

Brighton & Hove City Council

Cabinet

Agenda Item 105

Subject: Devolution Update

Date of meeting: Thursday 22 December 2026

Report of: Leader of the Council

Lead Officer: Chief Executive

Contact Officer: Name: Tom Cottam

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Ward(s) affected: (All Wards);

Key Decision: Yes

Reason(s) Key: Is significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions (wards).

For general release

1. Purpose of the report and policy context

- 1.1 In October 2025 Cabinet agreed to provide its consent, with authority delegated to the Chief Executive, to the laying of the necessary Statutory Instrument by Government that would provide the legal force to create a new Sussex and Brighton Combined County Authority (SBCCA) with mayoral elections scheduled for 7th May 2026. The Government also previously confirmed that the SBCCA would receive an annual Investment Fund of £38 million for 30 years following the election of a mayor.
- 1.2 On 4th December 2025, the Parliamentary Under Secretary of State for Devolution and Faith Communities, Miatta Fahnbulleh MP, wrote to the Leaders of Brighton and Hove City Council (BHCC), West Sussex County Council (WSCC) and East Sussex County Council (ESCC) (appendix 1) to set out the Government's intention to continue with the establishment of a Mayoral Strategic Authority in Sussex and Brighton from 2026, but to postpone the mayoral elections in 4 Devolution Priority Programme (DPP) areas, including Sussex and Brighton, until 2028. The letter also included changes to the schedule of Investment Fund payments.
- 1.3 In light of these changes, an amended Statutory Instrument to create the SBCCA will be issued by the Government, for constituent councils to agree. The purpose of this report is to update Cabinet on these developments, set out the implications for BHCC where they differ from the previous report to Cabinet - [Devolution for Sussex Brighton.pdf](#) - and seek renewed approval in principle to consenting to devolution in the terms outlined.

2. Recommendations

- 2.2 That Cabinet notes the content of this report, including the assessment of the implications for Brighton & Hove City Council of creating a new Sussex and Brighton Combined County Authority with a delay to the election of a mayor.
- 2.2 That Cabinet confirms its approval in principle to consenting to devolution and delegates authority to the Chief Executive, in consultation with the Leader, to undertake all steps necessary to provide consent on behalf of the Council to the Statutory Instrument that the Government proposes to lay before Parliament to create a new Sussex and Brighton Combined County Authority.
- 2.3 That Cabinet delegates authority to the Chief Executive, in consultation with the Leader, to approve any technical amendments to the Statutory Instrument on behalf of the Council.
- 2.4 That Cabinet agrees the proposed local 2-year Memorandum of Understanding for financial contributions and liabilities in establishing the Sussex and Brighton Combined County Authority as set out in appendix 3.

3. Context and background information

- 3.1 In December 2024, the Government published the English Devolution White Paper outlining its vision, priorities and plans for devolution in England. In February 2025, an application from WSCC, ESCC and Brighton and BHCC to join the DPP and to establish a Mayoral Combined County Authority (MCCA) for the Sussex and Brighton region was accepted by the Government.
- 3.2 In July 2025, following a public consultation, the Government confirmed that the proposal to create an MCCA for Sussex and Brighton had met the statutory tests and that it would move forward with mayoral elections scheduled for May 2026. In October, all three constituent councils agreed, via delegated authority to Chief Executives, to consent to the laying of a Statutory Instrument to create the new SBCCA.
- 3.3 On 4th December 2025, the Parliamentary Under Secretary of State for Devolution and Faith Communities, Miatta Fahnbullah MP, wrote to the Leaders of BHCC, WSCC and ESCC (appendix 1) to set out the Government's intention to continue with the establishment of a Mayoral Strategic Authority in Sussex and Brighton from 2026, but to postpone the mayoral elections in 4 DPP areas, including Sussex and Brighton, until 2028.
- 3.4 The effect of this change would be that once the English Devolution and Community Empowerment Bill is passed and prior to the election of a mayor in May 2028, the new SBCCA would have access to those powers available to a Mayoral Strategic Authority, bar those that are only exercisable by a mayor. These are set out below in section 3.10.

- 3.5 The Government also confirmed that in light of the postponement of the elections, DPP areas that would now elect a mayor in 2028 would receive one third of their total allocated Investment Fund in the years 2026/2027 and 2027/2028. The reason provided by Government for postponing the elections was to allow for the completion of local government reorganisation in advance of the election of a mayor.
- 3.6 Subject to the consent of the three constituent councils, the Statutory Instrument will be laid in Parliament imminently and will be debated by both Houses. If approved, it is anticipated that it will take effect in Spring 2026.
- 3.7 Despite the postponement of the mayoral election and a reduction in Investment Fund available in the next 2 financial years, BHCC continues to believe that moving forward with the creation of a new SBCCA at the earliest opportunity represents a significant opportunity for Brighton and Hove and the wider region. A new SBCCA would still benefit from significant powers ahead of a mayoral election with the opportunity to take a more strategic approach to transport, develop a regional plan for growth, take responsibility for adult skills funding and take action on carbon reduction. The region would also still receive over £12 million a year in new investment funding.

