

# Decision Pathway Report



**PURPOSE:** Key decision

**MEETING:** Cabinet

**DATE:** 21 January 2020

<b>TITLE</b>	<b>Transport Authority Integration Project</b>		
<b>Ward(s)</b>	<b>All/Sub-regional</b>		
<b>Author: Patsy Mellor</b>	<b>Job title: Director: Management of Place</b>		
<b>Cabinet lead: Cllr Kye Dudd</b>	<b>Executive Director lead: Stephen Peacock</b>		
<b>Proposal origin:</b> <i>Other</i>			
<b>Decision maker:</b> Cabinet Member <b>Decision forum:</b> <i>Cabinet</i>			
<b>Purpose of Report:</b> <ol style="list-style-type: none"><li>To seek approval for the transfer of selected transport functions to WECA, for which WECA already has legal responsibility as per the WECA Order.</li><li>To seek approval for the transfer of the budget for staff and resources of £1.46m (subject to and formal consultation with affected staff) and the delegation of authority for related processes (including TUPE, novation of contracts and implementation of an operating agreement that will govern how decisions are made between authorities after the transfer is completed) to the Executive Director for Growth and Regeneration; in consultation with the Cabinet Member for Finance, Governance and Performance and the Executive Director for Resources.</li></ol>			
<b>Evidence Base:</b> <ol style="list-style-type: none"><li>A set of public transport functions was conferred to WECA as part of the WECA Order. The proposed change is intended to transfer selected transport functions to WECA, for which WECA already has legal responsibility as per the WECA Order. Those functions were concessionary travel, bus service information, community transport and supported bus services. Travelwest, and business-as-usual operation of Metrobus, are also included within this proposal. Detail of these functions is provided in Appendix A.</li><li>A WECA project commenced in March 2019, with a view to delivering the change. Analysis of work of relevant teams within the Management of Place service has also been undertaken by BCC, to ensure a rigorous process.</li><li>An operating agreement between WECA and the constituent authorities is in development, to ensure that the governance arrangements between WECA and its constituent authorities are clear and WECA is accountable for how the levy payments are invested.</li><li>The total staff resource which is proposed to transfer (from the Passenger Transport Services and Transport Information teams) is 10.8 FTE (subject to formal consultation with affected staff).</li><li>The 2016 devolution deal stated that "in addition, a new single policy and delivery body will be created covering the same area..." As such, a second phase of the Transport Authority Integration project is anticipated – which will seek to consolidate transport policy/planning functions; and potentially other public transport functions. This will come back to Cabinet for decision.</li></ol>			
<b>Cabinet Member Recommendations:</b> <b>That Cabinet:</b> <ol style="list-style-type: none"><li>Approves the transfer of the budget for staff and resources of £1.46m (subject to formal consultation with affected staff) to WECA, and delegates responsibility for related processes (including TUPE, novation of contracts and implementation of an operating agreement that will govern how decisions are made between authorities after the transfer is completed) to the Executive Director for Growth and Regeneration; in</li></ol>			

consultation with the Cabinet Member for Finance, Governance and Performance and the Executive Director for Resources.

- Notes that £8.17m is already part of the existing WECA Levy, of which £0.045m relates to potential staffing costs arising as a result of the transfer to WECA. This amount will be subject to inflationary increases of 2% annually, and is subject to annual cost reviews by the UAs

**Corporate Strategy alignment:**

- Proposed change agreed in principle as part of the WECA Order and reflected in the 2016 devolution agreement.
- WECA committee decision on 30<sup>th</sup> November 2018 delegated responsibility for the “responsibility for developing, and implementing, a transition plan is delegated to the West of England Combined Authority Director of Infrastructure, in consultation with equivalent Directors from the constituent councils.” This was passed with a unanimous vote.
- BCC Corporate Strategy states that regional devolution helps the council to achieve its priorities.

