

## **APPENDIX B**

### **Table of Changes from Scheme published with June Council Papers to Draft Parliamentary Order**

The following table has been prepared following negotiation with Officials at HMT, DCLG and DfT. It has been prepared for publication for Cabinet/Council Meetings on 14 November 2016. It has been issued to Members at a point where the Councils have received a **draft** Order. The following is therefore based on the content of the that draft Order. A copy of the Order is attached as Appendix A

#### **Table of Change – Position at 11 November 2016**

<b>Scheme Wording (June 2016)</b>	<b>Issues</b>	<b>Change Resolution for Parliamentary Order (November 2016)</b>
<b>1. MCA</b> The MCA will come into existence on 1 April 2017.	This date would have prohibited the MCA from receipt of a Gainshare payment in the 2016/17 financial year or setting a levy to inform Council budgets.	It is proposed that the MCA will come into effect as close as possible to 1 February 2017.
<b>2.7.2 Mayoral Term</b> The initial term for the Combined Authority Mayor will be four years.	There was a strong challenge from Government that this should be three years as an efficiency saving with other elections.  The scale and nature of those other elections was why the Councils had suggested a 4-year term.	Government have agreed with our politicians that a 4-year first term will be preferable. The position is therefore consistent with the Scheme.
<b>1.5.1 Overview &amp; Scrutiny</b> Mayoral Combined Authority shall establish a Committee to exercise responsibility for the Overview and Scrutiny functions applicable to the Mayoral Combined Authority.	A generic Parliamentary Order will be legislated separately from the WoE Order to provide for the Overview and Scrutiny Requirements.	Overview and Scrutiny legislation is not established by this Parliamentary Order. We are expecting a separate Order for February 2016.
<b>2.1.3 Local Transport Plan</b> Mayoral functions are to include responsibility for a Local Transport Plan.	Politicians had pushed for this plan to be subject to unanimous approval alongside the JSP. Owing to the MCA becoming the Transport Authority and the Mayor taking responsibility for the single capital pot, Govt were	The LTP will be a Mayoral function requiring 2/3 voting as per the Scheme.

	insistent that the Local Transport Plan be the Mayoral function subject to Mayoral voting (2/3).	
<p><b>2.3.2 Transport Authority</b></p> <p>The Mayoral Combined Authority will become the Transport Authority for the region. It will be appropriate however, for certain powers conferred with that status to be devolved back to the individual Constituent Councils and exercised at the local level. It is expected that this will include, but not be limited, to the duty to support socially necessary bus services under Section 63 of the Transport Act 1985.</p>	Govt Policy is to make an MCA a Transport Authority exclusively for all transport matters. This might have included bus lane enforcement, socially necessary bus services, road pricing and concessionary travel. Politicians have pushed back on critical local issues.	<p>The Draft Order reflects our understanding that;</p> <ul style="list-style-type: none"> <li>• Bus lane enforcement will remain exclusively with the UAs.</li> <li>• Functions relating to socially necessary buses are to be exercised jointly across the WoE area (i.e. between the three constituent councils, the WoECA and the mayor). This includes Park &amp; Ride services.</li> <li>• Community Transport grants under Section V of the 1985 Transport Act will be exercised exclusively by the MCA (arrangements to be made with UAs).</li> <li>• Concessionary Travel will be exercised exclusively by the MCA (arrangements to be made with UAs).</li> </ul>
<p><b>2.3.3 (and 2.3.8) Highway Authority</b></p> <p>The Mayoral Combined Authority will be the Highway Authority for the Key Route Network for the purposes of exercising the powers of the Highways Act 1980 and the relevant other primary and secondary legislation.</p>	Govt have challenged the MCA to statutorily define the KRN and take on the appropriate Highway powers but recognise that in establishing an MCA without previously having been an ITA, WoE is not in a position to implement this. A light-touch process has been agreed for Deal 1.	<p>The MCA will not be the Highway Authority for any part of the network and this will not be in the Parliamentary Order. 2.3.8 is effectively removed in its entirety.</p> <p>The MCA will have powers to enter into agreements with local highway authorities and strategic highways companies for the doing of certain works.</p> <p>A revised Order could be</p>

