



## WMCA Board

<b>Date</b>	8 December 2017
<b>Report title</b>	Mayoral WMCA Governance of West Midlands Fire Service - Governance Review and Scheme
<b>Portfolio Lead</b>	Councillor Steve Eling - Cohesion & Integration and Public Service Reform
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<b>Report has been considered by</b>	Programme Board - 24 November 2017

**Recommendation(s) for action or decision:**

**The WMCA Board is recommended to:**

- (1) Approve the contents of the Governance Review and Scheme outlining the proposed governance model for Mayoral West Midlands Combined Authority (WMCA) governance of West Midlands Fire Service (the Service).
- (2) Note the amendments to the process timeline presented to the WMCA Board meeting on 8 September as set out in section 5.

- (3) Note and where relevant approve the points raised at constituent council meetings in consideration of the prepared Governance review and Scheme. (At the time of issuing this report three constituent council meeting are yet to take place prior to the WMCA Board meeting. A verbal update together with an appended item to this report will be provided on the 8 December 2017).
- (4) Approve amendments to the Governance review and Scheme based on the outcomes of recommendation 3 as cited in section 3.1.
- (5) Approve the proposed approach for the formal public consultation to commence in January 2018.

## **1.0 Purpose**

- 1.1 The purpose of this report is to consult the Board on the contents of the governance review and scheme, which have been developed to enable the framework for the proposed Mayoral WMCA governance model, to be discussed and understood, prior to undertaking public consultation.
- 1.2 This report also seeks to update the Board on how the governance review and scheme have been received by constituent councils. At the time of preparing this report the approvals process has been completed by 4 of the 7 constituent councils. A further updated position will be provided at the WMCA Board on 8<sup>th</sup> December.
- 1.3 Finally, the board is asked to note and consider the proposed approach for the formal public consultation of the scheme in January 2018.

## **2.0 Background**

- 2.1 On 8 September 2017, the WMCA Board approved a report which sought approval for the development of a governance review and scheme document as part of the proposed future Mayoral WMCA governance route for West Midlands Fire and Rescue Service (the Service). This is pursuant to Sections 111 and 112 (1d) of the Local Democracy, Economic Development and Construction Act 2009.
- 2.2 Having secured approval of the WMCA Board, a governance review and scheme was subsequently prepared in consultation with the WMCA, West Midlands Fire and Rescue Authority (the Authority) and constituent council legal departments. The current governance review and scheme are provided at Appendix 1a and 1b.
- 2.3 The Governance Review provides a review of existing governance arrangements and functions, and details the proposed model under the Mayoral WMCA. The governance review also considers the many benefits the proposed model offers. These highlight the potential for improved outcomes for the communities of the West Midlands and focus on: public safety, collaboration between public services, scrutiny and transparency, accountability, savings and value for money (as outlined in section 3).
- 2.4.1 This is in line with government legislation, where a transfer of governance functions to the WMCA must satisfy section 105B(1) of the Cities and Local Government Devolution Act 2016: ‘...the making of the order is likely to improve the exercise of statutory functions in the area or areas to which the order relates’.
- 2.4.2 The Scheme sets out the powers (legislation) to enable the transfer of functions and what is required to enable this change.

## **3.0 Benefits**

- 3.1 The governance review (Appendix 1a) demonstrates how governance delivered through the Mayoral Combined Authority will improve the exercise of the statutory functions in the WMCA area. Some of the benefits which continue to be identified are as follows:

### **3.2 Public safety delivered through broad range of responses to emergency services**

- 3.2.1 The range, breadth and complexities that the Service has to deal with, requires the capability to respond to incidents through a flexible and agile workforce, capable of delivering a range of services across the West Midlands, nationally and internationally. The Chief Fire Officer (CFO) has the capability to swiftly mobilise 300 people, 24 hours a day, in support of the Mayoral West Midlands Combined Authority in delivering interventions to the wide ranging needs of community. This includes the pre-planning, emergency and recovery phase in line with the Civil Contingencies Act 2004.
- 3.2.2 The Service also has the skills and capability to deliver specialist response activities locally, regionally and nationally such as response to extreme threat, severe weather and any incident that may have an impact on critical infrastructure. This will enable the Mayoral WMCA to protect the economy of the west midlands and enhance public safety.

