by Council in September 2016 before being laid before Parliament.

In line with the "Establishment Order" it is anticipated that the WMCA will come into being as a statutory body on the 10th June 2016. Councillor and Officer support from all member authorities is key. Elected member representatives to the WMCA was considered and resolved at the AGM on 19 May 2016. Officer support from the City Council to WMCA ensures that operationally the close working relationship between the two authorities continues; however the arrangement of the Head of Paid Service of Coventry City Council taking on the additional responsibility of Head of Paid Service for the WMCA is a matter for consideration in more detail.

### **Recommendations:**

Cabinet is recommended to:

1. Consider the Devolution Deal and due diligence work surrounding it and make recommendations to the City Council.
2. Consent to the draft Order ("The Mayoral Election Order") providing for the election of a directly elected Mayor for the WMCA, and seek the confirmation of the City Council.
3. Delegate approval of any minor drafting amendments of the Order ("The Mayoral Election Order") to the Chief Executive following consultation with the Leader of the Council; this delegation is to include approval of the term of the elected Mayor, as this is still under ministerial discussion; and seek the confirmation of the City Council.
4. Approve the draft Mayoral WMCA "functions" scheme for public consultation and seek confirmation of the City Council.
5. Delegate approval of any minor drafting amendments to the draft Mayoral WMCA "functions" Scheme to the Chief Executive following consultation with the Leader of the Council; this delegation is to include the approval of additional members of the Combined Authority as per paragraph 2.3.9 of this report; and seek confirmation of the City Council.
6. Consider the arrangements for Head of Paid Service of the Council taking on additional responsibility as Head of Paid Service for the WMCA on its creation and make recommendations to the City Council.
7. Approve that the Council enter into a legal agreement with Birmingham City Council to share the risks associated with the WMCA Collective Investment Fund and therefore any losses in equal proportions with the other West Midlands Metropolitan District Councils, i.e. one seventh each.
8. Delegate authority to the Executive Director, Resources (Section 151 officer) following consultation with the Leader, to finalise the West Midlands Combined Authority Collective Investment Fund risk sharing legal agreement with Birmingham City Council.

Council is recommended to:

9. Consider the Devolution Deal and due diligence work surrounding it.
10. Consent to the draft Order (“The Mayoral Election Order”) providing for the election of a directly elected Mayor for the WMCA,
11. Delegate approval of any minor drafting amendments of the Order (“The Mayoral Election Order”) to the Chief Executive following consultation with the Leader of the Council. This delegation is to include approval of the term of the elected Mayor, as this is still under ministerial discussion.
12. Approve the draft Mayoral WMCA “functions” scheme for public consultation.
13. Delegate approval of any minor drafting amendments to the draft Mayoral WMCA “functions” Scheme to the Chief Executive following consultation with the Leader of the Council. This delegation is to include the approval of additional members of the Combined Authority as per paragraph 2.3.9 of this report.
14. Consider the arrangements for Head of Paid Service of the Council taking on additional responsibility as Head of Paid Service for the WMCA on its creation.

**List of Appendices (web links to documents as indicated)**

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|------------|--|
| Appendix 1 | WMCA Devolution Agreement                  |
| Appendix 2 | Assurance Document by PWC                  |
| Appendix 3 | Draft Order (“The Mayoral Election Order”) |
| Appendix 4 | Governance Review:                         |
| Appendix 5 | Scheme                                     |

**Other useful background papers:**

Cities and Local Government Devolution Act 2016  
<http://www.legislation.gov.uk/ukpga/2016/1/contents/enacted/data.htm>

Local Democracy, Economic Development and Construction Act 2009  
<http://www.legislation.gov.uk/ukpga/2009/20/contents>

