

Overview & Scrutiny Committee

Date	10 July 2023
Report title	Deeper Devolution Deal - Scrutiny Implications
Portfolio Lead	Levelling Up / Devolution - Councillor Sharon Thompson
Accountable Chief Executive	Laura Shoaf, West Midlands Combined Authority email: laura.shoaf@wmca.org.uk
Accountable Employee	Dan Essex, Governance Services Manager email: dan.essex@wmca.org.uk

Recommendations for decision:

The Overview & Scrutiny Committee is recommended to:

- (1) Note the announcement of the Government's Deeper Devolution Deal with the WMCA, along with its expected ratification by constituent authorities during September and by the WMCA Board at its meeting on 13 October.
- (2) Welcome the publication of the English Devolution Accountability Framework and the forthcoming scrutiny protocol, setting out the Government's expectations for local accountability within institutions exercising devolved powers.
- (3) Agree that a further report be submitted to the committee when it meets on 4 September setting out in more detail the content of the scrutiny protocol and how the WMCA intends to apply it to its overview and scrutiny function.

1. Purpose

- 1.1 To update the committee on activity and developments relating to the WMCA's Deeper Devolution Deal negotiations with the Government since the matter was last reported to the committee on 13 March.

2. Background

2.1 On 15 March, as part of its Spring Budget statement, the Government announced that it had agreed with the WMCA a Deeper Devolution Deal that would provide for wide ranging provisions to devolve policy making and control over spending decisions to the region, bringing additional investment to the region worth more than £1bn. Highlights of the deal included:

- The potential for the WMCA to be treated as if it were a Government department with a simplified five-year funding settlement, enabling it to prioritise, target and decide how funding was spent in key areas.
- A landmark housing deal worth up to £500m.
- Fiscal devolution, including 100% business rates retention over 10 years, worth an estimated £450m to the WMCA and other local authorities.
- Up to Six Levelling Up Zones where priority areas would be chosen by local decision makers to receive support to accelerate growth, development and regeneration.
- A commitment to devolving retrofit funding that would enable the region to prioritise allocations and accelerate the delivery of warmer homes and net zero targets.
- Empowering the region's transport transformation through the devolution of bus service operator grants and a new partnership with Great British Railways.
- Further influence over key policy areas such as skills, careers, employment support and digital inclusion.

2.2 A summary document setting out the detail of the deal is attached as an appendix to the report.

2.3 In order for the WMCA to assume the new powers contained in the deal, it has to follow the statutory process set out in the Local Democracy, Economic Development & Construction Act 2009. The only new function that requires a statutory process to be followed is the Bus Service Operators Grant (BSOG), which is a mayoral function.

2.4 There is then to be a period of public engagement and awareness raising on the contents of the entire deal, following which, each constituent authority has been requested to:

- Provide feedback to WMCA on the draft Governance Review and Scheme in relation to the BSOG in sufficient time to allow these documents to be amended where appropriate for consideration at the WMCA Board meeting on 13 October.
- Provide, through their own governance processes, individual local authority consent to the devolution deal.

3. Progress to Date

3.1 At the WMCA Board on 9 June, members approved the draft Governance Review and Scheme, with the exception of the formal consultation required to progress with the proposed Health Improvement Duty, which would have formally recognised the impact that the existing statutory functions of the WMCA could have in improving health outcomes for the region's communities.

3.2 The engagement exercise has now commenced and runs from 23 June - 19 August, consisting of a survey, a digital campaign to promote the survey, and a number of accompanying online engagement activities that anyone from the region can attend. The aim of this engagement is to provide the general public, business and other stakeholders across the seven local authority areas with the opportunity to share their views on the proposals. The WMCA will then use the feedback received to inform local authority consents and any final decision by the WMCA Board on 13 October.

4. Governance and Accountability

4.1 In announcing the Deeper Devolution Deal, the Government rightly highlighted the importance of governance and accountability underpinning these new powers and responsibilities. These enhanced accountabilities have been framed within the English Devolution Accountability Framework, which was published in March and formed a key part of the Government's thinking in respect of local accountability. The accountability framework seeks to ensure that mayors and other local leaders are subject to robust and effective scrutiny by local politicians and an informed public. It applies to all English institutions with devolved powers (including combined authorities).

4.2 In launching the new framework, Dehenna Davison MP, Parliamentary Under-Secretary of State for Levelling Up said:

“The accountability system described in this framework acts as a safeguard against unethical behaviour, inadequate performance and poor value for money for the local taxpayer by placing a focus on transparency and scrutiny. It will ensure that local councillors are empowered to provide effective scrutiny through a new scrutiny protocol. It will improve the decision making process and allow greater progress in delivering levelling up to all areas that have agreed devolution deals.”

