

## Appendix 6 Combined Authorities

- 1 A combined authority is a type of local government institution introduced in England outside Greater London by Section 6 of the Local Democracy, Economic Development and Construction Act 2009. Combined authorities are created voluntarily and allow a group of local authorities to pool appropriate responsibility and receive certain delegated functions from central government in order to deliver transport and economic policy more effectively over a wider area.
- 2 The Act also introduced the power to set up Economic Prosperity Boards which are also legal entities and can have devolved powers and hold funding but with more limited scope than combined authorities e.g. there is no provision in the Act for EPBs to be given borrowing or tax raising powers, nor to have the power to issue a levy to constituent authorities, nor to retain business rates.
- 3 Any proposal to establish a Combined Authority or Economic Prosperity Board must meet the statutory tests set out in part 6 of the Local Democracy, Economic Development and Construction Act 2009. These tests are that a combined authority is likely to improve
  - the exercise of statutory functions relating to transport in the area;
  - the effectiveness and efficiency of transport in the area;
  - the exercise of statutory functions relating to economic development and regeneration in the area;
  - economic conditions in the area.

The Secretary of State will also have regard to the need:

  - to reflect the identities and interests of local communities;
  - to secure effective and convenient local government
- 4 The Secretary of State should normally undertake formal public consultation lasting 8 weeks on any Scheme to establish a combined authority unless he considers that no further consultation is necessary. Subject to Ministerial agreement, a draft Order to establish the combined authority would then be laid before Parliament.
- 5 Once established, a combined authority is a legally recognised entity able to assume the role of an integrated transport authority and economic prosperity board. This gives the combined authority the power to exercise any function of its constituent councils that relates to economic development and regeneration, and any of the functions that are available to integrated transport authorities. For transport purposes, combined authorities are able to borrow money and can levy constituent authorities. The draft Cities and Local Government Devolution Bill proposes to confer additional powers on combined authorities (see below).
- 6 Combined authorities should consist of two or more contiguous English local government areas. The creation of a combined authority is voluntary and all local authorities within the area must give their consent before it can be created. The geographical footprint for a combined authority should be based on a coherent functional economic area.
- 7 The Cities and Local Government Devolution Bill was introduced in the House of Lords on 28 May 2015 and had its third Reading on 21 July before it passes to the House of Commons. It covers England and Wales and is proposing the following key changes:
  - Makes provision for elected mayor (and chair) of a Combined Authority and appointment by the elected mayor of a deputy mayor (drawn from one of the constituent council leaders).

- Power for elected mayor to exercise the powers of a Police and Crime Commissioner in the CA area.
- Makes provision for the CA to be responsible for any local authority function or functions of public bodies outside of local government
- Makes provision for the CA to exercise general power of competence (Localism Act 2011) with consent of constituent councils.
- Granting powers to a mayoral CA to levy a precept.
- Power for elected Mayor to approve any subsequent change to the combined authority boundary.
- Makes provision for CA's to have Overview and Scrutiny Committees and Audit Committees.
- Removal of geographical restrictions in relation to CA's;
- Enables the Secretary of State to devolve certain health service functions subject to meeting various conditions.

8. The Act is expected to be receive Royal Assent in December 2015.

### **Membership, Governance and Two Tier Arrangements**

9 The 2009 Act enables the Secretary of State to make an order establishing a combined authority for an area which meets specified geographic conditions that:

- the area is contiguous and forms a continuous area;
- consists of the whole of an authority. In the case of a County, this would require the agreement of the County Council and all the District / Borough Councils in the county area.

10. These Councils become the constituent members of the combined authority. There is also the possibility of non-constituent membership. This is relevant to District / Borough councils (if the County Council has decided not to join) and Local Enterprise Partnerships. At present, a district may only be a constituent member if the county within which it sits, and all of the districts in that county, are also constituent members. However, not all Districts are members of the Greater Birmingham & Solihull LEP and so have not been invited to join the WMCA – therefore, this District cannot become a constituent member via this option. There is a restriction at the current time about part of a County Council area joining a CA outside of its administrative boundaries.

11 The Government proposes to remove this geographical restriction and allow local authorities that are in the same FEA without contiguous boundaries to form or join a CA or EPB. Draft legislation was published in March 2015. This would also allow part of a County to join a combined authority if the County Council and District Council(s) for that area agreed. This issue is now included in the Cities and Local Government Devolution Bill.

12 The legislation at present also requires that there is no local government area that is surrounded by local government areas that are within the CA or EPBs, but the 'surrounded' local government area is not within the CA or EPB, preventing a 'doughnut shape' CA or EPB being formed. This restriction is removed by the Bill.

13 A local authority can be a member of multiple combined authorities but can only become a constituent member of one combined authority. Even if the draft legislation comes into force, Warwick District Council can only become a constituent member of the West Midlands CA if Warwickshire County Council agreed to join and transfer certain functions to the Combined Authority e.g. transport and as they have declined to join, the District

Council can only join the WMCA on a non- constituent basis as a result of its existing powers.

- 14 Although it would not be set out in the Order it is open to the combined authority to determine locally how the non-constituent members are involved in decision making via the CA constitution. It is also open to authorities to delegate functions to other authorities, which includes a combined authority or EPB, under s101 of the Local Government Act 1972. This could be in the form of a Joint Committee.