Changes to the Statutory Instrument

- 3.8 The Statutory Instrument (SI) will be called *The Sussex & Brighton Combined County Authority Regulations 2026*. Under parliamentary procedure for the introduction of legislation, the full and final text of the SI would be made public at the point it is laid in Parliament. To support Cabinet decision-making, a breakdown is provided that sets out the functions which will be available to the SBCCA ahead of the inaugural election, through both the SI and the English Devolution and Community Empowerment Bill, once it receives Royal Assent, and the powers and functions which will be reserved to the Mayor (Appendix 2). This summary was produced by government officials and represents their current understanding ahead of the publication of the SI.
- 3.9 The effect of the previous version of the SI was set out in detail in the previous report to Cabinet. The current proposed changes to the amended SI are as follows:
- Changing the date of the inaugural mayoral election from 7th May 2026 to 4th May 2028.
 - Extending the transitional period during which requirements relating to the production of a Local Transport Plan will be held concurrently by the CCA and constituent authorities from 31st March 2027 to the 31st March 2028.
 - Changing the date at which point Part 5 (Mayoral functions) comes into force from 11th May 2026 to 8th May 2028.

- Amendments to ensure that the SBCCA will have the ability to approve a Local Transport Plan before the mayor is in place.
- 3.10 As set out previously, should all three constituent councils consent to the laying of the SI, it will then need to be debated in and approved by both Houses of Parliament. Parliament can only approve or reject SIs; it is not possible for them to be amended once they have been laid. Parliament is allowed up to 8 sitting weeks in which to approve the SI, and it is expected that this process would be completed at some point in Spring 2026, at which point the SBCCA would formally come into existence.
- 3.11 The delay to the Mayoral Election has created some additional drafting challenges with the SI which MHCLG are addressing and which the Council will be reviewing before consent is formally given.

Changes to the impact of the English Devolution and Community Empowerment Bill

- 3.12 The effect of the devolution aspects of English Devolution and Community Empowerment Bill and powers it would convey on a Mayoral Strategic Authority were set out in detail in the previous report to Cabinet. The implication of the recent government announcement to postpone the mayoral election until 2028 is that those powers that are exercisable only by the mayor would not be available until after the election. Those powers include:
- Key Route Network power of direction
 - Decision on whether to make a proposed franchising scheme
 - Spatial Development Strategy (clause 52 of the Planning and Infrastructure Bill: Part 1A of the Planning and Compulsory Purchase Act 2004) (An MSA would be able take steps to prepare an SDS prior to a mayoral election but it could only be signed-off once a mayor is in place)
 - Compulsory purchase powers under the Housing and Regeneration Act 2008 and Housing Act 1985 (Clause 34, 35 and Schedule 15, 16)
 - Power to convene and duty to respond
 - Duty to collaborate
 - Strategic Development Management Powers
 - Mayoral Development Orders
 - Mayoral Development Corporations
 - Mayoral Community Infrastructure Levy
 - Mayoral Council Tax Precept
 - Police and Crime Commissioner and Fire and Rescue Authority functions (subject to secondary legislation).
- 3.13 The English Devolution and Community Empowerment Bill seeks to move Mayoral elections from the current First Past the Post voting system to the Supplementary Vote system. The Government had confirmed that given the expected timescales for passing the Bill, mayoral elections planned for 2026 would have been conducted using First Past the Post. Subject to the Bill receiving parliamentary approval, it expected that mayoral elections that

take place in 2027 and beyond, including an election in Sussex and Brighton, will be conducted using the Supplementary Vote system.

Investment Fund

- 3.14 Prior to the decision taken by Cabinet in October 2025 to consent to the creation of the SBCCA, Ministers had provided written confirmation that the Authority would receive a £38 million a year 30-year Investment Fund following the election of a mayor in 2026. In the letter on 4th December setting out the intention to postpone the mayoral until 2028, the Minister confirmed that the SBCCA would receive one third of its total allocated Investment Fund in the years 2026/2027 and 2027/2028 rising to the full allocation following the mayoral election. The fund will be split 50/50 between capital and revenue spend.

