

<b>Report title</b>	Black Country Joint Committee Collaboration Agreement	
<b>Decision designation</b>	AMBER	
<b>Cabinet member with lead responsibility</b>	Councillor Obaida Ahmed Resources and Digital City	
<b>Key decision</b>	Yes	
<b>In forward plan</b>	Yes	
<b>Wards affected</b>	All Wards	
<b>Accountable Director</b>	Tim Johnson, Chief Executive	
<b>Originating service</b>	Strategic Finance	
<b>Accountable employee</b>	Claire Nye Tel Email	Director of Finance 01902 550475 <a href="mailto:Claire.Nye@wolverhampton.go.uk">Claire.Nye@wolverhampton.go.uk</a>
<b>Report to be/has been considered by</b>		

---

### Recommendations for decision:

The Cabinet is recommended to:

1. Delegate authority to the Cabinet Member for Resources and Digital City, in consultation with the Director of Finance and the Chief Operating Officer, to make any final amendments and authorise the sealing by the Council of the Collaboration Agreement.
2. Delegate authority to the Cabinet Member for Resources and Digital City, in consultation with the Director of Finance and the Chief Operating Officer, to negotiate, approve and sign the Memorandum of Understanding for Enterprise Zones.

### Recommendations for noting:

The Cabinet is asked to note:

1. The draft revised Collaboration Agreement detailed at Appendix 1.

## **1.0 Purpose**

- 1.1 The purpose of this report is to set into place the arrangements agreed by the four Black Country Local Authorities (BCLA's) required to retain and continue the successful administration of legacy funding in the Black Country, following the abolition of the Black Country Local Enterprise Partnership (BC LEP) with effect from the 31 March 2023.
- 1.2 To facilitate this, to set into place the required arrangements between the BCLAs and to ensure this funding is retained for use across the Black Country, it is proposed to update the existing legal agreement underpinning the Black Country ways of working: The Black Country Joint Committee Collaboration Agreement (Collaboration Agreement).
- 1.3 To update the Memorandum of Understanding for Enterprise Zones (EZ MOU) between the BCLAs and the relevant Government department.

## **2.0 Background**

- 2.1 In 2013 the four BCLAs (Dudley, Sandwell, Walsall and Wolverhampton) approved the formation of the Black Country Executive Joint Committee (BCJC), granting it the functions and powers to administer the City Deal and Growth Deal programmes. Council approved these arrangements on 18 December 2013.
- 2.2 Since 2013, several amendments to the Collaboration Agreement have been made which have been approved and set out in previous Cabinet reports and included the increasing of the BCJC's scope to administer all funds secured by the BC LEP.
- 2.3 The February 2022 Levelling Up White Paper signalled a shift in policy direction from Government, requiring the functions of Local Enterprise Partnerships to be transferred into Combined Authorities. Since this date, the BC LEP has been working with the West Midlands Combined Authority (WMCA) to develop an integration plan, to transfer their functions by the end of this financial year.
- 2.4 The Collaboration Agreement has been updated to reflect the integration plan, formalise arrangements for continued Black Country ways of working, and the management of legacy funds, including the Enterprise Zone being the only significant uncommitted ongoing fund. Department of Business, Energy and Industrial Strategy (BEIS) have confirmed that management, reporting and decision making in relation to BC LEP Legacy Funds will remain the responsibility of the BCLAs, with these responsibilities not transferring to the WMCA.
- 2.5 From 1 April 2023 the continued management and monitoring of BC LEP legacy funds will be the responsibility of the BCLAs; it has been agreed that these will continue to be managed locally by Walsall Council, as the BC LEP's Single Accountable Body (SAB). Enterprise Zones are the only significant BC LEP Fund that is not fully committed, so government have specifically requested that a (non-legally binding) Memorandums of Understanding (MOU) in relation to Enterprise Zones is agreed between them and the

BCLAs. The relevant government department and signatory to this MOU, and timeframes for signing, are still to be confirmed as at the date of this report.