**City Benefits:**

- The creation of WECA as the Transport Authority for the region is expected to bring the following benefits:
  - Principle of “greater than the sum of the parts” – meaning we can achieve more by combining resources through WECA than as councils working individually
  - A strategic approach to transport to support housing delivery, business and economic growth, connected communities and to tackle climate change and air quality
  - Providing a consistent transport offer across administrative boundaries
  - Improved resilience and operational efficiency
  - Stronger negotiating position with transport providers
  - Improved visibility/influence of the region at a national level
  - Greater opportunities to advance sustainability and climate change agendas
  - Access to more capital funding
  - Delivering a regionally prioritised transport investment programme
  - Harnessing the collective authority of the combined Leaders and Mayors through the WECA Committee

**Consultation Details:**

Jan/Feb 2020 – Formal consultation on proposal

**Background Documents:**

- West of England devolution deal (government policy paper 16<sup>th</sup> March 2016) <https://www.gov.uk/government/publications/west-of-england-devolution-deal>
- The West of England Combined Authority Order 2017 <https://www.legislation.gov.uk/uksi/2017/126/contents/made>
- West of England Combined Authority Committee 30<sup>th</sup> November 2018 <https://westofengland-ca.moderngov.co.uk/documents/g129/Public%20reports%20pack%2030th-Nov-2018%2010.30%20West%20of%20England%20Combined%20Authority%20Committee.pdf?T=10>

<b>Revenue Cost</b>	<b>£ 1.495m</b>	<b>Source of Revenue Funding</b>	<i>Various Revenue Budgets within Sustainable transport.</i>
<b>Capital Cost</b>	<b>£ N/A</b>	<b>Source of Capital Funding</b>	
One off cost <input type="checkbox"/> Ongoing cost <input type="checkbox"/>		Saving Proposal <input type="checkbox"/> Income generation proposal <input type="checkbox"/>	

**Required information to be completed by Financial/Legal/ICT/ HR partners:**

**Finance Advice:**

- BCC’s existing WECA levy is estimated at £8.17m for 2020/21 (subject to Cabinet and full Council approval). There is no Cabinet decision sought on this as part of this report, however, it should be noted that this already includes staffing costs totalling £0.045m relating to any affected staff who may transfer (subject to consultation and TUPE) to WECA.
- This report is seeking approval to add 3 new services to the WECA Levy – Bus Information, MetroBus, and

- Supported bus services in this phase. It also intends to transfer the staff responsible for providing this service.
3. The value of services transferring is outlined in Table 1 below. The total estimated service expenditure is £1.214m plus staffing costs of £0.281m (which excludes staffing cost of £0.045m already in the existing Levy).
  4. The existing WECA Levy benefits from a 2% uplift (which equates to £0.204m including Community Transport buffer mentioned below and allowing for a proportion of staff costs for staffing not deemed in scope to transfer as part of TUPE).
  5. While the standard service does not allow for the typical annual inflation increases, Concessionary Fares are adjusted from time to time, and the 2% uplift is expected to allow a sufficient buffer to cover such increases. This should address year-end adjustments/additional billing.
  6. Community Transport, one of the existing services in the Levy has a planned tapering in 2020/21 which should reduce cost by £0.065m. For the purpose of budgeting, it is assumed that this funding remains as-is to allow sufficient buffer WECA to deliver service needs across all Levied services without reverting to BCC.
  7. With the exception of staffing costs which benefit from a 2% pay increase in line with TUPE (within the first year of transfer only), the new services will be transferring at existing prices and with an expectation that efficiencies will be realised as well as utilised in funding all future service growth demand. There will be no inflationary increase to these services. Also, with the exception of On-cost for staff (NI & Pension), no other overhead is provided in this transfer. WECA will be covering these from within their existing resources or from efficiencies.
  8. Supported bus services, one of the new services transferring, benefits from a fuel subsidy grant from central government (BSOG), and this grant will be novated as part of the budget transfer. In addition to this, the service also benefited from S106 contributions towards bus services, however, these additional funds are ending in 2019/20 and have been excluded from future planning assumptions. For the BSOG that is transferring, it is expected that the services currently funded will continue, however, were the grant to cease, there is a risk that this will result in service changes. Likewise, if the BSOG were to grow, BCC will expect to see an increased investment of such funds within its geographical area.
  9. The Budget for new services transferring into the WECA Levy totals £1.495m and is currently part of the sustainable transport budget. The budget will be transferred to a corporate levy budget and removed from the Management of place budget.
  10. The report seeks approval to transfer a budget of £1.495m into the WECA Levy, as well as transfer 10.8 FTE (Subject to consultation and TUPE) to WECA. There are no other financial implications as part of this report.

