

Birmingham City Council

Cabinet Report

5 September 2023



Subject: West Midlands Deeper Devolution Deal

Report of: Richard Brooks, Director Strategy, Equality and Partnerships

Relevant Cabinet Member: Cllr Sharon Thompson - Deputy Leader

Relevant O &S Chair(s): Cllr Sir Albert Bore - Coordinating

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: TBC		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:		

1 Executive summary

- 1.1 The West Midlands Trailblazer Deeper Devolution Deal (DDD) was published by government on 15 March 2023 alongside the Budget. Prior to the publication on 10 March there had been an in-principle agreement by the West Midlands Combined Authority (WMCA) to the deal. There is now a need to formalise the agreement by each constituent authority and by the WMCA. This paper is the formal agreement to be undertaken by Birmingham's Cabinet. The WMCA

expected to take the decision at its Board Meeting on 13 October 2023. The other constituent authorities will also be agreeing the DDD ahead of the 13 October WMCA Board meeting.

- 1.2 This report provides an overview of the background to deal, main elements, implementation, and next steps.
- 1.3 The implementation of the DDD is a process led by the WMCA, which will take place over the next 12-18 months. The different elements of the deal will pass through the various structures at the WMCA. There may be occasions ahead, after the overall agreement to the DDD, where constituent authorities may need to make decisions related to deal elements or draw up propositions on specific elements. Where this is the case, these would likely come through City Council decision-making in the normal way.

2 Recommendations

- 2.1 The recommendation is for the Cabinet to agree the DDD and the in-principle award of Bus Service Operator's Grant as a Mayoral function. This is in line with the city council leadership's expressed support for the DDD at the time of its publication in March 2023.

3 Overview of the devolution deal

- 3.1 The process to commence a 'Trailblazer Devolution Deal' for the West Midlands and for Greater Manchester was announced as part of the Levelling Up White Paper on 2 February 2022.
- 3.2 Following this, the WMCA, working with constituent authorities, instituted a complex programme with multiple workstreams to develop proposals for the deal, which were taken through various working groups and engagement with the constituent authorities and other partners such as the Office for the Police & Crime Commissioner. Alongside were ongoing negotiations with government. The constituent authorities were involved at various levels including Chief Executives, Finance Directors, the Senior Local Authority Officers Group, forums with subject leads (for example transport or public health), and the political leadership including the Met Leaders and Portfolios holders and WMCA Board.
- 3.3 The devolution deal process had some challenges as government priorities and positions shifted during the year of negotiations, and there were two changes of national government with different Ministers.
- 3.4 At the start of the process there was an agreement with the constituent authorities and Mayor that there should be double devolution with powers going to local authorities and powers should not go from local authorities to the WMCA.
- 3.5 Birmingham City Council's Deputy Leader took on the WMCA portfolio for devolution as the process got underway.

- 3.6 In June 2022, during the early stages of the development of the deal, Birmingham City Council wrote to the West Midlands Mayor seeking a whole place approach in East Birmingham as a centrepiece of the deal. This reflected the significant levels of deprivation and the scale of the challenges such as poor connectivity within the area, and which a deal should help to address. Following this, Birmingham agreed to come together with Solihull Metropolitan Borough Council and the WMCA to work up a programme for East Birmingham and North Solihull (EBNS). The two areas have a functional economic geography and similar challenges such as poor connectivity. Levelling Up Zones with business rate growth retention, were developed as a core part of the EBNS approach and were secured through the deal.
- 3.7 The devolution deal was agreed in principle by the Mayor and Portfolio Leaders on 10 March 2023 and announced in the Chancellor's Budget on 15 March (with the Trailblazer Devolution Deal rebadged as the Deeper Devolution Deal). The health duty provisions in the deal were not agreed in-principle on 10 March and it was determined that these would be subject to further assessment and discussion between the constituent authorities and WMCA and come back to a future meeting.
- 3.8 *Implementation:* Following the publication of the deal, the in-principle agreement (bar the health duty) was reaffirmed by the Mayor and Portfolio Leaders alongside the need for a more detailed implementation plan. This has been developed over the past months and is an ongoing live process.
- 3.9 The deal has around 190 paragraphs with different elements and activity mostly enhancing the existing functions of the WMCA, setting up new partnerships and unlocking around £1.5bn of new funds for the region. Almost all elements require further work to determine how they will be implemented (hence the implementation plan), including double devolution and local delivery arrangements. Some elements require further negotiation with government, with the deal setting a headline aim and the detailed policy requiring further in-depth discussion and agreement.
- 3.10 The implementation is guided by a set of principles:
- The most should be made of every commitment in the deal, to derive as much value from the deal commitments ahead of the next general election and spending review.
 - Local and regional engagement and collaboration is maximised through the implementation process, ensuring that delivery is driven at the most effective level with reporting on progress.
 - Activity in different workstreams is integrated within mainstream work programmes so that devolved powers become business-as-usual for regional partners.
 - A clear focus is retained on the need for more inclusive growth in the region in all aspects of deal implementation.

- 3.11 The deal elements are being monitored and progressed by the WMCA through a detailed 'tracker system'. In more general terms, the implementation plan is being structured around more than 20 different workstreams and looking at:
- How is implementation or further negotiations being conducted for the workstream i.e. which WMCA structure / group / local authority leads are determining this.
 - How it is envisaged that the deal provisions will be administered, delivered and decided upon (where this is needed).
 - Key milestones and deliverables.
 - Outstanding issues and questions.
 - The implementation plan will also look at what the key outputs and outcomes that the deal elements should secure.
- 3.12 Commitments in the deal are varied in scope and size. For some there are deliverables or activities with set deadlines, which means the implementation plan can be relatively definitive. For others, particularly those that commit to further development of policy, the outputs and deadlines are less tightly defined. Some aspects of the deal also require a more cross-cutting approach.
- 3.13 The City Council is playing a full role in the development of the implementation plan. Richard Brooks, Director of Strategy, Equality and Partnerships, is the Corporate Leadership Team lead on the DDD and co-ordination. However, multiple directors and officers have a role in working through and delivering the deal elements.
- 3.14 *Deal elements:* More significant areas of the deal include:
- Levelling Up Zones (aka Growth Zones) provision to establish up to six Levelling Up Zones with business rate growth retention for 25 years to fund infrastructure and other priorities.
 - Up to £400m affordable homes funding to 2026 and £100m brownfield regeneration funding.
 - Investment Zones - these were not technically part of the deal but were announced at the same time and are applicable to other Mayoral Combined Authority areas. The LUZ/IZ process is being developed in an interconnected way as they both cover growth and tax incentives for specific sites in the West Midlands.
 - Business rate retention for 10 years.
 - 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 the Department for Work and Pensions to target employment support.
 - Devolution of the bus service operators grant and a new partnership with Great British Railways to offer greater local oversight and control of public transport services.