### **3.3. A workforce to support joined up services and reduce vulnerability**

- 3.3.1 The Service tackles the 'causes of the causes' and the over-arching risk in the West Midlands. An example of its prevention activities is the holistic 'Safe and Well' visits. The Service gains access to more than 27,000 targeted-homes each year as a direct result of its unique public standing in the community. These visits go deeper to identify and address the wider health and or lifestyle issues which may, further down the line, lead to an emergency incident or acute intervention from the wider public services.
- 3.3.2 Under a WMCA governance arrangement promoting greater collaboration, greater benefit will be leveraged through such interventions enabling the further reduction of vulnerability and providing added value on a wide range of issues. This includes the ability to work directly with all 7 of the constituent councils, the Police, and the non-constituents in enhancing public safety, effectiveness, efficiency and economy. The Future Governance Working Group, cited in Appendix 1, referenced the Telecare Service provided by the Service to 3 of the 7 constituent councils as good examples of collaboration.

### **3.4 Continued improvement and transformation**

- 3.4.1 The Service's commitment to transformation and its ability to evidence reform whilst maintaining its commitment to the delivery of its integrated service delivery model, detailed in appendix 1, evidences the Service's ability to continue to lead and deliver reform as part of the wider WMCA. These reforms include changes to staffing, fleet and broadening of the services offered to the community to reduce risk.
- 3.4.2 The leadership the Service provides to the WMCA work streams such as Public Service Reform is an example of the value the Service can have when working within the WMCA structures.

### **3.5 Operational independence**

- 3.5.1 The proposed model provides the CFO with the operational independence and the right level of accountability to make robust and effective evidence based decisions underpinned by professional skills, knowledge and experience in providing services to the local communities. This delivery will be aligned directly to the Mayor, which will enable transparent and effective governance in meeting the needs of the local communities. This will ensure professional judgement and evidence receives the appropriate weighting in decision making, without compromising community outcomes.
- 3.5.2 Additionally, the Mayor will provide a single accountable figure for the Service and decisions made to local communities, which will satisfy the Home Office's desire for 'single accountability' across public services.

### **4.0 Constituent Council Consultation**

- 4.1 As part of the consultation process of these two documents (as outlined in section 113 (3) Local Democracy, Economic Development and Construction Act 2009), the governance review and scheme must be approved by constituent councils, followed by formal public consultation on behalf of the Home Secretary. The report presented at constituent council meetings, including recommendations for approval is provided in Appendix 2.
- 4.2 The table below details the dates and meetings at which the governance review and scheme report has been tabled at constituent council meetings.

<b>LOCAL AUTHORITY</b>	<b>CABINET</b>	<b>FULL COUNCIL</b>
<b>Birmingham</b>	14 November	n/a
<b>Coventry</b>	31 October	5 December
<b>Dudley</b>	26 October	4 December
<b>Sandwell</b>	18 October	17 October
<b>Solihull</b>	9 November	5 December
<b>Walsall</b>	25 October	13 November
<b>Wolverhampton</b>	18 October	n/a

- 4.3 At the time of writing this report, the governance review and scheme report had received full approvals from the following councils: Birmingham, Sandwell, Walsall and Wolverhampton. There has been discussion around key areas of the scheme, some of which have been cited as conditions on constituent council approvals. These matters have been summarised below in section 5 of this report.

## 5.0 Constituent Council Key Discussions Areas

5.1 Each of the constituent councils that have considered the report so far, have approved the recommendations in the report (see appendix 1). Some constituent councils have raised the following points to be included in the scheme and/or agreed with Government, in the development of the order:

### *Mayoral Fire Advisory Committee (MFAC).*

- That the Mayor appoint the Chair in consultation with constituent authority Leaders.
- That the MFAC should be composed of a *minimum* of 15 members to ensure sufficient representation from all constituent authorities.