Proposed agreement on financial contributions and liabilities

- 3.15 The SI includes a provision that the Constituent Authorities must meet the costs of expenditure associated with the exercise of its functions where these costs are not met from other resources available (such as the Investment Fund). Where these are related to mayoral functions, the Mayor, once in place, must agree with the CCA the total expenditure in advance of incurring such expenditure, and in the absence of such agreement, no such expenditure may be incurred.
- 3.16 It is anticipated that, as has been the case for existing combined authorities, any cost associated with the delivery of SBCCA functions will be met by resources available to the SBCCA, such as the Investment Fund, the promised £4 million in capacity funding or by top-slicing grant funding. In the unlikely event of an overspend, the SI makes provision for Constituent Authorities' contributions to be apportioned either through a mechanism of their own agreement or, if no local agreement is in place, based on the number of their residents as a proportion of the total population of the CCA area.
- 3.17 To make arrangements for how any overspend by a future SBCCA would be dealt with, an MOU has been drafted setting out that each constituent council would contribute one third towards the total cost of the overspend. This agreement aligns with the voting arrangements set out in the SI that provides for each Constituent Authority to have one third of the votes. Considering the low level of risk of an overspend and on the basis that this is a time-limited arrangement that will lapse in 2028 upon the vesting of new Unitary Authorities in Sussex following local government reorganisation, it is recommended that Cabinet agrees to this arrangement. The MOU is attached at Appendix 3 and the full risk implications and mitigations are set out below at paragraph 8.

Establishment of Devolution Delivery Programme

- 3.18 Prior to the Government announcement to postpone the election, significant progress had been made to lay the foundations for the creation of a new

authority in Sussex and Brighton. This work continues at pace. Following the appointment of an interim Chief Officer for the shadow SBCCA, a Devolution Delivery Programme has been established to oversee the creation of the SBCCA. The interim Chief Officer is currently assembling a Programme Delivery Team to lead delivery of critical workstreams and work alongside the Constituent Authorities and other partners as part of a Devolution Delivery Programme Board. An Informal Partnership Board and a Stakeholder Forum have also been established to ensure effective engagement with stakeholders from across Sussex.

- 3.19 The early priority workstreams of the Devolution Delivery Programme include governance, organisational design, strategy and policy, communications and engagement, and finance. The Programme Delivery Team are in the process of developing a governance framework and an implementation strategy as well as other critical policies and processes. A two-day policy 'sprint' involving over 80 council officers and stakeholders from across Sussex was held in early December to start the work to develop a prosperity strategy for the new SBCCA.

Development of a Local Assurance Framework

- 3.20 Before the investment funding can be released and before the SI can take effect, it is necessary for Constituent Authorities to agree a Local Assurance Framework (LAF) with MHCLG. The purpose of the LAF is to set out how the new SBCCA will use public money responsibly, openly and transparently, and achieve best value for money. The LAF is a legal requirement.
- 3.9 An early draft LAF was submitted to MHCLG in November 2025 for initial feedback from government departments. A final draft of the LAF will be submitted on behalf of Constituent Authorities by 16th January 2026 to meet the deadlines set by Government.

4. Analysis and consideration of alternative options

- 4.1 The alternative to the recommendation to consent in principle to the laying of the amended SI outlined above is to refuse consent to move forward with devolution in Sussex and Brighton, which would have a number of negative impacts. This would include preventing or delaying the predicted benefits of devolution and the flow of new funding and powers from Government to Sussex and Brighton, including the new investment provided by the 30-year Investment Fund.
- 4.2 Alternative approaches to how Constituent Authorities meet the cost of an overspend were considered. Principally, this included arrangements based on population. Given the disparities in the populations of the Constituent Authorities and in the interest of partnership working it was felt that the approach set out in the MOU was appropriate for the interim period until April 2028 and the creation of new Unitary Authorities following local government reorganisation.

5. Community engagement and consultation

- 5.1 National government undertook an 8-week public consultation from 17 February to 13 April 2025 to engage and seek responses from a range of interested parties across the region.

6. Financial implications

- 6.1 The reduction in the anticipated level of Investment Funding over the next two financial years from £38 million a year to a third of that amount will mean less funding in that period to spend on regionally agree priorities to drive economic growth, creation jobs and strengthen public services.
- 6.2 The postponement of the mayoral election until 2028 will postpone the previously estimated cost of delivering an election in 2026. These costs are anticipated to be met from resources available to the SBCCA. Any costs incurred by Local Returning Officers due to the cancellation will be assessed on their merit and reimbursed from capacity funding if necessary. BHCC has not incurred additional election costs.
- 6.3 The costs associated with the delivery of SBCCA functions prior to the mayoral elections will be met by resources available to the SBCCA, such as the Investment Fund, capacity funding or by top-slicing grant funding streams. The budget for any forthcoming year will need to be agreed with the Constituent Authorities in advance.
- 6.4 The proposed funding arrangements for the new SBCCA set out in the draft MOU are time-limited but could result in an additional cost burden to this council in the unlikely event of an overspend. The current default mechanism set out in the Statutory Instrument based on population would require BHCC to make a contribution of circa 16% of the total. The proposed change would increase that contribution to a third of the total in line with Constituent Authority representation in the SBCCA. The new authority will have governance arrangements in place to mitigate any risks of additional financial burden. Further risk mitigations are described in section 8 – Risk implications.