- The UK's first formally designated transport sandbox to deliver cleaner and safer vehicles and innovative transport services and supporting new jobs and investment.
- Single departmental-style settlement for the WMCA from 2025 at the next spending providing multi-year period covering five pillars: local growth & place; local transport; housing and regeneration; adult skills; and retrofit. The single settlement corresponds with new accountability arrangements and a single outcomes framework.
- Within the single settlement is 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.

- 3.15 There are some policy areas which we not able to be secured as part of the deal. However, the deal opens room for discussion with government. This includes flexibilities on right-to-buy and a greater range of environmental place powers, two areas which the City Council pressed for within the deal. The City Council will play a full role in following these up and part of the implementation plan.
- 3.16 *Single settlement and place plans:* The single settlement is the most significant reform with wide implications including how the WMCA may operate ahead. There are currently multiple sources of funding for the WMCA (and for local authorities) that are secured via competitive bids and with a range of requirements and criteria to follow. The idea of the single settlement is that instead of these arrangements there would be pillars or functions, with funding provided by government within these through a departmental-style, multi-year settlement. This should afford greater flexibility and therefore benefit and give certainty of funding. In turn, an outcomes framework would be agreed as in #3.24.
- 3.17 The single settlement is part of a wider set of funding arrangements through the DDD. The emerging idea is for 'place plans' - plans draw up by local authorities including for growth corridors and key regeneration areas where funding can be applied in a more co-ordinated way including the single settlement. Both the form and operation of the single settlement and the place plans will require detailed work ahead and co-creation between the WMCA and constituent authorities. A Memorandum of Understanding on the single settlement is set to be agreed with government in January 2024.
- 3.18 *Affordable Homes Funding and Brownfield Regeneration Funding:* £100m Single Regeneration Fund will be deployed flexibly across the region, and for the first time, brownfield land funding will support commercial, employment land and mixed-use development, as well as delivering 4,000 homes in the region.
- 3.19 The commitment of up to £400m Affordable Housing Programme (AHP) funding to the region, and greater influence for the WMCA over affordable housing delivery and strategy acts a precursor to full devolution of the AHP, and additional extra funding to the region from 2026. This is the first time this has happened outside Greater London.

- 3.20 The delivery of the AHP will be dependent on the appetite from providers and the development of joint pipeline and delivery plan, developed as part of the new Strategic Place Partnership as part of the deal. The Strategic Place Partnership will be established between Homes England and WMCA to support the WMCA on housing supply, investment, and urban regeneration and to bring new housing supply and regeneration sites forward. The WMCA will work collaboratively with Homes England, constituent local authorities and local delivery partners to develop a joint pipeline and delivery plan.
- 3.21 Should the concept of 'place plans' be agreed as in #3.17 the AHP and brownfield funding would likely form part of the suite of funding to underpin the plans.
- 3.22 *Levelling Up Zones/Investment zones:* LUZs and the IZs have been following an accelerated timetable given the government desire to move forward with IZs as quickly as possible. They are technically outside of the DDD and are being taken forward in other Mayoral Combined Authority Areas across the country too. However, as the LUZ and IZ approach are interconnected – a series of incentives around key sites – these are being worked on as a package. The City Council is developing the LUZ proposal with Solihull, which builds on the work on the East Birmingham North Solihull approach that was begun in summer 2022. The City Council is also working up a proposal for the IZ for the Birmingham Innovation Quarter. The IZ covers the whole WMCA geography, but specific sites can be given tax incentives, access to government cash funding and business rate retention.
- 3.23 The plans for the LUZ and IZ are expected to be finalised with government in the coming months, confirmed in the Autumn fiscal event and with the Spring fiscal event confirming the funding arrangements.
- 3.24 *Accountability:* A streamlined, overarching single accountability framework coordinated by DLHUC rather than multiple frameworks administered by different government departments is being developed. This will include the data sets used to monitor and chart outcomes. The WMCA will be held to account for delivering outcomes using the settlement funding and areas associated with devolved functions set out in the DDD and previous devolution deals.
- 3.25 The deal made provision for enhanced accountability arrangements. The WMCA governance team is looking at these and engaging with the WMCA Overview & Scrutiny Committee members with any changes brought to the WMCA Board for approval.
- 3.26 Additional scrutiny involves the Mayor and portfolio leads attending a full council meeting each year for each constituent council, if requested by the council, or if a Parliamentary select committee invites attendance. There will also be 'Mayor's question time', where the Mayor visits all parts of the region to take questions from the public, with an independent chair. The portfolio holders will present reports to the WMCA Overview and Scrutiny Committees and the

WMCA will arrange public, broadcasted sessions where Members of Parliament representing West Midlands parliamentary constituencies will be able to scrutinise the Mayor and other portfolio leads.

- 3.27 The government is set to publish a scrutiny protocol and the WMCA has committed to reviewing the scrutiny arrangements and reporting on them as part of the implementation plan. This will work through the details of the arrangements and implications such as Parliamentary scrutiny of the WMCA's work and in turn the relationship with the constituent local authorities and their scrutiny arrangements and constitutional requirements.
- 3.28 The ability for Mayoral Combined Authorities to financially remunerate their Overview and Scrutiny Committee and Audit Committee members is being taken through the Levelling Up and Regeneration Bill. A WMCA Board paper on 21 July 2023 outlines the payments that would be available should the legislation be passed.
- 3.29 *Health duty removal from the deal:* Following the publication of the DDD, and as agreed by the Met Leaders and Mayor, further discussions took place on the potential adoption of the WMCA public health duties within the deal. The decision was that these duties were not to be pursued and these are now no longer part of the deal.
- 3.30 *Bus service operators grant (BSOG) devolution and scheme and governance review:* The devolution of the BSOG to the WMCA is considered by the WMCA to be a public authority function, which can be dealt with under section 105B of the Local Democracy, Economic and Construction Act 2009 but requires a scheme, governance review and the consent of the constituent authorities to the laying of the order by government. The scheme and governance review are attached to this paper. An in-principle agreement of the devolution of the BSOG is part of this paper and further formal agreement will be needed after the WMCA Board in October, which will be considering this.
- 3.31 *Warwickshire:* There has been a proposal for Warwickshire to potentially join the WMCA as a constituent member. If Warwickshire had become a constituent member it would have led to implications for the DDD in relation to the new funding and powers. However, given the proposal is not moving forward the implications are no longer live considerations.
- 3.32 *Timetable:* The WMCA is developing a detailed timetable on the deal elements. The latest draft is included as appendix.

4 Consultation

- 4.1 The CLT has reviewed these recommendations and there has been consultation with key Cabinet Members and officers. The DDD text and accompanying report went to Co-ordinating Overview and Scrutiny Committee on 14 July 2023. The OSC agreed all the recommendations, and specifically

endorsed the importance of the Levelling Up Zones and Investment Zones elements of the deal.