4.3 Within the Deeper Devolution Deal agreement text itself, the Government set out more clearly its expectations in respect of the West Midlands (paragraph 20):

The WMCA will, through this deal, be subject to three levels of accountability:

- (a) As a local authority, it is subject to the requirements of the Local Government Accountability Framework.*
- (b) As an institution with devolved powers, the WMCA will be subject to the English Devolution Accountability Framework which details additional accountability processes for all institutions with devolved powers and highlights those requirements of the Local Government Accountability Framework which are of particular significance for such institutions, including the decisions that mayoral combined authorities are responsible for and the recourse available to the Government.*
- (c) In light of the specific new powers being agreed in this trailblazer deeper devolution deal, including the single settlement, and in the spirit of greater power requiring greater accountability, the WMCA commits to building a culture of greater scrutiny and accountability through the proposals set out in this section.*

- 4.4 A key piece of work therefore for the WMCA this year (assuming the deal is ratified by constituent authorities and the WMCA Board at its meeting on 13 October) will be to “*build a culture of greater scrutiny and accountability*”. To help facilitate this, the English Devolution Accountability Framework commits the Government to develop what it is calling a ‘scrutiny protocol’ for all institutions with devolved powers which will set out the relationship between the mayor, the institution and its scrutiny and audit functions. The scrutiny protocol will focus on ensuring that each institution has a sustained culture of scrutiny, which it characterises as (paragraph 24):

“.....designed to ensure that all areas with devolution deals, but especially those which manage single settlements, should have best in class scrutiny functions. Membership on committees, and in particular the role of chair, should be prized and competed for. Retention of members for several years should be common. Members should be able to devote the time to the role. The committees should have the profile and cache to ensure that their findings are brought to the attention of the public wherever necessary.”

- 4.5 The Department for Housing, Levelling Up & Communities has convened a small working group to help develop the contents of the scrutiny protocol, which includes representatives from the Centre for Governance & Scrutiny, Greater Manchester Combined Authority and the WMCA’s Head of Corporate Support & Governance. It is expected that the protocol will be published later in the Summer, and a full report will be submitted to the Overview & Scrutiny Committee on 4 September setting out requirements of the protocol in detail. It is intended that members of this committee will be asked to approve in September the manner and means by which the WMCA will apply the protocol to its overview and scrutiny function going forward, committing to meeting a key requirement of the Deeper Devolution Deal.

5. **Mayoral Scrutiny by Members of Parliament**

- 5.1 Whilst not directly falling within the remit of this committee, but nonetheless forming part of the WMCA’s wider ‘accountability and scrutiny framework’, the Deeper Devolution Deal also introduced the new idea of the region’s Members of Parliament scrutinising the Mayor in four public sessions a year covering the performance and strategic direction of the WMCA. These are completely new arrangements, the details of which have not yet been formulated, and so the report to the September committee will provide further clarity as it emerges. Similar to the scrutiny protocol though, officers of the WMCA are working closely with the Department for Housing, Levelling Up & Communities to help shape these MP Q&A events to ensure that they add value to the wider governance and accountability of the WMCA, whilst ensuring that there is no duplication of the critical role members of this committee play in exercising overview and scrutiny of the WMCA’s decision makers.

6. Conclusions

- 6.1 This is a period of significant change and growth for overview and scrutiny within the WMCA and across institutions with devolved powers within England. Announcements from the Government over the last six months have clearly indicated that it expects combined authorities to strengthen the role of strong, independent overview and scrutiny within its decision making and performance reporting arrangements. This committee, working alongside Transport Delivery Overview & Scrutiny Committee and Audit, Risk & Assurance Committee, will help shape the new arrangements and meet the expectations placed on it by the Government and the wider public of the region. In doing so over the course of the coming year, members of the committee will be playing a key role in delivering on the WMCA's Deeper Devolution Deal and meeting the commitment given when the deal was announced in March:

The Government and the WMCA agree that implementation of these scrutiny arrangements, and adherence to the scrutiny protocol, is a vital part of the implementation of the full range of commitments in the devolution deal.

7. Strategic Aims and Objectives

- 7.1 Whilst the provisions of the Deeper Devolution Deals impact on all of the WMCA's corporate aims, securing and implementing the deal specifically relates to the following aims:

Aim 5 - Securing new powers and resources from central government.

Aim 6 - Developing our organisation and our role as a good regional partner.

8. Financial Implications

- 8.1 There are no direct finance implications arising out of this report.

9. Legal Implications

- 9.1 The WMCA will comply with the legal implications required by the devolution deal in respect of overview and scrutiny.

10. Single Assurance Framework Implications

- 10.1 There are no direct implications for the Single Assurance Framework arising out of this report.

11. Equalities Implications

11. There are no direct equalities implications arising out of this report.

12. Inclusive Growth Implications

- 12.1 There are no direct inclusive growth implications arising out of this report.

13. Geographical Area of Report's Implications

- 13.1 The Overview & Scrutiny Committee comprises members from across the constituent and non-constituent authorities participating within the WMCA.

14. Other Implications

- 14.1 There are no other direct implications arising out of this report.

15. Schedule of Background Papers

West Midlands Combined Authority Trailblazer Deeper Devolution Deal - 15 March 2023
English Devolution Accountability Framework - 16 March 2023