

Mayoral Decision Notice

East Midlands Combined County Authority

Please forward this form to **Jodie Townsend, Interim Monitoring Officer** when completed, as soon as possible, but at the latest:

- for **Key Decisions** which may be called-in, **to be received by midday on the second working day after the decision is made**, and
- for any other decision, within 5 working days.

Publish promptly - **you cannot implement any Key Decision open for call-in until midday on the 6th day after it has been published as a written record of officer decision.**

Please refer to Article 6: Decision-Making and the Access to Information Rules within the Constitution for more information regarding what defines a Key Decision.

ODN Number:	MDN20240002		
Authorised Decision-Maker:	Mayor		
Decision:	Approval of technical amendments to the Combined Authorities (Borrowing) and East Midlands Combined County Authority (Borrowing Functions) (Amendment) Regulations 2025		
Date decision taken:	14 November 2024		
Financial Impact:	Financial Year	Revenue £'000	Capital £'000
	2024/25		
	2025/26		
	2026/27		
	Total	N/A	N/A
Decision detail:	The decision involves		
Reason(s) for the Decision:	<p>On 16 September 2024 the EMCCA Board considered a report on the Borrowing and Amendment Regulations, the Board agreed the following:</p> <p>That authority be delegated to the Mayor to consent to the making of the Combined Authorities (Borrowing) and East Midlands Combined County Authority (Borrowing Functions) (Amendment) Regulations 2024 including the approval of any additional technical amendments, which the four constituent councils also agree to. This delegation is to be exercised in consultation with the four constituent council Leaders and in light of advice from the Interim Director of Legal and Governance.</p>		
Consultation required:	A statutory consultation was undertaken at the time of the Proposal and the issues within the Regulations are in line with the expectations set out in the Proposal approved by EMCCA Board and submitted to Government. Ministers have confirmed the relevant statutory tests have been met and therefore no		

		<p>further consultation is necessary. The additional minor amendments are technical in nature and do not require consultation.</p> <p>The decision taken by the EMCCA Board on 16 September was to delegate the final consent to the Mayor in consultation with the four constituent council Leaders and in light of advice from the Interim Director of Legal and Governance.</p> <p>The Governance Group (consisting of Constituent Council Monitoring Officers) has confirmed acceptance of the final regulations and will now ensure that each Constituent Council has provided the required formal consent before the deadline of Noon on Thursday 14 November 2024.</p> <p>The Interim Director of Legal and Governance confirms that there are no concerns regarding the requested consent. Ministers have confirmed the relevant statutory tests have been met and therefore no further consultation is necessary. The additional minor amendments are technical in nature and do not require consultation. The Interim Director of Legal and Governance recommends that consent be provided.</p> <p>The Chief Executive has been consulted and confirms that consent should now be provided.</p>
Any alternative option(s)		<p>The Board and Constituent Councils have formally consented to the making of the Combined Authorities (Borrowing) and East Midlands Combined County Authority (Borrowing Functions) (Amendment) Regulations 2024 as required by section 46(1)(d) of the Levelling Up and Regeneration Act 2023. The Mayor could decide not to approve the technical amendments to the Regulations; however, this is not recommended. The amendments made by the Joint Committee on Statutory Instruments are non-negotiable.</p> <p>If the amendments are not approved, the Regulations cannot be made. As a result, the East Midlands Combined County Authority would not have the additional powers set out in the Regulations and it is likely to prevent the CCA from operating to its optimal extent for the benefit of the inhabitants of the Area.</p>
YES	NO	
x		

If the decision is a Key Decision complete the following section:

Is this a Key Decision?		<p>The original report considered by EMCCA Board on 16 September 2024 was a key decision and was eligible for call-in consideration by the Overview and Scrutiny Committee, the Committee decided that they did not wish to consider this item and decision to delegate authority to the Mayor for call-in.</p>	
YES	NO		
	X		
Is the decision eligible for call-in by OSC?			
YES	NO	(If yes insert date of start of the call-in period [publication])	N/A
	X	If yes insert date of end of the call-in period	N/A
Is the decision an urgent key decision?		It is not an urgent decision and will not be taken using urgency provisions.	


It is the responsibility of the MDN author to ensure the following section is completed before submission to the Approver.