4.2 The committee also wanted the report to include:

- Consideration of Warwickshire joining the WMCA as a constituent member in relation to the DDD.
- Governance and accountability proposals in the DDD, specifically arrangements for the Mayor to be subject to scrutiny at BCC, the arrangements for the CA Scrutiny Board, for example payments to members and appointments for two years and any implications for Parliamentary scrutiny of the WMCA's work and how this relates to the Birmingham City Council constitution.
- How the Affordable Homes and Brownfield Land allocations will work.
- Timeline for implementation, including the relevant legislation and enactment of new powers.

4.3 The report includes reference to all these areas. Most however, are subject to further detailed co-creation activity with the WMCA and negotiation with government as part of the implementation plan.

5 Compliance Issues:

5.1 How are the recommended decisions consistent with the council's priorities, plans and strategies? The DDD enables the delivery of the council's strategies, plans and goals including and not exhaustively, the Corporate Plan, Route to Zero, Housing Strategy and the East Birmingham Inclusive Growth Strategy. This is through the new funding, funding potential and powers through the DDD. The council will work with the WMCA and other constituent authorities to seek to ensure the DDD achieves as much benefit and value to advance these strategies.

6 Any Finance Implications

6.1 There are no direct financial implications that arise through this report. Any financial implications flowing from elements of the DDD will be reported to and approved through the governance structures of the WMCA and where necessary via the Cabinets of constituent authorities. This will form part of the implementation plan.

7 Any Legal Implications

7.1 Birmingham City Council is one of seven constituent metropolitan local authority members of the West Midlands Combined Authority. Each local authority member (including Birmingham) has two votes, and the Metro Mayor has one, for a total of 15 votes on the Board.

7.2 The WMCA advice is that the new powers in relation to the Bus Service Operators Grant are considered to be public authority functions, which can be dealt with under section 105B of the Local Democracy, Economic and Construction Act 2009 but require a scheme, governance review and the

consent of the Constituent Authorities to the laying of the order by the government. An in-principle agreement of the devolution of the BSOG is part of this paper and further formal agreement will be needed after the WMCA Board in October, which will be considering this.

8 Any Equalities Implications

- 8.1 The WMCA advice is that the development of the DDD has been undertaken with reference to an equalities lens and reflects a range of WMCA goals and commitments including to inclusive growth. WMCA officers have reviewed provisions and recommended alternative approaches to, or reinforcement of key aspects, which were incorporated. Ahead, through the implementation of the deal, there will be an opportunity to further assess deal elements and their delivery in relation to equalities.

9 Environmental and Sustainability Implications

- 9.1 Many of the measures in the DDD will have a positive impact on environmental and sustainability areas. For example, one of the pillars of the single settlement is retrofit. This could enable more certainty and flexibility on retrofit funding which in turn could enable more effective delivery of housing retrofit measures in the region. The WMCA will be looking at DDD measures through an environmental and sustainability lens and environment and net zero measures will be passing through the WMCA Environment and Energy Board. Where measures are further developed ahead and come through the local authority processes, consideration will be given to undertaking an environmental and sustainability assessment.

10 Procurement Implications (if required)

- 10.1 There are no direct procurement implications from this report. Any procurement implications will be covered in separate reports as and when DDD elements are developed and come forward.

11 Human Resources Implications (if required)

- 11.1 There are no direct human resources implications in this report. However, DDD elements will have a range of implications on people such as how LUZs are implemented and delivered or the implementation of programmes such as Affordable Housing. These people implications will be assessed as these DDD elements are developed.

12 Attached papers

- 12.1 Full Deeper Devolution Deal text published 15 March 2023 on this [link](#)

13 Appendices

- 13.1 DDD timetable below

13.2 Bus Service Operators Grant devolution - scheme and governance review below.

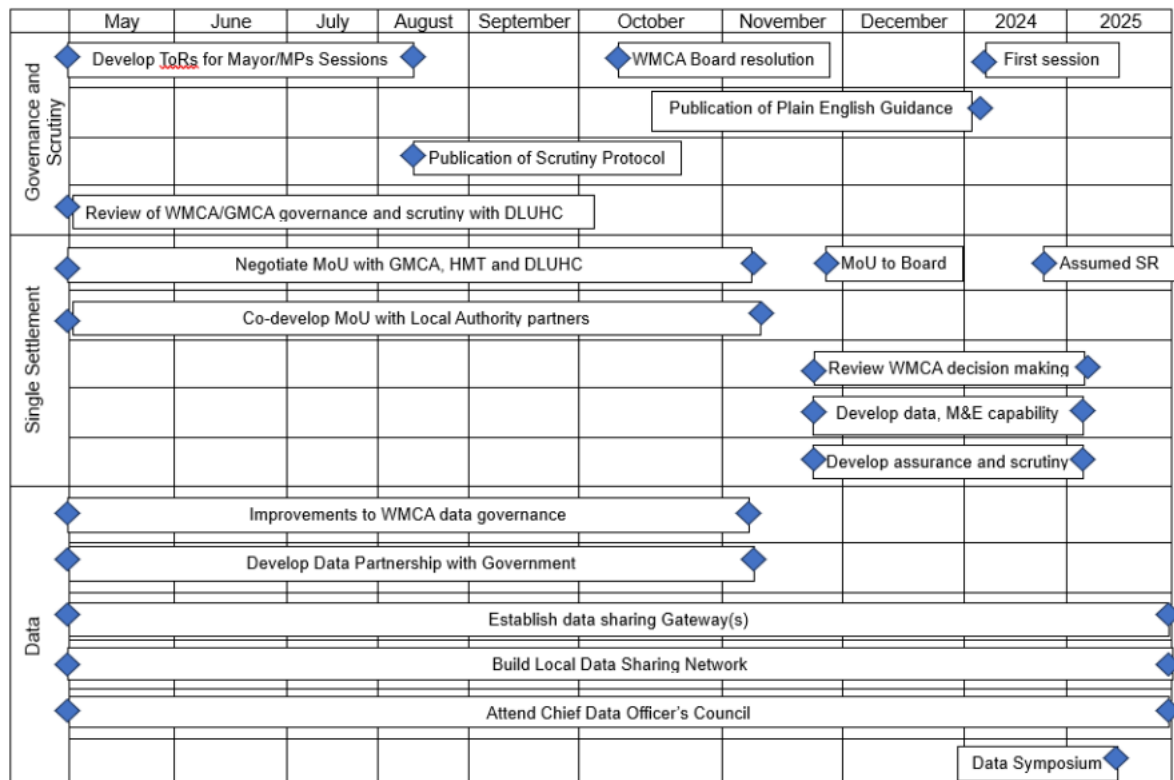
Timetable DDD implementation timetable

Each theme in the deal has indicative timescales for implementation activities

A bar like the below with a single diamond is used to indicate a deadline:



A bar like the one below with a diamond at either end is used to indicate the duration of an activity:



	May	June	July	August	Sept	October	November	December	2024	2025
Business support					Report to SoS on outcomes of SPP				Bi-annual SPP meetings	
		First Strategic Productivity Partnership Meeting								
			Agree new Brit Bus Bank relationship					MEIF2 launch		
	Launch new WM Growth Hubs	Engage government on future of Growth Hubs								
Innovation			Launch of Innovation Accelerator							
	Mayor and VCs agree steer					Meeting with Science Ministers				
	Innovation Board ratify asks					Stocktake with Mayor and VCs				
Trade and Investment		WMGC 'lead agency' recognition by WMCA and geographic footprint alignment; decision on DBT membership of WMGC								
		Working arrangements in place to assess UK business environment and HMG-WMGC data sharing								
		MoU between WMGC, WMCA and Office for Investment; signposting arrangement between DBT								
		International Strategy complete								

	May	June	July	August	September	October	November	December	2024	2025
Adult Skills and employment	Develop new governance structures – with agreed Terms of Reference - for employment and skills									
	Deploy greater flexibility in Adult Skills funding									
	MoU signed with HMT and DLUHC on Single Settlement								Assumed SR	

	May	June	July	August	September	October	November	December	2024	2025
Rail	Negotiate MoU with GBR					Design pilot operating model			Begin Pilot	
								Full Partnership begins		
Innovation	VLR options appraisal				SOBC production					
	VLR concept designs on East Bham/N Solihull corridor									
	Prepare use cases and then for operation of passenger carrying automated service									
	Trial with Coventry CC on DRT									
Buses				LA feedback on Governance Review and Scheme						
				DfT prepare statutory instrument			Statutory process managed by DfT			
	Submit advice on ASB to DfT									
Inf Funding		Re-baseline CRSTS finances								
		Revise WBH Business Case				Expected Govt approvals				

	May	June	July	August	September	October	November	December	2024	2025
Places for Growth	Support Places for Growth programme									
Digital inclusion	Purchase devices and distribute to LAs									
			Devices issued by VSOs							
Smart City Region	Business case finalisation				DLUHC approvals					
					Project implementation, delivery and evaluation					
Social Economy			Tender Business Support Provider(s)			Select providers		Project delivery		
						Recruit participants				
	Engage LAs on clusters		LAs select clusters and lead orgs		Cluster development and action plans					

	May	June	July	August	September	October	November	December	2024	2025
MEES						LA engagement on MEES				
LAEP		LAEP development & implementation								
Industrial Decarb	DESNZ and DLUHC Develop Business Case									
						Project delivery				
Heat Zoning	Government to have established Heat Zoning Coordinators									
Air Quality	Develop Business Case									
			DLUHC approvals			Project delivery				
Natural Capital	Create and manage pipeline of investable projects									
		Create Natural Asset Register								
						Setup Fund				

	May	June	July	August	September	October	November	December	2024	2025
Growth Zones	Negotiate Zone criteria with DLUHC									
	Co-develop Zone proposals with LAs			WMCA Board approval for Zone proposals						
				negotiate interventions with DLUHC				Sites announced at assumed SR		
SRF	DLUHC Bus Case to HMT	Negotiate Fund T&Cs		Funding begins for projects up to FY 25/26						
AHP	Engage LAs to ensure pipeline is <u>uptodate</u>									
	Create joint AHP team with HE			Develop strategy, joint pipeline					Full devo of AHP from assumed	
Partnerships	Negotiate Strat Place Partnership, Public Land Reform, AHP agreements with Govt									
				Consult LAs on emerging proposals				WMCA Board approval		
BRR	Negotiation with DLUHC on design of 10yr BRR							Scheme announced at assumed SR		
	Consult LAs on DLUHC proposals								Beginning of 10 Year BRR	

	May	June	July	August	September	October	November	December	2024	2025
Partnership Agreement	Develop Regional Culture and Heritage Framework									
	Develop Arm's Length Body Partnership Agreement and Forward Plan									
Cultural Infrastructure	Business case finalisation					DLUHC approvals				
						Project implementation, delivery, evaluation				
Homelessness	Organise online seminar for LAs and RPs to discuss Live and Work model									
		Follow-up with Homes England on LAs and RPs' bid development								
	Support DWP developed Shared Outcomes Fund bid									

Appendix: paper provided by the WMCA

West Midlands Combined Authority Draft Governance Review

The Transfer of functions in relation to Bus Service Operator's Grant under section 154 (1) of the Transport Act 2000 to WMCA as a Mayoral function

The Transfer of functions in relation to Bus Service Operator's Grant under section 154 (3) of the Transport Act 2000 to WMCA

Proposal for the Making of an Order under sections 105A of the Local Democracy, Economic Development and Construction Act 2009 as amended by the Cities and Local Government Devolution Act 2016

Introduction

This report has been prepared by the West Midlands Combined Authority in consultation with the Leaders of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton Local Authorities. The report sets out the findings of the governance review undertaken across the whole geography of the WMCA area in accordance with section 111 of the Local Democracy, Economic Development and Construction Act 2009 as amended by the Cities and Local Government Devolution Act 2016 (the 2009 Act) to consider how the transfer of the delivery of Bus Service Operators Grants (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 to be exercised by the Mayor, with decisions from WMCA Board inputting into the policy of allocation taken by a two-thirds majority subject to consultation on National reforms.

The Governance Review has been undertaken as part of the overall review of functions which was carried out by WMCA to support the Trailblazer Devolution Deal negotiated between the WMCA and the Government.

Executive Summary

The West Midlands has been at the forefront of devolution in England. In November 2015, the government and WMCA agreed an ambitious devolution deal, including a directly elected mayor and powers to improve transport, skills, housing and to drive growth in the region. In 2017, devolution was deepened, and new funding agreed, including significant further investment in transport. The West Midlands has seized these opportunities, demonstrating what local leaders can achieve when empowered with the tools they need. Local leaders have increased investment in transport from £38 million in 2016/17 to £363 million in 2021/22, pioneered new approaches to brownfield development and net zero homes and delivered the c. £130 million Adult Education Budget, securing an over 10% increase in 2020 alone in the portion of the population with Level 3 skills.

The West Midlands is now embarking on a new phase by bringing greater investment, control over investment and powers to the region.

The new deal is estimated to be worth in the region of £1.5bn and it is hoped that this will reboot the economy, provide vital housing, jobs and skills, bolster our existing

strengths in transport and Smart City Region innovation, and drive our net zero ambitions. The deal looks to create a more prosperous and better-connected West Midlands which is fairer, greener and healthier.

In February 2022, Government announced, in its Levelling Up White Paper, new devolution deals for the West Midlands, along with Greater Manchester. Since then, the region and its partners have been working closely with Government to secure the best deal for the region, its economy and its communities.

The Deal recognises that the WMCA currently lacks the key levers and flexibility to ‘unleash the potential of devolution’ and goes on to address this through a range of new powers, responsibilities and resources.