### **3.0 Context**

- 3.1 The four BCLAs (Dudley, Sandwell, Walsall and Wolverhampton) approved the formation of the Black Country Executive Joint Committee (BCJC) in 2013, granting it the functions and powers to administer the City Deal and Growth Deal programmes.
- 3.2 These roles, functions and powers, together with how the BCLAs and the Black Country Consortium Ltd (BCC Ltd) being the five partners, will work together were recorded in the Collaboration Agreement. This included an acceptance of delegated authority from each council's Cabinet for the BCJC to act as the decision making body for the identified programmes.
- 3.3 The February 2022 Levelling Up White Paper signalled a shift in policy direction from Government, requiring the functions of Local Enterprise Partnerships to be transferred into Combined Authorities. Since this date, the BC LEP has been working with the WMCA to develop an integration plan, to transfer their functions by the end of this financial year, and on 14 December 2022 a report to Cabinet titled "Update On Streamlining Black Country Ways Of Working – Black Country Consortium Ltd" set out some detail in relation to this, including the voluntary winding down of BCC Ltd.
- 3.4 The Collaboration Agreement has been updated to reflect the integration plan and formalise arrangements for continued Black Country ways of working. The Collaboration Agreement sets out how BC LEP legacy funds will be managed (paragraphs 3.7 to 3.13), including Enterprise Zones (paragraphs 3.14 to 3.20) being the only significant uncommitted fund remaining, and sets out revised governance arrangements (paragraphs 3.21 to 3.23). BEIS have confirmed that management, reporting and decision making in relation to BC LEP Legacy Funds will remain the responsibility of the BCLAs, with these responsibilities not transferring to the WMCA.
- 3.5 BCC Ltd was an original signatory to the Collaboration Agreement and will continue trading until the 31 March 2023, fulfilling its contractual obligations in its current financial year but seek to cease trading post that date, effectively closing its accounts by 30 June 2023. Therefore, BCC Ltd will no longer be a signatory to the Collaboration Agreement.

#### **BC LEP Legacy funds**

- 3.6 BC LEP Legacy Funds (Legacy Funds) are as follows: the Local Growth Deal; the Growing Places Fund; the Land and Property Investment Fund (LPIF); the Black Country Enterprise Zone (BCEZ); the Getting Building Fund; and the BC LEP Reinvestment Fund. Walsall Council are the Single Accountable Body (SAB) for the BC LEP.
- 3.7 The majority of BC LEP legacy funds are fully spent or committed to projects:
  - The Local Growth Deal Fund (cumulative grant award of £211 million) was fully spent by March 2021 on 116 projects. The programme is now in the output

monitoring stage of its lifecycle. The Growing Places Fund was used to over-programme Local Growth Fund and is also fully spent.

- The £53 million LPIF was awarded by the WMCA as part of its first Devolution Deal. Final indicative allocations to commit the remaining balance of the LPIF have been approved by the BC LEP and BCJC. This programme will then be fully committed with investment in 10 projects. The fund must be fully spent by March 2025, with a further year allocated for output monitoring, to March 2026.
- The Getting Building Fund (£27.7 million), awarded via the WMCA, was fully spent by March 2022, and is now in the output monitoring stage of its lifecycle.

3.8 The LEP Reinvestment Fund was established by the BC LEP to capture recycled investments from other LEP grants, such as from overage and the Building Digital UK (BDUK) Broadband project gainshare returns. The Collaboration Agreement sets out that any overage and returns to this fund will be shared equally by the four BCLAs.

3.9 The only uncommitted LEP Legacy Funds relate to the following:

**Table 1: Uncommitted BC LEP funds**

<b>Fund</b>	<b>Unallocated value</b>	<b>Additional details</b>
Growing Places Fund	£0 although further loan repayments from projects are expected in future years	Used to over-programme the Local Growth Fund. Future loan repayments to be shared equally between the 4 BCLAs
LEP Reinvestment Fund	£149,000 overage collected with a further £778,000 invoiced as at the date of this report	Any unallocated remaining funds to be shared equally between the 4 BCLAs
Building Digital UK Gainshare (part of the LEP Reinvestment Fund)	£994,000 net accrued to date	Gainshare receipts are received annually including payments due in 2023 with a final report in summer 2024. Gainshares received will be shared equally amongst the 4 BCLAs
Enterprise Zones	See paragraphs 3.14 to 3.20	

3.10 Reporting to BEIS and the BCJC will be the responsibility of the SAB with the last reporting date being to 31 March 2026, excluding the BCEZ. The SAB will continue to report to the BCJC and BCLAs on Contingent liabilities relating to BC LEP legacy funds (being the possible liabilities in relation to clawback risk) until such time as either the

liabilities are realised, the possible liabilities are mitigated via output delivery, or it is deemed that the risk is remote. If any liabilities were to arise from BCLA projects, they would be settled in accordance with the Collaboration Agreement, according to respective geographical areas.