MDN Appendices:	<p>EMCCA Board Report, 16 September 2024: Agenda Item 13 - Borrowing and Amendment Regulations.pdf</p> <p>Appendix: Attached is a copy of the changes to the legislation post JCSI review</p>
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Background Documents:	<p>As above.</p> <p>As well as the approval above, all four Constituent Councils considered and approved reports at their respective meetings.</p> <p>The delegation at b) above was specifically sought because, as part of the parliamentary process, in parallel to the consents sought from the Constituent Councils, the Regulations were being considered by parliament's Joint Committee on Statutory Instruments (JCSI). The role of the JCSI is to focus on the technical quality of the draft Regulations as opposed to the policy content, and it was acknowledged that the JCSI process could lead to technical amendments being made to the Regulations, which would be non-negotiable.</p> <p>The delegation enables amendments required by the JCSI to be agreed swiftly by the Mayor in consultation with the Chief Executive and Director of Legal and Governance. This would avoid any delays in laying the Regulations.</p> <p>Since the Board meeting, the JCSI process has been completed and a final version of the Regulations provided. The amendments made by the JCSI are set out in the attached Schedule. The Regulations have been amended from the wording circulated in advance of the decision of EMCCA Board on 16 September 2024 as set out in the schedule to this decision record.</p> <p>The changes are considered to be technical drafting amendments, including updating the title from the 2024 Regulations to 2025 Regulations, and do not alter the substantive meaning of the Regulations as approved by Board.</p> <p>The Mayor is requested to exercise the delegation in consultation with the Chief Executive and Director of Legal and Governance and approve the amendments to the Combined Authorities (Borrowing) and East Midlands Combined County Authority (Borrowing Functions) (Amendment) Regulations 2025 that are set out in the attached Schedule.</p>	
Name of any Member who declared an interest in relation to the decision:	N/A	
Contact Officer:	Name:	Jodie Townsend
	Post/ Title:	Interim Director of Legal & Governance and Monitoring Officer
	Tel:	07515554369
	Email:	Jodie.townsend@eastmidsdevo.org.uk
Implications Section		
Financial Implications:	<p>Subject to Consent being given to the Combined Authorities and East Midlands Combined County Authority (Borrowing) (Amendment) Regulations 2025, the Combined County Authority will have flexibility to undertake borrowing subject to approval as part of the Annual Budget setting process.</p> <p>There are no additional financial implications.</p>	
Name and Date:	Nick Bell – 13 th November 2024	
Legal Implications:	<p>There are no concerns regarding the requested consent. Ministers have confirmed the relevant statutory tests have been met and therefore no further consultation is necessary. The additional minor amendments are technical in nature and do not require consultation. The Interim Director of Legal and Governance recommends that consent be provided.</p> <p>Consent must be provided to enable the requested amendments and borrowing powers to be provided to EMCCA. If the amendments are not approved, the Regulations cannot be made. As a result, the East Midlands Combined County</p>	

	Authority would not have the additional powers set out in the Regulations and it is likely to prevent the CCA from operating to its optimal extent for the benefit of the inhabitants of the Area.
Name and Date:	Jodie Townsend – 13 November 2024
Procurement Implications:	<p>The Public Contract Regulations 2015 outline specific exclusions for service contracts. This requirement falls under the following exclusions:</p> <ul style="list-style-type: none"> • Regulation 10 (e)(i) financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of Directive 2004/39/EC of the European Parliament and of the Council (2) as amended from time to time. • Regulation 10 (f) for loans, whether or not in connection with the issue, sale, purchase or transfer of securities or other financial instruments. <p>Due to this the borrowing requirements fall outside of the Public Contract Regulations 2015.</p>
Name and Date:	John Thompson 13 November 2024
Human Resource Implications:	The consent is noted and there are no known Human Resource implications that need to be taken into account.
Name and Date:	Amanda Mays – 13 November 2024

Authority for decision

The decision-maker was authorised to make this decision through:	YES	NO	DATE
The Combined County Authority/ Committee/ Mayoral resolution:	X		16/09/2024
The officer scheme of delegation:			
The officer sub-delegation scheme:			
Other:			
Authorisation provided by (must be within an approved budget) (Name, Title and signature of officer with authority to approve)			
Mayoral decision:	Name:	Mayor Claire Ward	
	Title/ Role/ Position:	Mayor of the East Midlands Combined County Authority	
	Date:	13 November 2024	
	Signature:		

Schedule

Change Log post JCSI – Combined Authorities (Borrowing) and East Midlands Combined County Authority (Borrowing Functions) (Amendment) Regulations 2025

Location	Update
Title	Instrument will not be made in 2024, updated to “2025”. Title will be: Combined Authorities (Borrowing) and East Midlands Combined County Authority (Borrowing Functions) (Amendment) Regulations 2025
Pre-ambble	The front page of the final draft of the Regulations references section 10(1) and (2)(c) of the Levelling-up and Regeneration Act 2023 as an enabling power. This has been included to ensure that there is a clear understand of the powers the Secretary of State is using to make the changes required under Paragraph 5(c) of the Regulations.
Paragraph 6(d)(ii)	Paragraph 6(d)(ii) now states: <ul style="list-style-type: none">• “functions conferred on the Combined County Authority under regulation 15(3) (local transport functions under the Transport Act 2000);” and• “decisions under article 8 of the Combined Authorities (Finance) Order 2017” These alterations have been made to make it more clear that the exemption from normal voting arrangements relates to the decision making relating to regulation 15(3) of the 2000 Act and article 8 of the 2017 Order.
Paragraph 6(d)(iii)	Paragraph 6(d)(iii) has been updated to: “in sub-paragraph (7)(a) after “combined county authority mayoral functions” insert “or decisions made on a question under article 8 of the Combined Authorities (Finance) Order 2017”. This update still means that the Mayor’s budget is exempt from the standard voting arrangements of the EMCCA, but avoids the necessity of defining what the Mayor’s budget is if this wording was retained in the Regulations.