WMCA Leaders agree that in order to fulfil local economic priorities and provide the best services for the citizens of the West Midlands, there is a need to draw down significant additional powers and funding from the Government through a deeper devolution deal. There is consensus that powers and funding should sit at the lowest feasible level of governance and that they should be drawn down from government and not drawn up from local authorities.

The WMCA has therefore commissioned this Governance Review to look at whether transferring responsibility for the proposed new functions - the distribution of Bus Service Operator’s Grant (BSOG) to WMCA and subject to national reform, policy making powers in relation to BSOG allocation - is likely to improve the delivery of the service in the WMCA area.

This Review seeks to evidence how the deal will deliver significant new responsibilities and investment that will benefit our communities and businesses across the region.

When referring to WMCA as the decision-making body in this document, it means the WMCA Board made up of those members appointed by the seven constituent councils, the ten Non- Constituent Councils and the Mayor, taking decisions in accordance with statutory voting rights.

Section 1: Summary of the Wider Deal

This section sets out the wider deal including those non-statutory powers that do not require formal consultation, but which provide the wider context for the deeper devolution deal.

Governance and Accountability

The WMCA will be held accountable through the mechanisms set out in the Local Government Accountability Framework, English Devolution Accountability Framework and enhanced scrutiny measures. 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.

Administration of the Bus Service Operators Grant would be treated as a part of the normal business operations of the Combined Authority and would be subject to the

same accounting, auditing and transparency requirements as other income and expenditure.

Fiscal Devolution, Funding and the Single Settlement

The commitment to 10-year Business Rates Retention across the region is estimated to be worth £450m over the period and will drive confidence in public sector borrowing, de-risk investment modelling and accelerate delivery. It will also remove the uncertainty of the current pilot scheme, boosting public financial sustainability and local authority spending power.

Through its 'Single Settlement', the Government commits to giving WMCA single capital and revenue funding certainty, equivalent to government departments – increasing regional autonomy and the ability to prioritise decisions locally in the areas of:

- local growth and place
- local transport
- housing and regeneration
- adult skills
- housing retrofit

These settlements will cover an entire spending review period.

In addition, Government has committed to a £25m capital fund to support business decarbonisation, culture, environmental programmes and the West Midlands' Smart City Region initiative.

Transport

Building on the West Midlands' strengths in transport innovation, as the country's first future transport zone, and its close partnership working with Government, the Deeper Devolution Deal provides:

- Devolution of the Bus Service Operators Grant to improve services and incentivise net zero transition;
- A pioneering Local Transport Plan approach which embeds 'quantifying carbon reductions' (QCR);
- Leading a collaborative research and learning programme through an 'influencing transport lab' (ITL);
- Establish the UK's first transport sandbox to test new innovations and inform national policy, while boosting global investment and cluster growth;
- Closer partnership with Great British Railways to deliver a rail service closer to the standards of London;
- Additional £60m to Wednesbury-Brierley Hill Metro extension

- Supporting development of the region's ambitious Very Light Railway scheme in Coventry.

Housing, Land and Regeneration

A £100m Single Regeneration Fund will be deployed flexibly across the region, and for the first time, brownfield land funding will support commercial, employment land and mixed-use development, as well as delivering 4,000 homes.

The commitment of up to £400m Affordable Housing Programme ('AHP') funding to the region, and greater influence over affordable housing delivery and strategy acts a precursor to full devolution of the AHP, worth billions of pounds in funding, to the region from 2026, this is the first time this has happened outside Greater London.

The WMCA will be involved in decisions on major UK government land disposals and reconfiguration, this will help in driving regeneration and unlocking private investment through repurposing and redeveloping publicly owned land.

The region will also be able to designate 'Levelling Up Zones': priority areas that would benefit from enhanced and targeted fiscal measures. These 'growth zones' will attract 25 year Business Rates Retention (with no reset).

Skills and Employment Support

Further areas of post-19 education and skills will be devolved to WMCA along with greater oversight of post-16 technical education and skills, and careers, including a crucial role to ensure the local skills system responds to the Local Skills Improvement Plan ('LSIP'). This will include, from the next Spending Review, greater devolution of non-apprenticeship adult skills functions and funding, and greater freedoms around Free Courses for Jobs and Bootcamps. WMCA will also become the 'central convenor' for careers advice in the region, working closely with Government to ensure provision meets the economic needs of the West Midlands.

Alongside establishing a Regional Labour Market Partnership Board, WMCA will be able to co-design contracted employment support programmes with DWP to ensure they are the aspirations of the region, supported by enhanced data-sharing agreements and in the longer term may commission such services on behalf of the DWP.

Business Productivity and Innovation

WMCA will adopt a new role 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.

Building on the West Midlands' participation in the £100m Accelerator funding, through a Strategic Innovation Partnership WMCA will be able to present regional innovation opportunities to inform UKRI's future funding strategies. This will include working collaboratively to bolster regional R&D growth and pilot new initiatives, such as the UK

Further Education Innovation Fund, place-based knowledge transfer programmes, and public procurement flexibilities.

Trade and Investment

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 WM International Strategy, enhance data sharing routes and undertake a review of key account management with the region's major employers.

DBT will also support WMCA to boost West Midlands' presence in trade missions and dedicate support from the UK Export Academy to increase trade opportunities.

Net Zero and Environment

From 2025, Government will pilot with the West Midlands the devolution of housing retrofit funding. This will remove uncertainty and inefficiencies in the existing funding system and inform future models for Government net zero funding.

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 from the £25m capital pot 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.

Digital and Data

The Department of Science and Technology ('DSIT') will work proactively with WMCA through a Digital Infrastructure Leadership Group to accelerate broadband roll-out and connectivity, and through a £4m fund, provide 20,000 devices to boost digital inclusion.

Government will agree a new Data Partnership with WMCA, which will streamline WMCA's negotiations with individual government departments over access to specific datasets and support timely access to data particularly around: skills, careers and labour markets; business support, trade and investment; and energy and climate resilience.

Alongside this, Government will work with WMCA and its public body partners across the region to improve routes for data-sharing to enable WMCA to undertake regional analysis of data to better inform strategic decision-making locally.

Culture, Social Economy and Tourism

To maximise the Commonwealth Games Legacy Fund, a new Regional Culture and Heritage Framework will seek to align and maximise funding from arm's length bodies, including opportunities for co-investment and greater collaboration. Local authorities will

be closely involved in the development of the Framework and continue to engage directly with funding bodies.

Recognising WMCA's commitment to double the size of the social economy, Government will work with the Combined Authority to develop a pioneering Social Economy Accelerator Programme and Growth Fund.

DCMS and Visit England will work with WMCA and WMGC to create England's second Destination Development Partnership pilot and the associated merits of establishing WMGC as a Local Visitor Economy Partnership ('LVEP').

