Addendum to the Cabinet report

Additional Recommendation:

Cabinet is recommended, to agree in principle (in the event that BHCC also agrees) to adopt an equal share of the financial liability for any MCCA overspend, subject to the conditions set out at para 3.6 of this report; and to delegate to the Chief Executive in consultation with the Leader authority to agree the terms of such an arrangement and enter into the necessary agreements; and if the terms of such an arrangement cannot be agreed that the matter be brought back to Cabinet for reconsideration.

1. Devolution and the MCCA: Liability and Voting Rights Alignment

1.1 This addendum to the Cabinet report sets out the rationale and implications of agreeing to a governance model for the Sussex MCCA in which each constituent authority's liability for any overspend is proportionate to its voting rights. This approach responds to a request from West Sussex County Council (WSCC) and is intended to inform Cabinet's consideration of the Statutory Instrument (SI) establishing the MCCA.

2. Background

2.1 The Government's Devolution Priority Programme (DPP) has enabled East Sussex County Council (ESCC), WSCC, and Brighton & Hove City Council (BHCC) to progress towards the creation of a Mayoral Combined County Authority for Sussex. The Statutory Instrument will formalise the MCCA's establishment, with constituent authorities required to consent.

2.2 The Cabinet report sets out the current proposals whereby voting rights within the MCCA are not directly aligned with financial liability. WSCC has expressed concern that, under the draft governance arrangements, it could bear a disproportionate share of cost liability relative to its voting influence.

3. Proposal

3.1 To address WSCC's concerns and promote equitable governance, WSCC have proposed that BHCC and ESCC agree to a model where liability for any MCCA overspend is aligned with voting rights. This would mean that all the Constituent Authorities' exposure to financial risk would be capped at the same proportion as its voting share i.e. it is equal. For ESCC this would mean that any liability would increase from circa 31.9% to 33.3%.

3.2 Aligning liability with voting rights ensures that no authority is disproportionately exposed to financial risk without commensurate influence over decision-making. This principle is consistent with good governance and risk management.

3.3 WSCC has indicated that while it supports the proposition of an MCCA it has significant reservations regarding the SI and has indicated a desire to resolve the disparity between voting rights and liability. Agreeing to this alignment strengthens the collective position of the Constituent Authorities and avoids potential delays in progressing the SI.

3.4 There is, relatively speaking, a low risk of overspending by the combined authority due to the nature of its budgets not being demand-led, the expectation that budget setting and monitoring will be guided by a statutory Finance officer (with additional oversight from the constituent councils' s151 officers) and the need for advance agreement to the budget. Notwithstanding the above, there is a potential for disproportionate impact on a smaller constituent authority with fewer resources should the overspend arise and an equal split approach be taken,

3.5 BHCC have indicated that in principle they would support the alignment of liability in the way suggested by WSCC, increasing their potential liability from 16.1% to 33.3%.

3.6 It is proposed that, should BHCC agree, ESCC also agrees, subject to:

1. A clear process for monitoring the MCCA financial position by Constituent Authorities and agreement that forecasting will be managed in budget and action taken before any overspend occurs.
2. That the change to the funding arrangement is time-limited for 2-years and will be reviewed in 2028 following Local Government Reorganisation and the establishment of new Unitary Authorities.
3. That there is a process outlined by which a Constituent Authority can call for a review of the funding arrangement during this 2-year period if their own financial position changes and they are unable to support additional costs.
4. That any overspend contribution must not put Constituent Authorities into financial jeopardy.
5. That in an explicit description of how Mayoral activities will be funded there is clear reference to election costs being funded from the MCCA budget via capacity funding and/or top slicing of the Mayoral Investment Fund. If this is not possible for the total election costs, that the cost of elections is split by population by constituent authorities, as a fair mechanism to cover these costs which are directly linked to population size.

4. Conclusion and reasons for recommendation

4.1 Agreeing to align liability with voting rights is a pragmatic step that supports the establishment of the MCCA, addresses WSCC’s concerns, and promotes fair governance. ESCC’s support would be conditional on an equivalent from other BHCC.