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Cabinet  
Council

6 December 2016  
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**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 - Mayoral Combined Authority Functions

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**Is this a key decision?**

Yes

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**Executive Summary:**

The purpose of this report is to seek the consent of the City Council for the Mayoral West Midlands Combined Authority (Functions and Amendment) Order 2016 to be laid in Parliament. This order details the further functions required by the Combined Authority, in order to deliver the devolution deal.

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 the 17th June 2016 the West Midlands Combined Authority (WMCA) was established, Coventry being one of the seven constituent members.

Negotiations with Government have continued to ensure that the WMCA creates the right economic development incentives for the people of Coventry. The original "Devolution Deal" was the basis of this agreement and underpinned the first stage of devolution.

The original Devolution Deal stipulated that the Chair of the WMCA would be a newly, directly elected Mayor. A subsequent "Mayoral Election Order" was made in September 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 was prepared which was subject of public consultation. The scheme dealt with the proposed functions and powers of the WMCA and the Mayor in line with the Devolution Deal. Following consultation the

scheme was submitted from the WMCA to the Secretary of State to form the basis of a third order, the Mayoral West Midlands Combined Authority (Functions and Amendment) Order 2016. It is this draft Order that now comes before Council for consent prior to it being approved by the WMCA Board and subsequently laid before Parliament.

**Recommendations:**

Cabinet is recommended to:

1. Note the outcome of the consultation undertaken by the West Midlands Combined Authority in respect of the Mayoral WMCA “functions” scheme.
2. Delegate authority to the Leader to consent to the draft Mayoral West Midlands Combined Authority (Functions and Amendment) Order 2016 to be laid in Parliament subject to having seen the draft finance order and having consulted with the City Council’s S151 officer and Deputy Monitoring Officer.
3. Delegate approval of any minor drafting amendments of the Order (“Mayoral West Midlands Combined Authority (Functions and Amendment) Order 2016”) to the Deputy Monitoring Officer following consultation with the Leader.
4. Seek confirmation of the City Council to resolution 2 and 3 above.

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3. Delegate approval of any minor drafting amendments of the Order (“Mayoral West Midlands Combined Authority (Functions and Amendment) Order 2016”) to the Deputy Monitoring Officer following consultation with the Leader of the Council.

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

Appendix 1 Mayoral West Midlands Combined Authority Functions scheme

[Mayoral WMCA Scheme](#)

Appendix 2 Consultation response in respect of the Mayoral WMCA scheme

[link](#)

Appendix 3 Draft Mayoral West Midlands Combined Authority (Functions and Amendment) Order 2016

Appendix 4 Scheme and powers matrix

**Background papers**

None

**Other useful documents:**

[The West Midlands Devolution Agreement](#)

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 – 6 December 2016

**Report title:** Implementing the Devolution Agreement - Mayoral Combined Authority Functions

**1. Context (or background)**

- 1.1 The development of the government's devolution agenda created the opportunity for the West Midlands Combined Authority to negotiate and subsequently agree a devolution agreement. A period of clarification was then carried out on the agreement, which was then ratified by the seven constituent councils throughout February and March 2016, including the City of Coventry.
- 1.2 The devolution agreement is the first step for the West Midlands in securing the powers, resources and independence needed to drive economic growth, public service reform and deliver real outcomes for local people in terms of jobs, homes, better transport and better public services. It will open up potential investment funds totalling £8bn and increase confidence in the local area so that further private sector investment can be leveraged. It sits alongside the Midlands Engine project, a partnership with government covering the whole West and East Midlands, including the Midlands Connect initiative to take forward east-west transport investment.
- 1.3 The key focus areas of the first devolution agreement are:
- Finance - including £36.5 million per annum of additional government revenue funding for 30 years, to support a locally controlled investment fund
  - Governance - including the election of a Mayor for the West Midlands metropolitan area in May 2017
  - Transport
  - HS2 growth
  - More and better homes
  - Skills & employment
  - Supporting and attracting business & innovation
  - Public service reform
- 1.4 Following the ratification of the devolution agreement, the next stage was to establish the position of the Mayor, a prerequisite to the devolution agreement. The Mayoral 'elections' Order, to create the position of the Mayor, was approved by Council in May 2016. The 'Scheme' detailing the proposed Mayoral WMCA functions was also approved for consultation.

- 1.5 It is a requirement that a public consultation be undertaken in most cases where additional functions are to be conferred upon a Combined Authority. Therefore the functions required by a Mayoral West Midlands Combined Authority to deliver the devolution agreement, were detailed in a Scheme and consulted upon.
- 1.6 The consultation was carried out from 4<sup>th</sup> July – 21<sup>st</sup> August 2016 to seek views from the public and stakeholders on the additional functions proposed to be conferred on the WMCA, in order to deliver the devolution agreement. Following the consultation, a summary of responses was submitted to the Secretary of State for Communities and Local Government. The summary report is at appendix 2.
- 1.7 Following consideration of the consultation, the Secretary of State has indicated that he is satisfied that the statutory tests have been met and no further consultation is required.
- 1.8 The Department for Communities and Local Government have prepared a Draft Mayoral West Midlands Combined Authority (Functions and Amendment) Order 2016, based on the Scheme and in consultation with the West Midlands Combined Authority and the relevant government departments. It is this Order that is being presented to Cabinet and Council for consideration.
- 1.9 If approved by the seven Constituent Councils and the Combined Authority, the Order will be laid in Parliament for approval to allow for the identified functions to be transferred to the Combined Authority. It should be noted that not all aspects of the West Midlands devolution agreement require legislative change to implement. The functions outlined within the order are those that require legislative or regulatory change before they can be exercised by the WMCA or Mayor.