### *Fire Funding*

- That fire funding and precept be ring-fenced to fire functions in the WMCA.
- That fire reserves be ring-fenced to fire functions in the WMCA.

5.2 Should the above proposed amendments to the scheme be approved by the Board, the scheme will be updated as per appendix 3, to reflect these changes for public consultation.

5.3 Additional areas of importance raised by constituent councils have focused on:

- The unanimous support for the MFAC, its role and composition which can be seen through the approvals received by all constituent councils.
- The importance of the role of the CFO as the person with the responsibility and accountability for leading and managing the Fire Service.
- The CFO will be responsible and held accountable by the Mayor for managing personnel, services, equipment and fleet within an agreed budget (the Fire Service), to enable the effective delivery of the Integrated Risk Management Plan and the Service's 3 year rolling Corporate Strategy.
- The role of scrutiny within the MFAC. The WMCA Overview and Scrutiny Committee and the Authority are currently considering an approach to enable both committees to work effectively together.

5.4 The timeline has been amended to reflect feedback of the heads of legal services, for the Home Secretary to ensure constituent councils are consulted on the draft order before seeking parliamentary approval.

5.5 It should be noted in relation to this last point, if amendments made to the proposals in the creation of the order by the Home Secretary are of a minor nature, individual constituent council approvals may not be required. Delegations will be requested for areas of minor amendment, to be agreed by the Chief Executive of a constituent council in discussion with the Leader.

## 6.0 Proposed WMCA Public Consultation

- 6.1 The public consultation will commence the week beginning 8<sup>th</sup> January 2018 and will run for a minimum period of 6 weeks.
- 6.2 In developing the consultation plan, advice and support is being provided through the consultation institute. The broad approach to consultation will include:
- A primarily web based consultation through an online questionnaire, the questionnaire will also be made available in various formats in line with equalities regulations.
  - An animation video explaining the proposed changes,
  - Local authority support and signposting via websites and social media,
  - More focused engagement with key partners, stakeholders, MPs and Ministers in Parliament.
- 6.3 The consultation strategy is still being developed in conjunction with the WMCA, the complete plan and approach will be shared with the WMCA Board on the 8<sup>th</sup> December. It is envisaged that the consultation will be shared through multiple platforms; organisational websites, social media, posters, radio and press releases.
- 6.4 Consultation material will cover the roles of the Mayoral WMCA, the Mayor, the MFAC and the Chief Fire Officer. The consultation will ensure that the requirements of Section 113(3) of The Local Democracy, Economic Development and Construction Act 2009, are met. This requires that:

'The Secretary of State must have regard to the need -

- (a) To reflect the identities and interests of local communities and
- (b) To secure effective and convenient local government'

## 7.0 Timeline change

- 7.1 The process and timeline for the proposed change in governance is set out in the table below. Amendments are highlighted.

<b>Details</b>	<b>Date</b>
WMCA approve a governance review and scheme to be developed	8 September 2017
Development of governance review and scheme, which will consider the business case for the change in governance.	September 2017
Constituent Authority approval of the content of the governance review and scheme.	October-November 2017
WMCA approval of the content of the governance review and scheme.	8 December 2017
Consultation of proposals set out in the scheme on behalf of the Secretary of State (6 weeks minimum)	January- February 2018
Analyse consultation responses locally	March 2018

<b><i>Constituent authority approval of governance review, scheme and analysis of consultation prior to submission to Secretary of State</i></b>	<b><i>April - May 2018</i></b>
Governance review, scheme and analysis of consultation reviewed by Secretary of State (4-12 weeks).	June 2018
Government development of order detailing changes required in legislation to abolish the Authority and amend legislation to enable future Mayoral WMCA governance.	July - September 2018 (nb. Parliamentary recess)
<b><i>Constituent authority and WMCA approval of detail of order (see paragraph 5.2)</i></b>	<b><i>October - November 2018</i></b>
<b><i>Order amended where needed locally and enters Parliamentary process</i></b>	<b><i>December 2018 - January 2019</i></b>
<b><i>Secretary of State approves order</i></b>	<b><i>February 2019</i></b>
<b><i>The Authority functions transfer to the WMCA</i></b>	<b><i>February/March 2019</i></b>