- 3.11 For some of the Legacy Funds received from the funding providers in advance (i.e. Local Growth Deal, Getting Building Fund), interest was accrued in the period between grant receipt and grants being distributed to applicants. The BC LEP approved that interest could be utilised to fund SAB and BCC Ltd programme management costs, where they could not be capitalised to projects. Any remaining interest, after accounting for costs incurred by the SAB in completing their roles and responsibilities to 31 March 2026 (or beyond should any programmes be extended), shall be shared equally between the four BCLAs.
- 3.12 Any re-investment of the Legacy Funds by the BCLAs must be spent in line with which the funds were originally intended when granted, or otherwise in order to promote economic growth and development in the respective administrative areas of each of the Parties.

### **Enterprise Zones**

- 3.13 The BCEZ had to date been managed on a consolidated Black Country basis, with a shared financial model and a pre-agreed order of priority for costs claimed against collected business rates.
- 3.14 A Schedule to the Collaboration Agreement setting out these matters, and the principles and framework for managing the BCEZ, was approved by Cabinet on 11 November 2020.
- 3.15 BCLA Chief Executives and Leaders, through their Association of Black Country Authorities (ABCA) meetings, were consulted on the future of BCEZs throughout 2022-2023. Several options were explored as to how BCEZ, as a Legacy Fund, would be managed. The preferred and agreed option is that the SAB will continue to manage and administer BCEZs, collecting business rate surpluses until 31 March 2025 and paying out existing commitments from these consolidated surpluses, with the significance of this date being the point at which the majority of the shared commitments cease.
- 3.16 From 1 April 2025 (subject to a handover and settlement period to 31 August 2025), Enterprise Zones will revert back to their Local Authority of geographical origin for decision making, management and administration.
- 3.17 The North BCEZ (North EZ), comprising the Wolverhampton and Walsall geographical areas) was originally submitted to government as a joint bid. Since its approval, the North EZ priority site for investment was i54, which is now generating a business rate surplus (after accounting for borrowing costs). Whilst Phoenix 10 was identified as the next priority site, the later timing has meant that there is a shorter period to ring-fence business rates and spread borrowing costs by the end of the North EZ (being 31 March

2038). As a result of this, and differing viability gaps for Walsall and Wolverhampton projects, the surpluses of Wolverhampton are forecast to be significantly greater at by March 2038. Therefore, a straightforward reversion of the North EZ to respective Local Authorities was not in line with the original spirit and intention of the North EZ submission, being that surpluses generated from investment should support other deficit EZ sites.

- 3.18 As a result, it was agreed that a key strategic Walsall site within the BCEZ, the Gasholders site, should be funded from the Wolverhampton generated business rate surpluses up to a capped value and subject to a green book compliant business case. After Phoenix 10, where remediation works are currently on site, the Gasholders site is the next delivery priority in the BCEZ for the Walsall as landowner. The site has the potential to deliver high-quality industrial uses and is strategically important to Walsall's employment land supply and is capable of delivering significant floor-space and local jobs. As a brownfield site, delivery and development is complex with abnormal constraints impacting on viability and exacerbated by external economic influences. It is estimated that the funding requirement for the Gasholders site will likely exceed the capped value from the business rate surpluses and therefore require a blended funding solution by public sector partners.
- 3.19 The BCEZ Schedule (Schedule 6) to the Collaboration Agreement titled "BCEZ Governance Principles" has been amended to reflect these new arrangements for BCEZs post BC LEP.

### **Governance Arrangements**

- 3.20 From 31 March 2023, the BC LEP, and its Funding Sub Group, will no longer exist. Therefore new arrangements will be required to approve new investments (such as the Gasholder investment) and to approve change requests (such as reductions on outputs). BEIS have confirmed that management, reporting and decision making in relation to BC LEP Legacy Funds will remain the responsibility of the BCLAs, with these responsibilities not transferring to the WMCA.
- 3.21 The Legacy Funds are still required to follow an Assurance Framework, compliant with the government's National Assurance Framework. The amended Collaboration Agreement is drafted on the basis that BCLAs and projects must comply with the existing BC LEP Assurance Framework "in so far as it is applicable". This approach has been discussed with BEIS who consider that this is reasonable – changes to National Frameworks are reducing meaning that the BC LEP Framework will still be compliant.
- 3.22 In practice, this will mean that change requests and investment decisions, if any, would need to be approved at the Heads of Regeneration Working Group and BCJC only, with the relevant financial and legal approvals. Investment decisions (relating to BCEZs only i.e. the Gasholder project) would still need a Green Book compliant business case, which would be appraised by the SABs independent technical advisors. This would not apply to

funds shared equally between BCLAs in Table 1 above, and the BCEZ from 1 April 2025, which would follow Local Authority protocols and governance.