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

Yes

**Report title:** Implementing the Devolution Agreement - Provision for Mayoral West Midlands Combined Authority

## **1. Context (or background)**

- 1.1 The seven Metropolitan Councils of the West Midlands (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) conducted a Review of Strategic Governance in 2014 to assess whether the arrangements for economic development, regeneration and transport as they stood should continue or would benefit from improvements. This review highlighted the positive joint working to date that has been in place through informal arrangements, and then considered the options for the future. It considered change against the key statutory tests under the Local Democracy, Economic Development and Construction Act 2009 (LDEDCA):
- The exercise of statutory functions relating to economic development, regeneration and transport
  - The effectiveness and efficiency of transport
  - The economic conditions in the area
- 1.2 This concluded that the establishment of a combined authority for the West Midlands was best placed to support business to further growth and to create jobs, to secure an improvement in the region's economic conditions. The Combined Authority would draw together strategic work across transport, economic development, employment and skills, improving outcomes and providing opportunity for the region.
- 1.3 A Scheme was then drafted to form the legal basis for the creation of the new body containing the membership, powers, functions and voting arrangements. At its meeting on 13 October 2015 Council endorsed these proposals and agreed that Coventry City Council should formally become a Constituent member of the WMCA. This Scheme was submitted to Government on 26 October 2015. A draft Order ("The Establishment Order") based on the scheme was created by the Secretary of State and approved by Council on 23 February 2016. This "Establishment" Order is currently laid before parliament and, subject to Parliamentary approval, it is envisaged that the Secretary of State will make the Order on the 10th June 2016 and on the day the Order is made the West Midlands Combined Authority will come into force; this will be its vesting day.
- 1.4 The remit of the Combined Authority for the West Midlands Combined Authority will be strategic economic development, regeneration, transport, employment and skills functions that can be better delivered collaboratively across the West Midlands. The Combined Authority will remain a focused strategic decision making body, with responsibility over those strategic issues where it is mutually beneficial for local authorities, Centro, and the Local Enterprise Partnerships to work together. It is not a 'super Council' and each Council will maintain its independence and sovereignty.
- 1.5 It is anticipated that the WMCA Board will approve the establishment of a Collective Investment Fund (CIF) at their meeting on 10 June 2016. Cabinet are asked to approve that the Council enter into a legal agreement with Birmingham City Council to confirm that they will share the risks associated with the CIF and therefore any potential losses in equal proportions with the West Midlands councils in the event that the WMCA is unable to fund any losses from its own financial resources.

## **2. Matters for consideration**

### **2.1 Devolution Deal**

2.1.1 In November 2015 a proposed Devolution Deal was signed by the Leaders of the seven Constituent Councils and the three Local Enterprise Partnership Chairs. The Devolution Deal was negotiated for the benefit of the Citizens of Coventry and the West Midlands region; PwC and Grant Thornton have been engaged to undertake the assurance and due diligence work around the establishment of the WMCA and Devolution Deal. This assurance report is at appendix 2 for consideration by Council.

2.1.2 The assurance report states:

*“It is clear from discussions with all constituent and non-constituent Members that engaged with us, that the establishment of the West Midlands CA and the negotiation of a Devolution Agreement with the Government provided Councils with the ability to go further and faster in exploiting the economic potential of the area. It also enables authorities to take more concerted action on productivity in the public and private sectors, including a programme of ambitious public service reform.*

*Our review of the economic market assessment information available to the constituent authorities supports this conclusion and would appear to be a sound basis on which to develop proposals. “*

### **2.2 The “Mayoral Election” Order**

2.2.1 A condition of the Devolution Deal is that a new directly elected Mayor for the West Midlands will be a member of and Chair to the WMCA, holding specific powers and functions. The draft “Mayoral Election” Order at appendix 3 makes provision for there to be an elected Mayor and for the first elections to take place in May 2017. The “Mayoral Election” order does not deal with the functions and powers of the Mayor and this will be dealt with by a further order. The term of the Mayor is currently under ministerial discussion, therefore Cabinet and Council are asked that the delegation for subsequent minor and drafting amendments is inclusive of the approval of the Mayoral term.

2.2.2 The Secretary of State for Communities and Local Government is to consider laying the “Mayoral Election” Order before Parliament following the consent of all the constituent authorities. In the event one or more of the constituent authorities do not consent then the consent that will be required is that of the WMCA (following its creation) and at least two constituent councils. The Secretary of State must then make an order to remove the area of each non consenting constituent council from the existing area of the combined authority.