Section 2: Purpose of the review

The purpose of this governance review, undertaken in accordance with Section 111 of the 2009 Act is to look at the exercise of statutory functions in the West Midlands with a view to deciding whether the new function contained in the deal would be likely to

- Improve the exercise of statutory functions in the area of the WMCA;
- Secure more effective and convenient local government for the area; and
- Reflect the identities and interests of our local communities

If the Review demonstrates that transfer of the new function to WMCA would improve service delivery, the WMCA will prepare and publish a scheme with the new function and changed constitutional arrangements. Under section 105B of the 2009 Act, the review needs to demonstrate that the exercise of the power to make an Order under section 105A in the West Midlands area would be likely to improve the exercise of statutory functions in relation to the West Midlands area.

Given that the implementation for the new function will be under Section 105A of the 2009 Act, a public consultation will not be required. The Secretary of State will be provided with a copy of the agreed scheme and governance review and will need to consider whether a new order should be made under the 2009 Act to provide the WMCA with the new function suggested by the deal.

Only the new powers and duties contained within the deal require consideration as part of the statutory process. However, in order to provide the context within which these powers and duties will be exercised, a summary of all the proposals, has been included. The full Deal text can be accessed here [West Midlands Combined Authority: "Trailblazer" deeper devolution deal - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/672222/West_Midlands_Combined_Authority_-_Trailblazer_deeper_devolution_deal.pdf)

The new function requiring agreement under the requirements of the 2009 Act relates to the paying of the **Bus Service Operators Grant**. Under sections 154 (1) and 154 (3) of the Transport Act 2000

Background

Commercial Bus Service Operator's Grant (BSOG) is existing funding which Government currently pays directly to operators. BSOG is directly linked to bus fuel consumption, and this can undermine environmental objectives, with a reduced incentive on operators to

invest in more zero emission buses. Circa £26m per annum was paid to bus operators across the WMCA area (pre-pandemic).

With a unique bus market, with one commercial operator operating over 95% of the West Midlands bus network, ensuring that value for money is achieved locally from public subsidy and planning an effective recovery for bus services post pandemic is difficult. This has been further exacerbated by a reduction in local bus market competition, with five local bus operators ceasing operations since March 2020, and ongoing bus industry pressures such as driver shortages, wage, and fuel cost inflation. The WMCA needs new levers to incentivise and influence the direction and navigation of a modern and responsive bus network but importantly to stimulate private sector competition back into our bus market.

Proposal

Subject to national reform, and through greater local control and design of policy, the WMCA would look to incentivise bus operators to use the grant to ensure investment in bus services aligns with WMCA policy outcomes. WMCA priorities for BSOG would seek to target: -

- Incentivising greener vehicle fleet investment and maximising our position as the UK investment leader in decarbonising bus fleets. Further boosting over £150m of fleet investment between public and private partners.
- Incentivising and working with private bus operators to expand bus services into areas of poor accessibility. This would place greater focus on where bus route mileage is delivered, compared to the current approach focused on total quantum. This would help to tackle the issue of ‘overbussing’ on certain routes to maintain a dominate commercial position at the expensive of more marginal, socially beneficial services, thus helping to deliver greater benefits with the same level of public funding.

The WMCA is directly managing two additional bus support funding grants, which are Network Stability Fund and Network Planning Fund (Bus Recovery Grant extension). The local management of this grant (on behalf of DfT) has delivered a stable bus network throughout 2022, supporting the most successful Commonwealth Games ever, and allowed for close working with bus operators to plan and improves services from January 2023.

Administering the Bus Service Operators Grant will support WMCA early engagement with bus operators in the West Midlands, ahead of the further devolution of powers in relation to policy and BSOG. This may mitigate against unpredictable and potentially disruptive market behaviour and may act to encourage high levels of professional conduct in the market being maintained during this period. These powers would assist being able to gain valuable insight and the additional scrutiny provided by WMCA may be able to encourage more efficient practices by the operators.

Section 3: New Statutory Responsibilities

This section sets out the formal statutory process of the governance review in relation to the new statutory function that will be taken on by the WMCA.

Legal context

The Government and the WMCA have reached agreement in relation to the devolution to the WMCA of a further range of powers.

To give effect to certain elements of the Deal, it is necessary for the WMCA to comply with the requirements of sections 105B and has chosen to carry out this Governance Review under sections 111 and 112 of the 2009 Act which set out the procedure to be followed in order to make changes to existing combined authority arrangements.

However, it should be noted that many aspects of the Deal do not require legislative change to implement. The power outlined below is the only one that is expected to require legislative or regulatory change before it can be exercised by Mayor and therefore follow the process outlined:

1. **Bus Service Operators Grant** - The government will devolve powers for the payment of the bus service operators grant to WMCA as a general function of the Mayor. This is in line with the commitment in the National Bus Strategy and the government is currently working on the reform of the grant. WMCA will provide support to identify the funding for bus services entirely within the WMCA boundary that is paid to commercial operators and would be suitable to be devolved to WMCA, both currently and subject to national reform.

The reform of the grant, and subsequent devolution to the WMCA Board of policy making powers, will enable the grant to support the government's and WMCA's shared priorities to support important local bus services and reduce environmental impacts through facilitating the transition to zero emission buses. This devolution will also be supported by the WMCA delivering commitments set out on in its adopted Enhanced Bus Partnership (EP) Plan and Bus Service Improvement Plan (BSIP).

It is proposed that there be a three-stage process to achieve these ambitions:

1. Immediate devolution of powers under Section 154 (1) of the Transport Act 2000 to the WMCA to administer BSOG
2. WMCA to then administer its share of the BSOG funding according to current Department for Transport (DfT) policy.
3. That the proposed Statutory Instrument include a commitment to further devolve policy powers to the WMCA Board under Section 154 (3) of the Transport Act 2000 subject to the conclusion of national consultation and guidance being issued by the Secretary of State.

WMCA will work with DfT once the consultation period has concluded to finalise the design of a national BSOG reform package using the evidence generated through the consultation to present options to ministers that set out the impacts on and acceptability to key stakeholders, including WMCA.

If national reforms are delayed significantly, the exploration of alternatives including full BSOG policy devolution for the WMCA, may be brought forward.

Process to be followed

105B - Section 105A orders: procedure

Section 105A(1)(a), (1) (b), (2) and (3)(b) of the 2009 Act (other public

authority functions): provides for the Secretary of State to make provision by order for a function of a public authority that is exercisable in relation to a combined authority's area to be a function of the combined authority and to make provision by order conferring on a combined authority in relation to its area a function corresponding to a function that a public authority has in relation to another area.

The Secretary of State may make an order under section 105A only if a proposal for the making of the order in relation to the combined authority has been made to the Secretary of State by the appropriate authorities, or the appropriate consent is given and the Secretary of State considers that the making of the order is likely to improve the exercise of statutory functions in the area or areas to which the order relates.

For the purposes of subsection (1)(b), the appropriate consent is given to the making of an order under section 105A only if:

- in the case of an order in relation to an existing combined authority, each appropriate authority consents;
- in any other case, each constituent council consents.