7.2 As set out in paragraph 3.4 an addition to the timeline for April – May 2018 has been made following discussions with the legal group. This amendment will enable constituent councils to consider the outcomes of the consultation and approve submission of the governance review and scheme to the Home Secretary.

7.3 This is in addition to constituent council approvals during October – November 2018 and may extend the overall timeline by approximately 2 months. As cited in paragraph 3.5, if amendments made to the order by the Home Secretary are of a minor nature, individual constituent council approvals will not be required. Delegations have been provided for areas of minor amendment to be agreed by the Chief Executive of a constituent council in discussion with the Leader.

## 8.0 Financial implications

8.1 The costs of preparing the Governance Review have been met primarily from the Services existing resources, supplemented by support provided by the WMCA legal team, again from within existing approved budgets.

8.2 Developing and delivering the required public consultation exercise scheduled to take place in early 2018 is anticipated to include the following activities:

- Developing an online questionnaire;
- Preparing an animation video that explains the proposed change;
- Local authority signposting via websites and social media; and
- Focused engagement with key partners and stakeholders.

8.3 As the detailed approaches to undertaking the consultation process in relation to the proposed governance arrangements are still being finalised at the time of writing this report, firm costs have not yet been established.

- 8.4 It is currently anticipated that further indicative costs to be incurred in planning and implementing the transition to the new governance arrangements will be established following the conclusion of the public consultation process in early 2018, when there will be more clarity around the detailed implementation plan. This will then allow the sources of funding for the transitional arrangements to be identified.
- 8.5 The proposed Mayoral WMCA governance model provides opportunities for the joint transformation of public services delivered to West Midlands communities and will also clearly deliver efficiency savings in respect of members' allowances payable, providing value for money in the delivery of public safety. The Service's existing funding is made up of central government core funding and council tax revenue raised locally. It is envisaged that once the proposed governance arrangements are in place, there will be a requirement for the Service's funding to be ring-fenced and for the costs of Mayoral WMCA governance arrangements to be shared appropriately.

## **9.0 Legal implications**

- 9.1 The legal implications are largely set out in this report and the governance review and scheme.

## **10.0 Equalities implications**

- 10.1 As cited in this report the public consultation will reflect the requirements of the Local Democracy, Economic Development and Construction Act 2009 section 113, which stipulates that the consultation must reflect the identities and interests of local communities.
- 10.2 The consultation document needs to be clearly communicated to the public in a number of ways (not just online) and should be made available in a number of formats. It should be emailed/communicated to Hard-to-reach and equality groups in the region and it needs to be made available in alternative formats (large print, cd, easy read) for people with disabilities. The equality impact of proposed changes should be assessed following the consultation process.

## **11.0 Schedule of background papers**

WMFRA response to the Enabler Closer Working between the Emergency Services Consultation – the prelude to the Policing and Crime Bill (October 2015)  
WMFRA Integrated Risk Management Plan Public Outcomes Report (20 February 2017)  
WMFRA report: 'Route Map to Mayoral Governance' (20 February 2017)  
WMFRA report – 'Route map to Mayoral West Midlands, Combined Authority Governance - a Reformed Fire Authority (RFA) and decision (10 April 2017)  
WMCA Board 8 September 2017  
24 August WMCA Programme Board

## APPENDICES

### APPENDIX 1 - Governance Review and current Scheme

#### 1a. Governance Review.

#### **Review of Governance and Functions of the WMCA (Annex A)**

This review is a subsequent review to the WMCA governance review and scheme. The review deals with:

- The transfer of functions and governance arrangements in relation to the exercise of fire and rescue functions in the West Midlands, and
- Overview of the governance arrangements

#### **1. EXISTING ARRANGEMENTS:**

##### **Existing Fire and Rescue Arrangements:**

1.1 West Midlands Fire and Rescue Service (the Service) provides prevention, protection and response services to the 7 metropolitan councils in the West Midlands. These core services are prescribed under legislation, assurance for which is provided through the West Midlands Fire and Rescue Authority (the Authority). The Authority is accountable to the public for the services provided to local communities. The most pertinent service delivery legislative provisions are as follows:

- The Fire and Rescue Services Act 2004
- The Fire and Rescue Services (Emergencies) (England) Order 2007
- The Regulatory Reform (Fire Safety Order) 2005
- The Civil Contingencies Act 2004

Further detail of these legislative provisions is provided in Appendix 1.

The Fire and Rescue Service is a unique public body that plans for risk not demand. Appendix 2 delivers the understanding behind this and how it meets that risk through its prevention, protection and response services. This review will demonstrate the reliance and value these services add beyond local level delivery, with consideration given to regional, national and specialist international capabilities and interventions.

1.2 In addition to providing services to the West Midlands, given that the Service shares approximately 53 km of border with Hereford & Worcester FRS, 90km with Staffordshire FRS and 113km with Warwickshire FRS, it provides services to the region in the form of over-the-border mobilisations into neighbouring FRS's and vice versa where required. This is catered for under s13 of the Fire and Rescue Services Act 2004 and is termed Section 13 Mutual Assistance Agreements.

1.3 Further, the Service provides significant support to the national resilience arrangements. This is supplemented by supporting the United Kingdom in its International Search and Rescue (ISAR) capability, having supported numerous interventions to some of the world's largest and most devastating disasters, including earthquakes in Haiti, Japan and Nepal.

1.4 The Authority as it stands was legally established as a joint authority by the Local Government Act 1985. This Act stipulated the requirement to appoint 27 members to the Authority and the number of Members appointed from each of the 7 West Midlands Metropolitan councils.

1.5 Currently, members are drawn made up according to the following political ratio:

- 17 Labour
- 8 Conservative
- 1 Liberal Democrat
- 1 UKIP

1.6 The Authority undertakes the following strategic and statutory duties

- It is accountable to the community for the services provided through the Integrated Risk Management Plan (IRMP) and the service's rolling 3-year corporate strategy, 'The Plan'.
- It approves the budget for the delivery of these services and the setting of the precept for council tax.
- It employs all WMFS staff and owns all properties, rights and liabilities.
- It has ultimate accountability for decision making, however, the Authority delegates many decisions to its sub-committees such as Scrutiny and Audit and day to day operational control to the Chief Fire Officer (CFO) on matters "*concerned with maintaining operational effectiveness and the deployment of resources both physical and employees*".

1.7 The CFO is the designated Head of Paid Service as required by the Local Government and Housing Act 1989 and is responsible for the management and development of all staff, land and resources to enable and ensure the delivery of services, including the exercise of all the powers of the Authority as an enforcement authority under relevant legislation. Accordingly, the CFO is accountable to the Authority. The operational independence of the CFO is secured by virtue of the skills, knowledge and experience required to deliver on the legislative prescriptions with clear lines of demarcation between Authority and the CFO detailed in the Authority's Constitution, agreed to by the Authority.

1.8 Whilst there is plenty of legislation that all public bodies are required to be compliant with, those detailed below are deemed to be most pertinent to informing the governance arrangements and the responsibilities placed upon the Authority:

- Local Government Act 1985
- Local Government and Housing Act 1989
- The Local Government Act 1972

Further detail with respect to the legislative responsibilities and a more detailed breakdown of current roles and responsibilities of the Authority is provided in Appendices 3 and 4.

