1. PURPOSE OF REPORT

1.1 To clarify the GMCA’s implementation of the key decision process regarding financial matters.

1.2 To propose that the financial threshold for key decisions is amended in two instances.

1.3 To review the current budget scrutiny arrangements and seek the Committee’s approval to an amendment to its Call-In arrangements.

2. RECOMMENDATIONS

2.1 For the Committee to note that the following categories of delegated decisions to officers do not constitute key decisions as in each case they are about the implementation of a previous key decision agreed by the GMCA and/or the Mayor, which scrutiny has had the opportunity to review:

   (i) any decision to borrow money to meet the short term borrowing requirements of the GMCA, to fund the approved capital programme, to refinance maturing debt or to restructure the long term borrowing of the GMCA in line with the provisions of the Treasury Management Strategy;

   (ii) any decision to invest funds in accordance with the Treasury Management Strategy approved by the GMCA;

   (iii) the acceptance of tenders for contracts wholly or mainly involving capital expenditure where the GMCA’s approval to the detailed capital scheme has previously been issued.

2.2 It is recommended that the GMCA’s financial threshold of £500,000 for key decisions is amended to exclude decisions in the following categories:

   (i) the settlement of any actual or threatened legal proceedings in the interests of the GMCA;
(ii) the payment of ‘passported’ grants from central government whose grant conditions include express instructions on how and where monies are spent, so that the GMCA or the Mayor are unable to vary any aspect of the payment of that grant. Currently the Bus Service Operators Grants fall within this category.

2.3 It is proposed that the Corporate Issues and Reform Overview & Scrutiny Committee’s Call-In Arrangements are amended in relation its Budget Scrutiny function as follows:

**Budget Scrutiny**

Provided that the views and recommendations (if any) of the Corporate Issues & Reform Overview & Scrutiny Committee on the proposals for the Transport levy, Waste levy and statutory contributions, non-mayoral GMCA Budget, Mayor’s draft General Budget and Mayoral combined authority precept have been formally reported to both the Mayor and the GMCA and considered by them, the decisions of the GMCA to set the annual budgets, levies and precept shall not be susceptible to call in.

A report shall be provided to the next meeting of the Corporate Issues & Reform Overview & Scrutiny Committee if its recommendations are not substantially accepted.

3. **CONTACT OFFICERS**

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4. **BACKGROUND**

4.1 The new statutory overview and scrutiny arrangements have been in operation for nearly a year. The Committee is requested to review two aspects of its role.

4.2 The Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 (the Scrutiny Order) defines a key decision as ‘one which in the view of the Overview and Scrutiny Committee for a combined authority is likely –
(i) to result in the combined authority or the mayor incurring significant expenditure, or the making of significant savings, having regard to the combined authority’s budget for the service or function to which the decision relates;

or

(ii) to be significant in terms of its effects on persons living or working in an area comprising two or more wards or electoral divisions in the area of the combined authority;'

4.3 In 2017 the three GMCA Overview & Scrutiny Committees set a financial threshold for key decisions under paragraph (i) of expenditure or savings by the GMCA of more than £500,000.

4.4 It is recommended that for the purposes of transparency that the GMCA’s constitution specifies categories of decision which could exceed the financial threshold of £500,000 but are part of the implementation of existing key decision/s outlined in paragraphs 4.5 and 4.6.

4.5 **Investment and Borrowings**

To note that individual investment and borrowing decisions delegated to the Treasurer that fall within the agreed framework of the Treasury Management Strategy are not key decisions. The GMCA’s Treasury Management Strategy sets the strategic framework for the GMCA’s borrowing limits and investments is agreed by the GMCA and is subject to the oversight of the Audit Committee, prior to GMCA approval, as well as mid and end of year monitoring. The Treasury Management Strategy is also subject to normal scrutiny provisions. So, for the purposes of clarity the following decisions will not be key decisions, even if they exceed the £500,000 threshold set by scrutiny:

(i) any decision to borrow money to meet the short term borrowing requirements of the GMCA, to fund the approved capital programme, to refinance maturing debt or to restructure the long term borrowing of the GMCA in line with the provisions of the Treasury Management Strategy; and

(ii) any decision to invest funds in accordance with the Treasury Management Strategy approved by the GMCA;

4.6 **The Awarding of Contracts**

That decisions that are delegated to officers regarding the awarding of contracts once a detailed capital scheme has been approved do not require a separate key decision process. The approval of the detailed scheme will have already been subject to overview and scrutiny provisions including 28 days notice and call-in. So, again, for the purposes of clarity the following decisions will not be key decisions, even if they exceed the £500,000 threshold set by scrutiny.
(i) the acceptance of tenders for contracts wholly or mainly involving capital expenditure where the GMCA’s approval to the detailed capital scheme has previously been issued.