Name of finance officer consulted: James Hengeveld

Date consulted: 16/12/2025

7. Legal implications

- 7.1 The current statutory provisions for the establishment of a CCA are set out in section 46 of the Levelling Up and Regeneration Act 2023. These include the requirement for each of the constituent authorities to consent to its establishment before the Secretary of State can make the necessary regulations, together with the need for consultation and for the Secretary of State to be satisfied of the relevant tests. The consultation was carried out as indicated in this report from February to April 2025, and the MHCLG confirmed its view that the relevant tests had been met in July 2025.

- 7.2 The report sets out a summary of the proposed Statutory Instrument, as amended, which will need to be approved by Parliament before the CCA can be established.
- 7.3 The decision to consent to the establishment of the CCA is an executive function and as a key decision ordinarily needs to be exercised by the Cabinet. The recommendations to this report reflect the MHCLG's preference for this decision to be delegated to the council's Chief Executive, to ensure that it can be made in a timely way once all the details have been clarified. This delegation is enabled by section 9E of the Local Government Act 2000.

Name of lawyer consulted: Elizabeth Culbert

Date consulted: 12/01/26

8. Risk implications

- 8.1 A key risk is that one or more of the Constituent Authorities do not provide their consent to the creation of the new SBCCA under the new terms set out by the Government. This could delay or ultimately prevent the creation of the new authority and the devolution of relevant powers and funding.
- 8.2 As a result of the recommendation to agree local arrangements for how Constituent Authorities meet the cost of an overspend, there is risk of a greater cost burden to BHCC. However, it is assessed that the risk of overspend is low and BHCC have agreed a range of mitigations with other Constituent Authorities. These are set out in the MOU and include the following:
- The establishment of a clear process for monitoring the financial position of the Combined County Authority by the constituent councils, including regular reporting and forecasting.
 - The proactive management of budget forecasting will be managed proactively, with action taken before any overspend occurs.
 - The formal review of the arrangement in 2028, following local government reorganisation and the establishment of new Unitary Authorities. In the absence of agreement by all Constituent Authorities the arrangement will revert to the mechanism stated in the SI with contributions to be determined in accordance with population.
 - The option for any constituent council to call for a review of the funding arrangement if its financial position changes and it is unable to support additional costs.
 - Agreement that any contribution to overspend must not place any constituent council in financial jeopardy.
- 8.3 The risk of not agreeing to this recommendation would be to undermine efforts to establish trusting and collaborative relationships with other

Constituent Authorities as we embark on the important work of creating the new SBCCA.

9. Equalities implications

9.1 As part of the Public Sector Equality Duty under the Equality Act 2010, the council must seek to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

9.2 It is not anticipated that the recommendations in this report will result in disproportionate impacts for any specific group sharing any of the legally protected characteristics.

Name of equalities officer consulted: Deborah Totney
Date consulted: 16/12/25

10. Sustainability implications

10.1 The previous report to Cabinet set out the sustainability impacts of consenting to the creation of the SBCCA on the terms understood at the time. It is not anticipated that the likely impacts will be different as a result of the changes set out by Government.

11. Health and Wellbeing Implications:

11.1 The previous report to Cabinet set out the health and wellbeing impacts of consenting to the creation of the SBCCA on the terms understood at the time. It is not anticipated that the likely impacts will be different as a result of the changes set out by Government.

12. Crime & disorder implications:

12.1 The transfer of Police and Crime Commissioner functions to the newly elected mayor was due to take place in May 2027. Subject to secondary legislation, this transfer will now not take place until a mayor is elected in May 2028.

13. Staff implications

13.1 Where staffing changes are needed, we are committed to an open and inclusive approach to working through impacts. This will include engagement with affected services, trade unions, and staff, the establishment of a clear plan to oversee workforce implications, and the development of specific proposals, which will be prepared in line with BHCC's normal processes for managing change.

14. Conclusion

- 14.1 Brighton and Hove City Council is committed to devolution for Sussex and Brighton to unlock powers and funding to deliver significant benefits for the residents of the City and wider region. The Government's decision to postpone the mayoral election does not diminish that commitment. We are still on course for the creation of a Sussex and Brighton Combined County Authority with access to significant additional powers and new funding in 2026. Good progress has been made working with partners across the region to prepare for devolution to ensure a new authority is ready to deliver for residents from day one.

Supporting Documentation

1. Appendices

1. Letter from Miatta Fahnbulleh MP, Parliamentary Under Secretary of State for Devolution and Faith Communities.
2. Breakdown of the functions which will be available to SBCCA.
3. Memorandum of Understanding - Financial Contributions and Liabilities in establishing the Sussex and Brighton Combined County Authority.