1.9 The Authority has a number of sub-committees. These can be broadly divided into those that convene regularly and those that are convened upon requirement:

- Appeals Committee (convenes upon requirement)  
The Appeals Committee operates as a quasi-judicial body in determining appeals relating to pensions and superannuation matters. This Committee convenes upon requirement and hears and decides upon: -
  - Appeals under the Firefighters Pensions Scheme, New Firefighters Pensions Scheme and the Firefighters Compensation Scheme.
  - Appeals under the Local Government Superannuation Regulations.
- Appointments Committee (convenes upon requirement)  
The Appointments Committee convenes upon requirement to make appointments of the Chief Fire Officer, Deputy Chief Fire Officer and Assistant Chief Fire Officer.
- Audit Committee  
The Audit Committee is a key component of the Authority's corporate governance and includes an independent Member to provide independent assurance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards. Its purpose is to provide independent assurance to the Members of the adequacy of the risk management framework and the internal control environment. It provides independent review of the governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.
- Executive Committee  
The Executive Committee deals with all matters of an urgent nature which in the opinion of the Clerk/Monitoring Officer, cannot reasonably be delayed until the next ordinary meeting of the Authority or appropriate committee. It considers recommendations from the Scrutiny Committee in respect of completed reviews and to respond to the Scrutiny Committee on what action it proposes to take. It also approves transactions that exceed delegated authority.
- Policy Planning Forum - proportionality not applied  
The Policy Planning Forum comprises all elected members and independent members of the Authority. The Forum is not a decision making body, but provides a forum for discussion of important issues affecting the Service prior to formal submission and discussion with members via the Committee framework as appropriate. It is a successful feature of the Authority's governance arrangements used as a particularly effective way of engaging Members and officers on key issues faced by the Authority. The Forum also acts as a vehicle to provide training to members.
- Scrutiny Committee  
The Scrutiny Committee supports the Authority in achieving its strategic objectives and ensuring that its policy and budgetary framework is followed and developed to reflect the changing needs and demands in meeting its statutory obligations.

The main purpose of the scrutiny function is to:-

- i) Inform policy development
- ii) Hold officers and the Service to account
- ii) Hold the Authority to account
- iv) Conduct reviews into specific issues.

In carrying out its role the Committee may look at both operational and strategic issues.

- Joint Consultative Panel - proportionality not applied  
The Panel comprises elected members of the Authority and recognised elected officials of the Trade Unions/Representative Bodies. The Panel establishes regular methods of consultation between the Authority, management and its employees as part of the employee relationship framework to consider and make recommendations to the Authority or the Chief Fire Officer as appropriate on:
  - any problems which may arise
  - any relevant matter referred to it by the Service or by the relevant employee organisation
  - the application of the terms and conditions of service for employees
  - matters referred to it by the Joint Consultative Committee, including failure to consult and failure to agree as defined in the constitution of the Joint Consultative Committee.

The Panel also discharges such other functions that are specifically assigned to it.

- Standards Committee (convenes upon requirement)  
The Standards Committee convenes upon requirement and investigates allegations of breach of the member Code of Conduct and will make decisions on allegations made.

1.10 In addition to providing the accountability detailed above the Authority also represents the Service through strategic relationships and engagements in order to support the delivery of The Plan:

- s41 principles of local accountability – The lead s41 members represent the Authority at each of the 7 constituent councils providing the opportunity for two-way engagement.
- The Local Government Association (LGA) – the Chair is a member of the Fire Services Management Committee (FSMC) and the Fire Commission. The Chair is also supported by the Vice Chair at the latter. The Chair is also a member of the National Joint Council Employers panel and supports the engagement between the employers and the workforce at a national level through dialogue with the Employees panel, which consists of representative bodies.
- The Authority is an observer of the WMCA and through representation by the Chair the Authority is able to contribute to the regions key strategic priorities.