### **2.3 Scheme for the establishment of a Mayoral West Midlands Combined Authority**

2.3.1 The proposal for the functions and powers that the Mayoral WMCA will hold are outlined in the scheme (appendix 5). The powers and functions proposed in the scheme are sought by the WMCA to enable a Mayoral WMCA, in conjunction with the Mayor, to deliver the Devolution Deal.

2.3.2 The scheme is based on the establishment of an elected Mayor for the West Midlands Metropolitan area working as part of the Combined Authority with a Cabinet of Council Leaders of the Constituent Councils and subject to local democratic scrutiny. The scheme also outlines the collaboration across the three LEP geography as well as neighbouring councils.

#### 2.3.4 The scheme outlines those functions that will be:

- A Mayoral Function – exercised by the Mayor, cabinet do not have a vote or limitation on these functions unless explicitly stated.
- A Joint WMCA/Mayor Function – exercised by the Mayor and maintained and managed by the WMCA. The votes are subject to the Mayor's vote in favour.
- A WMCA (non - Mayoral) function – exercised by the WMCA and not subject to the Mayors vote in favour, the Mayor votes as a member.

##### A Mayoral Function

- HCA CPO powers (with the consent of the appropriate authority(ies))
- Grants to Bus Service Operators (Secretary of State to consult the Mayor)
- Devolved, consolidated transport budget
- Reporting on the West Midlands Key Route Network (WMKRN) (in consultation with the authorities)
- Mayoral precept
- Raising of a business rate supplement (in agreement with the relevant LEP Board(s) and the Mayoral WMCA)
- Functional power of competence

##### A Joint WMCA/Mayor Function

- The West Midlands Key Route Network – The WMKRN is the responsibility of the Mayor but maintained and managed by the WMCA, powers and functions sought to achieve this are outlined in the Scheme (Appendix 5).
- Further joint WMCA/Mayoral transport functions sought are regarding bus refranchising and enhanced quality contracts
- Low emissions and clean air zones - the Mayor and the Mayoral WMCA will have the power, subject to proposals being brought forwards, to create low emissions and clean air zones, with the affected highway authority (i.e.) consent.
- Homes and Communities Agency (HCA) objectives and functions – Mayoral WMCA to exercise functions concurrently with the HCA to drive housing delivery.
- Arrangements, exercised jointly/concurrently with the Secretary of State, for the purpose of assisting persons to train for, obtain and retain suitable employment, and enter into agreement for the provision of ancillary goods and services.

##### A Mayoral WMCA Function

- Current WMCA powers and functions – contained within the WMCA establishment Order – i.e. transport functions currently undertaken by the Passenger Transport Executive (PTE), and economic development and regeneration functions. It is not appropriate that the Mayor is required to vote in favour as such functions are Local Authority functions, exercised concurrently/in parallel and with the Local Authorities.
- HS2 Growth: Development Corporations - The WMCA to have the ability to designate any area of land, with the consent of the local planning authority (i.e.) for the area(s) in the Mayoral WMCA Area, as a development area leading to the establishment, by Order, of WMCA development corporations. As per the devolution agreement, this would be a Combined Authority-led development corporation to deliver local growth.
- Matters reserved to unanimous Constituent Member voting – contained within the WMCA establishment Order and WMCA Constitution, agreement of such matters are subject to a unanimous vote of the Constituent Member.

2.3.5 It is to be noted that not all aspects of the West Midlands devolution agreement requires legislative change to implement, the Scheme details those that require legislative or regulatory change before they can be exercised by the Mayoral WMCA.