**Table 1**

		BCC Proposed Levy		
		20/21	20/21	20/21
<u>Existing Services</u>		£	£	£
Total Existing WECA Levy (2% Inflation)		8,126,531	8,289,421	8,455,570
<u>New Services</u>				
<u>Bus Information</u>				
	Gross Expenditure	86,388	86,388	86,388
	Income/Funding	-25,000	-25,000	-25,000
	Sub-Total	61,388	61,388	61,388
<u>Metrobus</u>				
	Gross Expenditure	181,678	181,678	181,678
	Income/Funding	-118,402	-118,402	-118,402
	Sub-Total	63,276	63,276	63,276
<u>Supported bus services</u>				
	Gross Expenditure	1,621,590	1,621,590	1,621,590
	Income/Funding	-532,340	-532,340	-532,340
	Sub-Total	1,089,250	1,089,250	1,089,250
	<b>Total New Services</b>	<b>1,213,914</b>	<b>1,213,914</b>	<b>1,213,914</b>
<u>New staffing Cost</u>				
	Staffing Costs (Incl £45k already included in Existing Levy)	326,556	327,462	328,385
	<b>Grand Total WECA Levy</b>	<b>9,667,001</b>	<b>9,830,797</b>	<b>9,997,869</b>

**Finance Business Partner:** Kayode Olagundoye 13/01/2020

**2. Legal Advice:** The West of England Combined Authority Order 2017 transferred the public transport functions referred to in this report to WECA. This report seeks approval to now transfer the associated BCC resources and staff delivering these functions to WECA.

The Transfer of Undertakings (Protection of Employment) Regulations 2006 are likely to apply to the Transport Authority Integration project. The Council must determine the scope of those transport functions which have transferred to WECA as part of the first phase of the project. It can then assess which employees are assigned, for the purposes of TUPE, to those services and will therefore transfer under TUPE to WECA.

TUPE applies by operation of law and any disputes will be dealt with in accordance with the legal basis on which TUPE may apply.

The Council should continue to seek advice from HR and Legal Services in relation to the potential transferring employees and also any impact on staff who do not transfer. Ideally the Council and WECA will provide suitable indemnities for any employment liabilities arising pre-transfer (Council) or post-transfer (WECA).

WECA is a scheme employer in the LGPS so pension arrangements for transferring employees will be relatively straightforward.

Legal Services will advise and assist officers in relation to the novation of contracts and the operating agreement.

**Legal Team Leader:** Husinara Jones 17/12/2019

**3. Implications on IT:** Consideration of the migration of data and systems access will need to be made as the project progresses involving colleagues from IT Services and Information Assurance. Decisions regarding which items of equipment are to be transferred need to continue (via TUPE or via separate commercial/legal agreement). A transition period will need to be established whereby BCC continues to provide equipment and software access whilst WECA procure/implement their replacement systems. At this time, the scale or scope of the work cannot be fully assessed.

**IT Team Leader:** Simon Oliver 11/12/2019

**4. HR Advice:** Employees assigned to the core elements of the Transport function deemed in scope for the integration will transfer under TUPE regulations to WECA on 1<sup>st</sup> April 2020. Work is underway to assess which staff may be affected, pending the Cabinet meeting in January 2020. HR are fully engaged with the project and are working closely with the other unitary authorities and WECA's project team. Formal consultation with affected employees and the trade unions should commence straight after Cabinet's decision to allow time for meaningful consultation with those transferring as well as teams and individuals who will remain in BCC.

**HR Partner:** Celia Williams 10/12/2019

<b>EDM Sign-off</b>	Colin Molton	09/10/2019
<b>Cabinet Member sign-off</b>	Cllr Kye Dudd	21/10/2019
<b>For Key Decisions - Mayor's Office sign-off</b>	Mayor's Office	19/12/2019

<b>Appendix A – Further essential background / detail on the proposal</b>	<b>YES</b>
<b>Appendix B – Details of consultation carried out - internal and external</b>	<b>NO</b>
<b>Appendix C – Summary of any engagement with scrutiny</b>	<b>NO</b>
<b>Appendix D – Risk assessment</b>	<b>YES</b>
<b>Appendix E – Equalities screening / impact assessment of proposal</b>	<b>YES</b>
<b>Appendix F – Eco-impact screening / impact assessment of proposal</b>	<b>YES</b>
<b>Appendix G – Financial Advice</b>	<b>NO</b>
<b>Appendix H – Legal Advice</b>	<b>NO</b>
<b>Appendix I – Exempt Information</b>	<b>NO</b>
<b>Appendix J – HR advice</b>	<b>NO</b>

<b>Appendix K – ICT</b>	<b>NO</b>
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