- Regional Chief Fire Officers and Chairs Fire Service Engagement – the Chair represents the Authority in discussions with regional Fire and Rescue Authorities and Warwickshire County Council to support the Service around key initiatives such as collaboration. This discussion incorporates Staffordshire FRA, Hereford and Worcester FRA, Shropshire FRA and Warwickshire County Council.
- The Staffordshire & West Midlands Joint Fire Control Governance Board – The Chair represents the Authority at the board as a Co-Chair. The Board oversees governance arrangements of the joint fire control.
- Local engagement with representative bodies and staff – The Chair undertakes regular engagement with the local Fire Brigade Union (FBU) and Unison representatives as part of promoting industrial relations. The Chair also represents the Authority as part of its engagement with staff by undertaking communication visits to every Community Fire Station and WMFS Headquarters. This engagement is informal and is not part of established processes.
- Local Councils – the Chair represents the Authority through focused engagement with Council Leaders as part of supporting the Service in efforts to build and develop collaborative and strategic relationships.
- Emergency Services – the Chair represents the Authority through engagement with the West Midlands Police and Crime Commissioner (PCC) and delegates at the Office of the West Midlands PCC, to support the Service in efforts to build and develop collaborative relationships.
- The Association of Metropolitan Fire and Rescue Authorities (AMFRA) – The Chair represents the Authority at AMFRA, which consists of the metropolitan fire and rescue authorities that provide services to the main conurbations in England. AMFRA discusses and progresses issues affecting the metropolitan fire authorities and engage at all political levels and work cross-party to support improved outcomes. Engaging through this group has supported a greater recognition and understanding of the challenges affecting the metropolitan Authorities, which in turn has impacted upon expectations for future efficiencies. The Chair of the Authority chairs AMFRA.

### **Existing WMCA Arrangements:**

1.11 The WMCA governance arrangements consists of the WMCA Board and a number of other Boards / Committees:

- WMCA Board
  - Overall responsibility for developing and delivering the Strategic Economic Plan (SEP)
  - Overall responsibility for developing the strategy and delivering Public Service Reform (PSR)
  - Deliver the current devolution deal
  - To negotiate and deliver further devolution deals
  - Approval of future devolution deal development, to determine strategy on investment decisions
  - Allocating resources through the Combined Authority budget & income streams such as devolution deals
  - Determination of Transport strategy and spending priorities

- To operate a Cabinet model with Constituent Member Leaders ‘sponsoring’ a portfolio
  - To consider and determine applications for Constituent, Non-Constituent and observer status
  - To work with partners to develop the Midlands Engine
  - To work with Government to develop and influence national policy
  - To set up the fees for membership
- Audit, Risk & Assurance Committee

The Audit, Risk and Assurance Committee is a key component of the West Midlands Combined Authority’s corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards. The purpose of the Audit, Risk and Assurance Committee is to provide independent assurance to the Authority of the adequacy of the risk management framework and the internal control environment. It provides independent review of the governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

- Overview & Scrutiny Committee

To ensure that decisions made by the Combined Authority, help make the West Midlands region a better place to live, work, study and do business. To undertake call-in arrangements for the Combined Authority. To make recommendations for appointment to the Combined Authority Board.

- Transport Delivery Committee

The Transport Delivery Committee will be a sub-committee of the Combined Authority Board.

The Transport Delivery Committee will be part of the Transport for West Midlands (TFWM) activities.

To provide oversight of operational delivery of transport across the West Midlands. As requested by the Combined Authority Board or Leader with Transport responsibilities, advise on transport policy matters.

Be responsible for the discharge of specified transport functions delegated by the Combined Authority Board.

The Board membership consists of each of the 7 constituent councils, which cover the West Midlands conurbation – Birmingham, Coventry, Walsall, Dudley, Wolverhampton, Solihull and Sandwell.

Ten non-constituent members also form part of the Board and have limited voting rights – Cannock Chase District, North Warwickshire Borough, Warwickshire County, Nuneaton and Bedworth Borough, Redditch Borough, Rugby Borough, Shropshire, Stratford on Avon District, Tamworth Borough and Telford and Wrekin Councils.