- 2.3.6 The scheme operates on the principle that devolution is **not** about taking powers away from Constituent Councils, but is about drawing down powers from central government or government agencies. Therefore, where the Scheme proposes that there should be conferred on WMCA functions of constituent councils (mainly in the area of skills and transport) these will only be exercisable concurrently or jointly with the Constituent Council and will be subject to agreed protocols, any deviation from this will be clearly listed.
- 2.3.7 The Mayoral WMCA Cabinet will examine the Mayor's draft annual budget and the plans, policies and strategies, as determined by the Mayoral WMCA, and will be able to reject them if two-thirds of the Mayoral WMCA Cabinet agree to do so. In the event that the Mayoral WMCA reject the proposed budget then the Mayoral WMCA shall propose an alternative budget for acceptance by the Cabinet, subject to a two-thirds majority of those present and voting. The Mayor shall not be entitled to vote on the alternative Mayoral WMCA proposed budget.
- 2.3.8. Proposals for a decision of the Mayoral WMCA may be put forward by the Mayor, or any Member of the Mayoral WMCA. Any questions that are to be decided by the Mayoral WMCA unless otherwise specified in the Scheme or the Mayoral WMCA Constitution are to be decided by way of two-thirds majority of Constituent Members and overall majority of all Members present and voting.
- 2.3.9 Additional governance arrangements in the Mayoral WMCA 'functions' Scheme will include additional members, in pursuit of the WMCA's ambition to collaborate across the West Midlands geography. A deadline of 10<sup>th</sup> June 2016 has been given for consideration by the WMCA Shadow/WMCA Board of additional membership therefore Council is asked that the delegation approval regarding the Scheme is inclusive of the approval, through the Shadow/WMCA Board, of additional members.

## **2.4 Public Consultation**

- 2.4.1 Subject to agreement of Council the scheme is to be subject of public consultation. The Secretary of State must then take into consideration the proposed scheme and consultation responses before laying before Parliament a further order ("The functions order"). Once the proposal is made the draft "Functions" Order prepared by the Secretary of State in relation to the transfer of any local authority functions will be considered by the Constituent Councils. There is no automatic removal of non-consenting Councils from the WMCA at this stage.

### **2.4.2 Consultation requirements**

It is a requirement that a public consultation be undertaken in most cases where additional functions are to be conferred upon a Combined Authority. The consultation will relate to the proposals contained in the Mayoral WMCA 'functions' Scheme (appendix 5). It is proposed that, subject to agreement of the Scheme by the Constituent Councils in May and the WMCA in June 2016, the public consultation is launched on towards the end of June, for an eight-week period.

Once the consultation period is complete, the WMCA is required to provide the Secretary of State with a summary of the consultation responses. The law requires that the Secretary of State must then be satisfied that no further consultation is required. There is no requirement for such responses to come back to the Constituent Councils or the WMCA before being submitted to the Secretary of State. However, it should be noted that the WMCA and the Constituent Councils will be considering the draft Order before it is laid before Parliament.

### 2.4.3 Consultation approach

The consultation is intended to seek views from the public and stakeholders on the additional functions proposed to be conferred on WMCA, following the devolution agreement, as set out in the Scheme.

Every resident, business and stakeholder in the West Midlands will have the opportunity to respond if they wish to do so. A number of organisations will also be contacted directly to invite them to make a response to the consultation.

The consultation will be led by the WMCA and the Constituent Councils and include key partners to raise awareness of the WMCA, the ambitions of the West Midlands and the benefits of devolution to Wolverhampton, the West Midlands and its residents.

The draft Scheme will be accompanied by a plain English summary of what the proposed legal changes mean in practice. Key messages to be reflected during the consultation include:

- that the proposed changes are not about taking powers from the individual Constituent Councils (all local authority powers would be exercised concurrently/jointly with the Councils) but gaining additional powers for the WMCA from central government;
- that the process of transferring / providing additional powers is being carried out in partnership with central government departments and agencies; and
- that the proposed changes are the first in a series of changes to powers for the West Midlands and that local people will have opportunities to comment on those future proposed changes.

The consultation will be conducted primarily through digital channels with consultation feedback gathered via the WMCA website. Proposed channels include:

- pro-active media releases and pro-active engagement of regional and local media throughout the consultation
- web content for the WMCA website, including a feedback form
- similar, but locally adapted content for local authority and partner websites
- social media using WMCA channels
- staff messaging.

Respondents will also be able to submit responses by letter or email should they wish to do so. Consultation documents and publicity materials will be made available in key local authority buildings.