## **2.0 Key Areas of note within the Order**

- 2.1 The key areas to note from the Order are highlighted in the Matrix at appendix which outlines the functions and powers sought by WMCA in the Scheme and how they have subsequently been adopted into the draft Order.

The key areas to note including where there is a variation from the Scheme include:-

### Unanimous voting.

There are certain decisions that require a unanimous decision of constituent council members. Following incorporation of the Mayoral governance model into the Combined Authority the government's position is that the exclusion of the Mayor from this voting arrangement is not aligned to the devolution agenda. Discussions with government have resulted in the order clarifying that the Mayor is not to be part of the unanimous vote unless it is in relation to a decision that affects the exercise of the Mayors functions. These Mayoral functions are limited to those outlined in article 22 of the appended draft order.

### Finance

The government is drafting a generic Financial Regulation Order that will be laid in parliament to cover financial aspects for all Combined Authorities. This order will cover ability to levy, contributions, precepting and consideration of WMCA and Mayor budget. The appended draft order also covers the expectations around contributions from constituent members. It was announced in the Autumn Statement, that the government intends to give mayoral combined authorities powers to borrow for their new functions, subject to agreeing a borrowing cap with HM Treasury. The details are awaited but will not be included in the generic finance order.

Mayoral WMCA Development Corporation (MDC)

The provisions around MDC in the draft order are to enable the WMCA to identify an area to be designated as an MDC to secure regeneration. The WMCA can issue directions as to how the MDC operates. Powers that follow an MDC include acquisition of land in its area or elsewhere and discretionary relief from non domestic rates with consent from WMCA. Whilst the consent of the WMCA is required the consent of any affected area should also be addressed in the order and/ or in the constitution for any subsequent proposals from the MDC. Discussions with DCLG on this issue are ongoing.

**3. Options considered and recommended proposal**

- 3.1 Council is recommended to continue its journey towards becoming an instrumental member of WMCA by consenting to the draft Order that the Secretary of State intends to lay before Parliament to allow for the functions provided for in the Order to be exercisable as functions of the Mayoral WMCA.

**4. Timetable for implementing this decision**

Oct – Dec 2016	The Mayoral Combined Authority Order presented to Constituent Councils and Combined Authority for approval and consent to lay in Parliament.
Jan – Mar 2017	Functions incorporated into Combined Authority’s governance and constitutional arrangements
May 2017	First Mayoral election.

## 5. Comments from Executive Director of Resources

### 5.1 Financial implications

The principles on which the WMCA are to be funded are in part contained within the attached draft order but are further to be included in a separate generic order that is still being drafted. The principles of the key provisions of the funding arrangements have been shared with the Finance Directors group of the WMCA but the draft order has not yet been received. It is understood that the draft order will be provided in readiness for the WMCA board meeting on the 9<sup>th</sup> December when the final consent to the order is being considered. The resolution recommended for Council and Cabinet is therefore to delegate authority to the Leader to provide final consent to the order once the draft finance order has been seen to ensure the principles around funding are replicated. This approach is being adopted by the other WMCA Councils.

The key provisions of the Mayoral Combined Authority finance are to enable the WMCA to be able to levy for their existing and newly conferred transport functions; to be able to receive contributions for existing and newly conferred non mayoral functions and, if agreed by the WMCA, mayoral functions and the Mayor to be empowered to set a precept for mayoral functions. The WMCA and Mayor are to prepare budgets and these to be considered by the WMCA with the Mayoral budget requiring a 2/3<sup>rd</sup> majority to approve.

### 5.2 Legal implications

Council is being asked to consent to the Order that will see functions vested to the Mayoral West Midlands Combined Authority under s.105 Local Democracy Economic Development and Construction Act 2009 (as amended). The process that has been followed to create this Order is by the WMCA making of a proposal to the Secretary of State by submission of the scheme. A draft order has been prepared by the Secretary of State having considered the scheme, consultation outcome and statutory “tests”.

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.

Following the making of the Order the constitution of the WMCA will need to be amended to take into consideration the new functions and governance arrangements. Material amendments to the WMCA constitution require a unanimous vote of all Members of the WMCA appointed by the constituent authorities present and voting.

## **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**

An initial equalities analysis was carried out in respect of the "Scheme" upon which the draft Order is based. Any project/programmes resulting from the authority provided by the Order are subject to individual equalities analysis.

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

None identified at this stage.

### **6.6 Implications for partner organisations?**

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

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

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Resources

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Suzanne Bennett Lara Knight	Governance Services	Resources	1.12.16	
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