4.7 Settlement of legal proceedings

The Monitoring Officer has the delegated authority to settle legal proceedings in the interests of the GMCA. Settlement negotiations are by their nature dynamic and likely to be confidential and therefore the requirement to publish 28 days advance notice will not be practicable and/or the call-in of a decision would be detrimental to the effective operation of the GMCA as these matters will often require a decision in a much shorter time period. By way of assurance any settlement over the financial threshold of £500k would have been subject to leading counsel’s advice. It is recommended that the GMCA’s financial threshold of £500,000 for key decisions is amended to exclude decisions relating to:

(i) the settlement of any actual or threatened legal proceedings in the interests of the GMCA;

4.8 Payment of Grants ‘passported’ through the GMCA from central government

The payment of grants which are ‘passported’ from central government with grant conditions that include express instructions on how and where monies are spent. In this case the GMCA does not have any decision to make related regarding the payment of these grants. Currently, this relates to Bus Service Operators Grants for which the Department for Transport give instructions as to payment. This is a Mayoral function which the Mayor has delegated to TfGM. Until there is flexibility as to its use then it is logical to exclude from call in. It is recommended that the GMCA’s financial threshold of £500,000 for key decisions is amended to exclude decisions relating to:

(i) the payment of ‘passported’ grants from central government whose grant conditions include express instructions on how and where monies are spent, so that the GMCA or the Mayor are unable to vary any aspect of the payment of that grant. Currently the Bus Service Operators Grants fall within this category.

5. SCRUTINY OF THE GMCA AND MAYORAL BUDGETS

5.1 The Corporate Issues and Reform Committee has a significant role relating to Budget scrutiny. The following functions are reserved to the GMCA:

a. Approving the non-mayoral GMCA Budgets

b. Approving the Mayor’s draft General Budget (with or without amendment), including –

   i. The setting of the transport levy
ii. The setting of the waste levy

c. Issuing the Mayoral combined authority precept stating separately the PCC component and the general component

5.2 The timetable for setting the budget is determined by the date of the revenue support grant (RSG) settlement is announced by government and ensuring that the GMCA budget process dovetail with district budget setting processes. The table below sets out key steps in the process. Ideally discussions at the scrutiny meeting in December will be informed by an initial view regarding the RSG announcement, however last year’s announcement was made later than expected on Friday 15th December. The table below sets out the current timetable.

<table>
<thead>
<tr>
<th>Month</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>December</td>
<td>Provisional Revenue Support Grant Settlement</td>
</tr>
<tr>
<td>December</td>
<td>Initial budget report to Corporate Issues &amp; Reform Overview &amp; Scrutiny Committee, setting out principles and challenges *</td>
</tr>
<tr>
<td>January</td>
<td>Report to Corporate Issues &amp; Reform Overview &amp; Scrutiny Committee on draft budget*</td>
</tr>
<tr>
<td>January</td>
<td>Transport levy, Waste levy and statutory contributions, Mayoral General budget and precept considered by GMCA</td>
</tr>
<tr>
<td>January</td>
<td>Consultation with non-domestic ratepayers</td>
</tr>
<tr>
<td>31 January</td>
<td>Final information received from districts/Final RSG settlement</td>
</tr>
<tr>
<td>February</td>
<td>Special GMCA meeting to agree Mayoral General Budget and precept</td>
</tr>
</tbody>
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*opportunity for other Scrutiny Committees to consider any budgets falling within their remits

5.3 There are legal constraints which affect the budget setting process. The statutory deadline for notifying District Councils of Transport levy, Waste levy and any statutory contributions is 15 February. In practice Districts need earlier notifications so they can incorporate contributions within their own budget proposals.

5.4 The GMCA may not issue a precept to a billing authority until either the prescribed period for the notification of the tax base has expired or the billing authority has actually notified the GMCA as precepting authority of its calculations in relation to that tax base, whichever is the earlier. That date is normally 31 January.

5.5 Therefore the draft Budget and precept considered in January does not include all the statutory calculations required under the Local Government Finance Act 1992, as information is awaited in relation to -

- revenue support grant
- tax bases
- collection funds
- various business rate information
5.6 Section 40 of the Local Government Finance Act 1992 then requires the GMCA to set the precept before 1 March. However, district councils require notification of the Budget and Precept as soon as possible in order to allow them to set their own budgets and council tax levels.

5.7 The Budget Process provides a number of opportunities for the Corporate Issues & Reform Overview & Scrutiny Committee to review draft Budget proposals. However the potential for Call-In of the final budget setting decisions of the GMCA thereafter creates a risk that the GMCA may not be able to comply with the budget setting and precept statutory deadlines and thereby adversely affect the district councils.

5.8 It is proposed that the Corporate Issues and Reform Overview & Scrutiny Committee’s Call-In Arrangements are amended in relation its Budget Scrutiny function as follows:-

**Budget Scrutiny**

Provided that the views and recommendations (if any) of the Corporate Issues Overview & Scrutiny Committee on the proposals for the Transport levy, Waste levy and statutory contributions, non-mayoral GMCA Budget, Mayor’s draft General Budget and Mayoral combined authority precept have been formally reported to both the Mayor and the GMCA and considered by them, the decisions of the GMCA to set the annual budgets, levies and precept shall be exempt from call-in. A report shall be provided to the next meeting of the Corporate Issues & Reform Overview & Scrutiny Committee if its recommendations are not substantially accepted.