## **2.5 Arrangements for dual role of Head of Paid Service for Coventry City Council and WMCA.**

- 2.5.1 Following its creation at the beginning of June 2016 the involvement of Councillors and Officer support from all member authorities into the WMCA is key, both to ensure that the collaborative model for the benefit of the West Midlands continues and that the citizens of Coventry continue to benefit from the opportunities arising from the Devolution Deal.
- 2.5.2 Leadership for the West Midlands Combined Authority (WMCA) is split into different sections; the democratically elected Leaders of the local authorities; the Chief Executives of the local authorities and the Chairs and the Directors of the three Local Enterprise Partnerships (LEPs).
- 2.5.3 Elected member representatives to the WMCA was considered and resolved at the AGM on 19 May 2016.
- 2.5.4 Alongside the democratically elected Leaders of each local authority, the Chief Executives from the constituent authorities make up the senior leadership team of the WMCA. The constituent CEO's will, aside from their day-to-day council responsibilities, also have strategic roles within the WMCA
- 2.5.5 Strong public feedback during the engagement programme about the creation of the WMCA was that it should not mean extra layers of bureaucracy or new jobs created at an extra cost to the taxpayer and political leaders have been very clear to officers working on the development of the WMCA that wherever possible, resources should be absorbed by member Councils at no extra cost to the tax payer. As a result the proposal is for the Senior Management Team of the Combined Authority to be made up by Senior Officers from the constituent Councils. This arrangement is to include the Head of Paid Service of Coventry City Council (Martin Reeves) taking on the additional responsibility of Head of Paid Service for WMCA on a temporary and part-time basis. This provides a unique opportunity for Coventry to maintain a key strategic position in the new authority. Arrangements have been put in place to delegate responsibility to the Executive Director of Place and members of the Senior Management Board for those areas of responsibility held by the City Council's Chief Executive to exercise on his behalf on those rare occasions that he is not available.

## **2.6 The Collective Investment Fund (CIF)**

- 2.6.1 A CIF has been an identified priority for the WMCA with the aim of providing investment for commercial land and property developments, where these are viable but are unable to secure all of the required investment to progress. The CIF's focus is to secure economic return across the region at nil net cost to the WMCA at worst, operating as a revolving fund, for at least a 10-year period with the initial capital being repaid in full at the time the CIF is wound up.
- 2.6.2 The CIF will be a fund of investments made by the WMCA itself, and will be funded from WMCA prudential borrowing capped at £70 million, as soon as the WMCA has the necessary borrowing powers. Until such time as the WMCA has the power to borrow Birmingham City Council have agreed to act as Accountable Body for the CIF, they will therefore undertake any borrowing relating to the CIF in the short to medium term.
- 2.6.3 It is anticipated that the WMCA Board will approve that Finance Birmingham are appointed as the Fund Manager for the CIF. Ownership of the CIF funds will however remain with the WMCA, or Accountable Body, and funds will only be released when loans are fully approved and all necessary paperwork has been completed. The investment strategy and parameters for the CIF will be set by the WMCA. Finance Birmingham will work closely with WMCA member Councils and Local Enterprise Partnerships on the pipeline of investment opportunities.

2.6.4 Cabinet are asked to approve that the Council enters into a legal agreement with Birmingham City Council to confirm that they will share the risks associated with the CIF and therefore any losses in equal proportions with the other West Midlands councils. It is important to note that this will only be triggered in the event that the WMCA is unable to fund any losses from its own financial resources.

2.6.5 Cabinet are also being asked to delegate authority to finalise the risk sharing legal agreement with Birmingham City Council. This is necessary because the legal document is currently being drafted by Birmingham and it will be necessary to respond quickly to that document when finalised in order that the initial CIF loans can be approved as soon as possible.

### **3. Options considered and recommended proposal**

3.1 Council is recommended to continue its journey towards becoming an instrumental member of West Midlands Combined Authority by consenting to the draft Order that the Secretary of State intends to lay before Parliament to allow for an elected Mayor of the West Midlands Combined Authority. The provision for an elected mayor is a requirement of the Devolution Deal; any constituent authority that does not consent to the election of a Mayor must be removed from the Combined Authority by the Secretary of State.

Council is further asked to consider the Devolution Deal and the arrangements for the Head of Paid service to combine his role as Chief Executive of the City Council and the WMCA on its creation.

Further to agree the scheme for the establishment of a Mayoral WMCA that outlines the proposals for the powers and functions of the Mayor and WMCA to be published for public consultation.