		considered once the CA and Mayor have set the principles of the KRN.
<b>2.3.4 Moving Traffic Offences</b> The Mayoral Combined Authority will be granted, in respect of the Key Route Network and with the approval of the Constituent Councils, functions equivalent to those conferred upon the Mayor of London, by the Transport Act 2000.	Many areas are pushing for devolved powers to enforce 'moving traffic offences'. We see these as critical to successfully delivering the likes of Clean Air Zones. The Government position is that this is not being devolved anywhere now but they are open to further discussion.	Moving traffic offences are not included in the Parliamentary Order.
<b>2.3.5 KRN &amp; TROs</b> The Mayoral Combined Authority will be granted powers equivalent to those contained within Part 1 of the Road Traffic Regulation Act. These powers would enable the Key Route Network to be statutorily defined and allow the KRN roads to be strategically managed and coordinated at the city-region level by the MCA on behalf of the Mayor.	DfT have agreed a light-touch approach to the KRN for Deal 1 and as such, this no longer needs power for Traffic Regulation Orders. The delivery function rests with the UAs.	This is effectively removed from the Parliamentary Order for Deal 1.
<b>2.3.6 Clean Air Zones</b> The Mayor and the Mayoral Combined Authority will have the power to create Clean Air Zones, with the affected highway authority(ies) consent.	The Government position on what parts of Transport Acts would transfer has been very unclear and Authorities expressed concerns about some of the powers within Part III of the Transport Act 2000 transferring to the MCA.	Government have clarified that Part III of the Transport Act 2000 will not transfer, so provisions for charging vehicles in Clean Air Zones will remain a function for the individual authorities.
<b>2.3.7 BSOG</b> It is proposed that powers retained by the Secretary of State for Transport to make grants to bus service operators under Section 154 of the Transport Act 2000, will be transferred, incrementally, to the Mayoral Combined Authority.	The MCA wanted clarification that any Bus Franchising provisions would be accompanied by the appropriate BSOG (Bus Services Operators Grant) funding.	DfT were challenged on what was required for the Order and advised that should a WoE Mayor make a decision to franchise commercial bus services within the CA area, DfT will work with the CA to determine an appropriate level of commercial BSOG which could be devolved to the

		Mayor for inclusion in the devolved transport grant with an agreed phasing for transfer of functions.
<b>1.4.5 Borrowing</b> Approval of the Combined Authority's borrowing and limits, treasury management strategy including reserves, investment strategy and setting of the CA levy will require unanimous support of all constituent councils but, the Mayor will not have a vote.	We have had assurances that the levy can be agreed unanimously as per the scheme with a fall-back based on percentage of population.	The Draft Order confirms these approvals are subject to unanimous approval of the WoECA excluding the Mayor and states that the levy will be apportioned by constituent council in such proportions as they may agree or, in default of such agreement, in proportion to the total resident population of the WoECA which resides in that council at the relevant date as estimated by the Statistics Board.
<b>3.5 Borrowing</b> Regulations should be made pursuant to section 23 (5) of the Local Government Act 2003 to give the Mayoral Combined Authority borrowing powers for priority infrastructure projects, including but not limited to; transport, highways, housing, investment and economic regeneration, as relevant to the exercise of its functions, both mayoral and non-mayoral, within agreed limits.	We have had pushback from Govt that borrowing powers will be limited to transport.	The current national position is understood to be that borrowing powers will be restricted to transport.
<b>2.4.4 JSP</b> The Mayor will be given power to prepare and adopt the Joint Spatial Plan insofar as it relates to the Combined Authority Area. In order to give effect to this, the Mayor will be given powers corresponding to those given to the London Mayor pursuant to Part VIII, sections 334 to	North Somerset's withdrawal has rendered the JSP non-compatible with the MCA geography and there was no legislative provision for the JSP to be adopted (even in part) under GLAA 1999 powers, where it has been examined under T&CPA 1990 powers.	The duty for the Mayor to produce the Mayoral Spatial Strategy will be subject to a delay until May 2018. This will allow the continued development of the JSP before this duty comes into effect. Voting to publish the Spatial Strategy remains unanimous.

350 of the Greater London Authority Act 1999 (the “GL Act”) with certain modifications.	The MCA will have a duty to deliver a Mayoral Spatial Strategy covering the MCA area.	
<b>2.4.10 Call-in</b> The Mayor will be granted certain strategic planning functions; these will include powers to prepare, submit and determine planning applications. The exercise of such functions will be confined to strategic, cross-boundary, linear infrastructure identified in the Joint Spatial Plan.	DCLG have confirmed that the Mayoral power to call-in a planning application will only be exercisable upon adoption of a Mayoral Spatial Strategy.  DCLG wanted definition of ‘infrastructure’.	The Mayor will not be able to exercise call-in for strategic, cross-boundary, linear infrastructure until such time as the Mayoral Spatial Strategy is adopted. Councils have asked that infrastructure be defined as;  <ul style="list-style-type: none"> <li>•Roads and public highway development, bridges, highway improvement works, bus lanes, rail, rapid-transit</li> <li>•Flood defences</li> </ul>
<b>2.5.1 Adult Education</b> The Mayoral Combined Authority will be given devolved powers to control the Adult Education Budget from the academic year 2018/19.	The devolution of AEB will be subject to a separate national Order.	The target for the Parliamentary Order devolving AEB is currently Easter 2017. Skills devolution does not feature within this Order.
<b>2.5.3</b> The Mayoral Combined Authority will be granted responsibility for the Apprenticeship Grant for Employers (AGE).	This has commenced on the back of the Deal signed in March 2016.	AGE funding commenced in August 2016. The 3 Councils have received an enhanced offer reflecting their role in the Devolution Deal.
<b>2.6.1 Intermediate Body</b> the Mayoral Combined Authority will gain the powers of an Intermediate Body to select ERDF and ESF projects.	This matter is still being negotiated with DCLG.	The establishment of IB status does not require separate legislation and is not addressed in this Order.