Section 111 of the 2009 Act

Section 111 of the 2009 Act allows combined authorities to undertake, in relation to an existing combined authority (such as the WMCA), a review of one or more “combined matters”. For the purposes of section 111 of the 2009 Act a “combined matter” is defined at subsection 111(3) as being:

- a. a matter in relation to which an order may be made under any of sections 104 to 107;
- b. in relation to the combined authority or any executive body of the combined authority, where that body exists at the time of the review, a matter concerning the combined authority or the executive body that the combined authority has power to determine.

Insofar as sub-section 111(3)(a) of the 2009 Act is concerned, sections 104 to 107 of the 2009 Act set out the range of matters that the Secretary of State may include within an order concerning a combined authority. These include power for the Secretary of State to:

- make in relation to a combined authority any provision that may be made in relation to an Integrated Transport Authority under certain provisions of the Local Transport Act 2008;
- make in relation to a combined authority any provision that may be made in relation to an Economic Prosperity Board (EPB) in relation to the exercise of local authority functions;
- make provision for a function of a public authority that is exercisable in relation to a combined authority's area to be a function of a combined authority;
- make provision for conferring on a combined authority in relation to its area a function corresponding to a function that a public authority has in relation to another area;

- make provision for any function of a combined authority which has an elected mayor (a “mayoral combined authority”) to be a function only exercisable by the elected mayor;
- make provision for the costs of an elected mayor for the area of a combined authority that are incurred in, or in connection with, the exercise of “mayoral functions” to be met from precepts issued by the authority under section 40 of the Local Government Act 1992.

Section 112 of the 2009 Act

Where a combined authority that has undertaken a review under section 111 of the 2009 Act concludes that the exercise of the power by the Secretary of State to make an order under any one or more of sections 104, 105, 105A, 106 and 107 would be likely to improve the exercise of statutory functions in relation to an area of a combined authority, it may prepare and publish a ‘scheme’ relating to the exercise of the power or powers in question.

In addition to the above requirements, the Secretary of State cannot make an order under sections 104, 105 or 105A of the 2009 Act without the consent of the constituent councils or the WMCA.

Section 4: Governance options, Conclusions and Recommendation

- Option 1 – To endorse the findings of the governance review and proceed with the scheme.
- Option 2 – Not to endorse the findings of the governance review and only implement those parts of the deal that do not constitute new powers or duties.

As previously stated, any new powers or functions would need to be devolved to the Combined Authority via secondary legislation, and therefore would require Government (and local) approvals to make the relevant order.

Conclusion

The review has found that the evidence shows that the Deeper Devolution Deal will maximise the WMCA’s current role and responsibilities and revolutionise how Government funding is implemented leading to more effective delivery of statutory functions. The deal represents a significant step forward in delivering more and better jobs to the area. It delivers significant new responsibilities and investment that will benefit our communities and businesses across the region. It means that decisions previously taken centrally can now be taken closer to the people affected and gives the area greater financial freedom and flexibility to manage our investment choices according to local priorities.

Administering the Bus Service Operators Grant will support WMCA early engagement with bus operators in the West Midlands, ahead of the further devolution of powers in relation to policy and BSOG. This may mitigate against unpredictable and potentially disruptive market behaviour and may act to encourage high levels of professional conduct in the market being maintained during this period. These powers would assist

being able to gain valuable insight and the additional scrutiny provided by WMCA may be able to encourage more efficient practices by the operators.

The further devolution to WMCA of the policy element of Bus Service Operators Grant, would provide WMCA with flexibility as to its application and would allow WMCA to deploy the grant to incentivise operators to move to zero emission vehicles thus providing environmental benefits to air quality locally and also incentivise operators to expand services to areas of under-provision providing economic and social benefits to those who live and work in the area.

Recommendations:

1. To improve the effective exercise of statutory functions across the area of the WMCA, adopting the new power under Section 154 (1) and duty contained within the deal (Option 1) is considered optimal for the reasons detailed below.
2. To improve the effective exercise of statutory functions across the area of the WMCA, adopting the new power under Section 154 (3) subject to national consultation and guidance from the Secretary of State is considered optimal for the reasons detailed below.
3. That a governance scheme is published (a draft scheme is included at Appendix A) that confirms the adoption of the new powers and duties detailed in this report.

The reasons are summarised below:

- a. The deal delivers significant new responsibilities and investment that will benefit our communities and businesses across the region.
- b. **Bus Service Operators Grant**

Section 154 (1) of the Transport Act 2000:

Administering the Bus Service Operators Grant will support WMCA early engagement with bus operators in the West Midlands, ahead of the further devolution of powers in relation to policy and BSOG. This may mitigate against unpredictable and potentially disruptive market behaviour and may act to encourage high levels of professional conduct in the market being maintained during this period. These powers would assist being able to gain valuable insight and the additional scrutiny provided by WMCA may be able to encourage more efficient practices by the operators.

Section 154 (3) of the Transport Act 2000:

Devolving section 154 (3) of Bus Service Operators Grant to WMWMCA will improve the exercise of this statutory function in the West Midlands by enabling WMCA to deploy the grant to incentivise a move to zero emission vehicles and also an expansion of services to areas which are underprovided for. This new function will support the government's and West Midlands' shared priorities to support important local bus services and reduce environmental impacts through assisting the change to zero emission buses.

c. The proposals will build on established regional governance arrangements which represent the views of local communities

d. The proposals will secure more effective and convenient local government by reducing complexity and streamlining the delivery of public services within the area.

e. The statutory criteria for preparing and publishing a scheme are met, i.e., the making of an order under S104 and S105A to enable the adoption of the new powers and duties for the area of the WMCA is the best option and will be likely to improve the exercise of statutory functions in that area.

f. In addition, adoption of the new powers and duty will:

- **have a positive impact on the interests and identities of local communities** by securing environmental benefits through low emission vehicles and by expanding bus services to areas with low accessibility.
- **secure more effective and convenient local government** by reducing complexity and streamlining the delivery of public services within the area.

Appendix: paper provided by the WMCA

West Midlands Combined Authority

Draft Scheme for the transfer of functions in relation to Bus Service Operator's Grant under section 154 (1) of the Transport Act 2000 to WMCA as a Mayoral function

Draft Scheme for the future transfer of functions in relation to Bus Service Operator's Grant under section 154 (3) of the Transport Act 2000 to WMCA

Proposal for the Making of an Order under sections 105A of the Local Democracy, Economic Development and Construction Act 2009 as amended by the Cities and Local Government Devolution Act 2016 (the 2009 Act)

This scheme has been prepared by the West Midlands Combined Authority in consultation with the Leaders of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton Local Authorities.

The scheme sets out proposals for conferring on WMCA of the function of the Secretary of State of administering Bus Service Operator's Grant under sections 154 (1) of the Transport Act 2000 as a Mayoral function.