#### 4. Timetable for implementing this decision

<b>Mayoral WMCA Timeline</b>	
<b>May 2016</b>	<p>The Constituent Councils are presented with:</p> <ol style="list-style-type: none"> <li>1. Mayoral (elections) Order, to create the position of a Mayor and allow for the election of a Mayor.</li> <li>2. The Mayoral Combined Authority ‘functions’ Scheme, for approval to consult on the proposals in the Scheme.</li> </ol>
<b>June 2016</b>	<ul style="list-style-type: none"> <li>- Subject to Parliamentary approval, the Combined Authority is vested on, or soon after the 1<sup>st</sup> June 2016. On vesting day the WMCA will be presented with: <ol style="list-style-type: none"> <li>1. The Mayoral (elections) Order - to create the position of a Mayor and allow for election of a Mayor <i>only</i>.</li> <li>2. The Mayoral Combined Authority ‘functions’ Scheme - for approval to consult on the proposals in the Scheme.</li> </ol> </li> <li>- Constituent Councils approvals dependent, the Mayoral (elections) Order will be laid in Parliament in June 2016.</li> <li>- Constituent Councils approval dependent, the Mayoral Combined Authority, ‘functions’ Scheme will be published and consulted on. (The indicative date for the consultation is that it will begin following the EU referendum, on Monday 27<sup>th</sup> June 2016.)</li> </ul>
<b>July – Aug 2016</b>	<p>Consultation on the proposals in the Scheme takes place (indicative 27<sup>th</sup> June – 22<sup>nd</sup> August 2016).</p>
<b>Sep 2016</b>	<p>The consultation responses are collated and submitted to the Secretary of State and DCLG. The Constituent Councils are not required to consider the outcome of the consultation.</p>
<b>Sept - Oct 2016</b>	<ul style="list-style-type: none"> <li>- The Mayoral Combined Authority ‘functions’ Order is drafted based on the Mayoral Combined Authority ‘functions’ Scheme.</li> <li>- The Mayoral Combined Authority ‘functions’ Order is presented to Constituent Councils for consideration before being laid in Parliament.</li> </ul>
<b>Nov 2016</b>	<p>The Mayoral (elections) Order is in place at least 6 months before the election of any Mayor.</p>
<b>Nov 2016 – Feb 2017</b>	<p>Any further Orders required (Buses Bill etc.) are required to be in place by February 2017 to allow sufficient time for Mayoral candidates to be fully aware of the powers of the elected Mayor and to prepare a Manifesto.</p>
<b>May 2017</b>	<p>First Mayoral election.</p>

## **5. Comments from Executive Director of Resources**

### **5.1 Financial implications**

The agreed Combined Authority establishment budget for 2015/16 was £2.1 million, each of the participating local authorities contributing £300,000. The actual expenditure incurred totalled £1.5 million in 2015/16, with the remaining budget committed to be spent early in 2016/17. The City Council has now set aside a further budget of £500,000 to meet an anticipated levy from the Combined Authority in 2016/17.

The management fee of Finance Birmingham for fund managing the CIF will be 0.5% of the funds under management, i.e. £350,000 per annum which will ultimately be funded from the surplus generated from the interest charged on the loans made. Until loans have been made the net cost of the CIF will be funded from within the total of £3.5 million that has been set aside by the seven councils to support the WMCA in its first year of operation.

Discussions have already taken place with developers and strong interest has been expressed in the CIF for a number of well-developed projects that span the region in the order of £20 million. This clearly demonstrates Finance Birmingham's commitment for the CIF and provides comfort that the need to fund the net cost of the management fee to the WMCA will be short term.

Finance Birmingham are expert in managing such funds and while there is always a risk of default on loans, the risk associated with the CIF is considered to be low. This is due to the comprehensive assessment and due diligence of all applications that is undertaken by Finance Birmingham, combined with the close monitoring of the developments. Rather than releasing all CIF funds up front, funds are released in stages and only when agreed milestones have been achieved.

Should any losses arise from the CIF, that cannot be funded from the WMCA's own financial resources, these will be shared in equal proportions with the other West Midlands Metropolitan District Councils, i.e. one seventh each, until such time that the WMCA is able to borrow for such purposes as the CIF.