### **Enterprise Zone Memorandum of Understanding**

- 3.23 Enterprise Zones are the only significant BC LEP Fund that is not fully committed, so government have specifically requested that a (non-legally binding) Memorandums of Understanding (MOU) in relation to Enterprise Zones is agreed between them and the BCLAs. The relevant government department and signatory to this MOU is still to be confirmed as at the date of this report.

### **4.0 Evaluation of alternative options**

- 4.1 Without the collaboration agreement the administration of legacy funding would not be possible.

### **5.0 Reasons for decisions**

- 5.1 To seek Cabinet's approval of the revised collaboration agreement. This will ensure continued successful administration of legacy funding in the Black Country following the abolition of the BCLEP with effect from 31 March 2023.

### **6.0 Financial implications**

- 6.1 There are no direct financial implications associated with the approval of the Collaboration Agreement and the EZ MOU.
- 6.2 The Council will benefit from an equal (one quarter) share of the unallocated Legacy Funds, as set out in Table 1.
- 6.3 There are significant implications associated with the BCEZ reverting to their geographical Local Authority by 31 March 2025. All existing commitments referred to in the December 2020 Cabinet report will be honoured (i.e. SAB management costs, the £250,000 annual pipeline development grants and historic revenue costs being recovered).
- 6.4 From 31 March 2025 the Council will take the risk and reward of its own EZ surpluses. If the Council's business rates collected are less than modelled, and are insufficient to cover borrowing costs associated with Wolverhampton EZ investments or historic revenue costs, then the Council will be left with a liability. This also applies in the reverse in that if business rates collected are in excess of forecasts (noting that reasonable levels of contingency have been applied) then the Council will benefit from that surplus generated rather than it having to be returned to a consolidated BCEZ.
- 6.5 Subject to a Green Book compliant business case, Walsall Council will also benefit to a capped value of £14.9 million to contribute to the Gasholder funding package, which will be funded from surpluses generated by Wolverhampton, as detailed in section 3 of the report.

- 6.6 After taking into account the Gasholder project, current projections indicate that Wolverhampton could potentially benefit from surplus business rates of up to £30 million over the life, up to 2038. However, this is dependent on the economic climate and actual collection of business rates over this period. Work will continue to be undertaken to project the forecast level of surplus business rates expected and the Medium Term Financial Strategy will be updated to reflect this. Business cases will be developed for the use of any surplus business rates across our City, before being approved and incorporated into the Capital Programme.  
[RJ/13032023/K]

## **7.0 Legal implications**

- 7.1 Under the Local Government Act 1972 and Local Government Act 2000 as amended by the Localism Act 2012 and regulations issued by the Secretary of State, the Council's Executive has the power to setup an Executive Joint Committee.
- 7.2 An Executive Joint Committee is effectively an extension of Cabinet, making decisions on behalf of Cabinet where it has delegated authority to do so. Delegation does not prevent Cabinet from choosing to excise the powers instead of the Executive Joint Committee, nor withdrawing at any time the delegation for a specific matter or item or in its entirety.
- 7.3 The Collaboration Agreement is a legal document that requires its signatories to adhere to the governance and protocols in managing the BC LEP Legacy funds.
- 7.4 The SAB and legal and finance officers of each BCLA have been consulted on the drafting of the Collaboration Agreement. Therefore these documents can be completed as soon as the BCLAs have each secured their own formal Cabinet approvals to these arrangements. The completion of the associated binding agreement will also be progress alongside this work to provide each of the parties with the protection and risk mitigation associated with a legally binding document.  
[DP/14032023/A]

## **8.0 Equalities implications**

- 8.1 There are no direct equality implications for the Council as a result of the recommendations of this report, there will be equalities implications from some of the specific projects and these will be addressed in the decisions made on those particular projects.

## **9.0 All other implications**

- 9.1 There are no other direct implications for the Council as a result of this report.

## **10.0 Schedule of background papers**

- 10.1 Black County Executive Joint Committee

- 10.2 [Capital Programme 2021-2022 to 2025-2026 Quarter Three Review and 2022-2023 to 2026-2027 Budget Strategy](#) – Cabinet 23 February 2022
  - 10.3 [Capital Programme 2020-2021 to 2024-2025 Quarter Two Review](#) – Cabinet 11 November 2020
  - 10.4 [Update on Streamlining Black Country Ways of Working – Black Country Consortium Ltd](#)  
- Cabinet 14 December 2022
- 11.0 Appendices**
- 11.1 Appendix 1: Black Country Joint Committee Collaboration Agreement