The scheme also sets out proposals for the future conferring on WMCA of the function of the Secretary of State in relation to the making of policy for the administration of Bus Service Operator's Grant under section 154 (3) of the Transport Act 2000. It is proposed that this function be conferred to be exercisable subject to the conclusion of consultation on national BSOG reform and the publication of guidance by the Secretary of State.

If national reforms are delayed significantly, the exploration of alternatives including full BSOG policy devolution, may be brought forward.

Introduction

The West Midlands has been at the forefront of devolution in England. In November 2015, the government and WMCA agreed an ambitious devolution deal, including a directly elected mayor and powers to improve transport, skills, housing and to drive growth in the region. In 2017, devolution was deepened, and new funding agreed, including significant further investment in transport. The West Midlands has seized these opportunities, demonstrating what local leaders can achieve when empowered with the tools they need. Local leaders have increased investment in transport from £38 million in 2016/17 to £363 million in 2021/22, pioneered new approaches to brownfield development and net zero homes and delivered the c. £130 million Adult Education Budget, securing an over 10% increase in 2020 alone in the portion of the population with Level 3 skills.

The West Midlands is now embarking on a new phase by bringing greater investment, control over investment and powers to the region.

The new deal is estimated to be worth in the region of £1.5bn and it is hoped that this will reboot the economy, provide vital housing, jobs and skills, bolster our existing strengths in transport and Smart City Region innovation, and drive our net zero ambitions. The deal looks to create a more prosperous and better-connected West Midlands which is fairer, greener and healthier.

The WMCA have conducted a Governance Review under Section 111 of the 2009 Act (the Review) in relation to the delegation to the Combined Authority of additional functions and duties relating to:

- Bus Service Operators Grants (under section 154 (1) of the Transport Act 2000)
- Bus Service Operators Grants (under section 154 (3) of the Transport Act 2000)

Governance Review and Proposal

Background

Commercial Bus Service Operator's Grant (BSOG) is existing funding which Government currently pays directly to operators. BSOG is directly linked to bus fuel consumption, and this can undermine environmental objectives, with a reduced incentive on operators to invest in more zero emission buses. Circa £26m per annum was paid to bus operators across the WMCA area (pre-pandemic).

With a unique bus market, with one commercial operator operating over 95% of the West Midlands bus network, ensuring that value for money is achieved locally from public subsidy and planning an effective recovery for bus services post pandemic is difficult. This has been further exacerbated by a reduction in local bus market competition, with five local bus operators ceasing operations since March 2020, and ongoing bus industry pressures such as driver shortages, wage, and fuel cost inflation.

The WMCA needs new levers to incentivise and influence the direction and navigation of a modern and responsive bus network and to stimulate private sector competition back into our bus market.

Proposal

Administering BSOG will support WMCA early engagement with bus operators in the West Midlands, ahead of the anticipated further devolution of powers in relation to policy and BSOG. This may mitigate against unpredictable and potentially disruptive market behaviour and may act to encourage high levels of professional conduct in the market being maintained during this period. These powers would assist WMCA in being able to gain valuable insight and the additional scrutiny provided by WMCA may be able to encourage more efficient practices by the operators.

Subject to national reform, and through greater local control and design of policy, the WMCA would look to incentivise bus operators to use the grant to ensure investment in bus services aligns with WMCA policy outcomes. WMCA priorities for BSOG would seek to target: -

- **Incentivising greener vehicle fleet investment and maximising our position as the UK investment leader in decarbonising bus fleets.** Further boosting over £150m of fleet investment between public and private partners.
- **Incentivising and working with private bus operators to expand bus services into areas of poor accessibility.** This would place a greater focus on where bus route mileage is delivered, compared to the current approach focused on total quantum. This would help to tackle the issue of 'overbussing' on certain routes to maintain a dominate commercial position at the expensive or more marginal, socially beneficial services, thus helping to deliver greater benefits with the same level of public funding.

The WMCA has direct experience in managing bus funding support grants, such as Local Transport Fund (up to July 2023), BSOG+ (up to 2025) and local raised funding through the WMCA's Transport Levy (for subsidies services).

With significant investment made to support bus services across the West Midlands, the devolution of BSOG funding to the WMCA would support this continued improved local planning of bus services. As stated above and subject to national reforms, WMCA

requires flexibility in the way in which the grant is distributed to support its aim of incentivising a move to zero emission buses and an expansion of services into areas with poor accessibility. WMCA can also act as a trailblazer area for the early delivery of national BSOG reforms, working in partnership with DfT.

Overall, these reforms would help to achieve our wider network expansion plans that match the Government's Levelling Up mission and the aim to increase bus use outside of London, bringing us much closer to London standards. This aligns with the WMCA's Local Transport Plan outcomes to improve accessibility, electrify the transport system and reduce traffic to drive behaviour change.

Bus services are important for those who lack access to a private vehicle, those on the lowest incomes, and for those living in the most deprived communities. The WMCA area has some of the most deprived wards in England and circa 25% of households do not have access to a car, with this increasing to 40% in some of our most deprived communities.

The devolution of BSOG administration and anticipated policy making powers to WMCA would enable WMCA to deliver economic, social and environmental benefits through the distribution of the grant and to improve the effectiveness of service delivery.

Conclusion

Having considered the findings of the Review, the WMCA concluded that an Order by the Secretary of State to make the changes considered in the Review, including delegating additional functions to the Combined Authority, would be likely to improve the exercise of statutory functions in relation to the Combined Area. The WMCA have therefore resolved to prepare and publish this Scheme under section 112 of the 2009 Act.

Functions exercised by the Mayor

Bus Service Operators Grant (Public Authority Function) (Section 105A of the Local Democracy, Economic Development and Construction Act 2009)

It is proposed that the Government will devolve powers for the payment of the bus service operators grant to WMCA to be a general function of the Mayor under section 154 (1) of the Transport Act 2000.

It is further proposed that the Government will devolve powers, at a future date to be agreed with WMCA, following the conclusion of nation consultation and guidance being issued by the Secretary of State in relation to bus service operators grant to WMCA under section 154 (3) of the Transport Act 2000.

Since the award of Bus Service Operators Grant is a public function of the Secretary of State the Order will be made under section 105A of the 2009 Act. The procedural requirements under Section 105B do not include a requirement for public consultation before the making of an Order and in this case it is not thought necessary for a public consultation exercise to be carried out.

WMCA will provide support to identify the funding for bus services entirely within the WMCA boundary that is paid to commercial operators and would be suitable to be devolved to WMCA, both currently and following national reform.

Governance and constitutional matters

Governance Arrangements

A decision in relation to the conferring of a new function on WMCA would require a unanimous vote of the members representing the Constituent Authorities at the WMCA Board.

The Award of Bus Service Operator's Grant will need to be included as a Mayoral function in the definition of Mayoral general functions set out in Article 22(5) of the West Midlands Combined Authority Functions and Amendment) Order 2017

Review and Scrutiny

The operation of the function of the award of Bus Service Operators Grant will be subject to review and Scrutiny in accordance with the Constitution and the Scrutiny Protocol.