### **5.2 Legal implications**

The Local Democracy, Economic Development and Construction Act 2009 (as amended) allows two or more local authorities to form a combined authority which is a separate public body and which may exercise certain functions of the member authorities.

Council is being asked to consent to the Order that there be an elected Mayor. Under s107A Local Democracy Economic Development and Construction Act 2009 (as amended) the Secretary of State may by Order provide for there to be a Mayor for the area of a Combined Authority. Requirements in connection with the making of the order include that there be either a proposal for there to be a Mayor from the appropriate authorities or for the appropriate authorities to consent. In the case of an existing Combined Authority (which is the intention here) the consent required is that of the CA and at least two constituent councils. The Secretary of State must then make an order to remove the area of any non-consenting constituent councils.

The further functions and powers of the WMCA and the Mayor are provided by an Order under s.105 Local Democracy Economic Development and Construction Act 2009 (as amended). The process that is proposed to be followed to create this Order is by the making of a proposal to the Secretary of State by submission of the scheme. Once the proposal is made the draft

order is prepared by the Secretary of State having considered the scheme, consultation outcome and statutory “tests”. Any transfer of local authority functions in the draft order would then require consent of the constituent Councils and WMCA. There is no automatic removal of any non consenting authority.

Section 113 of the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”), as amended by the Cities and Local Government Devolution Act 2016 (“the 2016 Act”) enables the Secretary of State, to make changes by Order in relation to the functions of an existing Combined Authority. Such changes can be made where the authority has carried out a governance review and concluded that conferring on the Combined Authority additional functions, to be set out in the Scheme, would be likely to improve the exercise of statutory functions in the Combined Authority’s area. The Scheme is then prepared, published and consulted on.

The 2016 Act makes provision for conferring additional functions on Combined Authorities “*the principle that powers should be devolved to Combined Authorities or the most appropriate local level except where those powers can more effectively be exercised by central government.*” Therefore the 2016 Act has amended the 2009 Act so that a Combined Authority is no longer restricted to the exercise of statutory functions relating to economic development, regeneration and transport.

In respect of the legal agreement with Birmingham City Council to share the risks associated with the WMCA Collective Investment Fund the Council may enter into contracts for discharge of any statutory functions in accordance with section 1 of the Local Government (Contracts) Act 1997 and may make arrangements with other local authorities for the discharge of statutory functions under Section 101 of the Local Government Act 1972.

## **6. Other implications**

### **6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard)?**

The aim of setting up the West Midlands Combined Authority is to promote economic growth and improve the provision of transport. This is in line with the Council’s aim to be a top ten city and to deliver prosperity and social justice by ensuring that local people, including those who are most disadvantaged, are able to benefit from that growth.

### **6.2 How is risk being managed?**

The Combined Authority will be a statutory organisation and its members would be required to manage the risks associated with its activities.

### **6.3 What is the impact on the organisation?**

The combined authority and the development of the devolution deal will use the time and resources of Councillors and senior officers. A combined authority will not replace the Council and its responsibilities and services will remain the same.

#### 6.4 Equalities / EIA

The setting up of a combined authority enables local authorities to work collaboratively to improve economic outcomes and transport in the area. No adverse impact on any group protected under the Equality Act is anticipated by this decision. Once set up a combined authority is expected to meet the requirements of the Equality Act as a public sector body.

#### 6.5 Implications for (or impact on) the environment

None identified at this stage.

#### 6.6 Implications for partner organisations?

Partner organisations will be encouraged to take part in the consultation process outlined above.

Partnership working is key for successful delivery of the Devolution Deal.

#### **Report author(s):**

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Resources

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Jaspal Mann	Equalities Officer	Chief Executive	19.5.16	
Suzanne Bennett Lara Knight	Governance Services	Resources	19.5.16	
<b>Names of approvers for submission:</b> (officers and members)				
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Chris West	Executive Director	Resources	19.5.16	
Martin Reeves	Chief Executive	Chief Executive	19.5.16	
Councillor Duggin	Cabinet Member for Policy and Leadership			

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