The PCC and the Authority also sit on the Board as Observers. Whilst they do not possess voting rights, they are able to contribute to the strategic discussion and add value.

1.12 The WMCA has a number of priorities which are vested in the Mayor and WMCA portfolio lead members:

- HS2 growth and Health and wellbeing – devolution deals and communications & engagement, mental health, mental health commission and health devolution
- Economic growth – delivery of Strategic Economic Plan (SEP), access to finance for business, Collective Investment Fund (CIF), WMCA growth company, international trade and exports, digital strategy and the arts and cultural activity
- Housing and land – land commission, Land Remediation Fund (LRF) housing delivery, one public estate
- Skills and productivity – skills and productivity commission (including employability), learning for the future and Further Education (FE) area reviews
- Cohesion & Integration and Public service reform – public service reform agenda, troubled families, criminal justice, welfare reform, shared services and social inclusion.
- Transport – delivery of Strategic Transport Plan, Midlands Connect, West Midlands Rail, HS2 delivery transport and Transport Delivery Committee
- Finance and investment – delivery of the WMCA investment agenda
- Environment

## **2 THE NEED TO REVIEW THE CURRENT FIRE ARRANGEMENTS**

2.1 Public Services locally across the West Midlands are changing significantly and will continue to do so with the inception and progression of the WMCA. Central governments expectations around increased efficiencies and reform place an additional expectation on this continued change and transformation.

2.2 The fire and rescue services in England are not exempt from these expectations and will have made efficiencies in the region of £450m by 2019/20 since the introduction of comprehensive spending review (CSR) in 2010/11. Reductions have been experienced both in front line and support service staff. In many areas across England reductions have been seen in the number of fire stations and appliances available to attend emergency calls. As budgets and physical firefighting resources continue to be cut, it is becoming increasingly difficult to meet local needs and address risk in the communities.

2.3 In the West Midlands the Service has sought to implement a programme of transformation to ensure the risk based needs of local communities, targeting the vulnerable, continues to be met in order to deliver stringent service delivery performance standards. A review of the discharge of the Authority's responsibilities provides an opportunity to review the external influences on the Service's ability to sustain its service delivery arrangements. These influences range from changes in Government policy, expectations around reform and financial pressures to the wider benefit that can be leveraged from the services that WMFS are legislatively prescribed to deliver across the public sector in the West Midlands. They include the contribution the Service can make to the achievement of the Mayoral WMCA's strategic ambitions and priorities by supporting growth and reducing the total cost of delivering public services through a coordinated, integrated and collaborative delivery of services.

### **Background:**

#### **The Comprehensive Spending Review and the Service's Approach to Service Transformation**

- 2.4 The Authority has fully supported service wide transformation and has embraced plans to meet the circa 50% (£38m) reduction in central government grant (core) over the course of the CSR, covering the period 2011/12 to 2019/20.
- 2.5 As cited earlier ongoing transformation over the past 6 years has impacted on both service support and service delivery functions. The Service has met the required reductions in funding through exploring and implementing more challenging and innovative approaches to the delivery of internal and external community facing services. Whilst the Service has had to make decisions that have increased risk in some areas of response, prevention and protection, these have been assessed through an evidence based approach, using integrated risk management analysis to minimise the impact on services to the community and importantly, to ensure service delivery standards and expectations continue to be met.
- 2.6 Service transformation in this way has reinforced the Services' priorities and outcomes as set out in The Plan. The Service Delivery Model (SDM) sits at the heart of The Plan and is underpinned by planning and analysis that determines the level of resources needed to be able to respond to high risk (life and property) incidents, within a risk based 5-minute attendance standard. This attendance standard evidentially enables the Service to act assertively, safely and effectively thus reducing the risk to firefighting and increasing the survivability of the victim, as well as reducing the impact of the fire on the local community and economy.
- 2.7 The SDM is pivotal to supporting an integrated approach to the delivery of the Service's prevention, protection and response services to the communities of the West Midlands. Amidst the challenges that the CSR presents to the Service, the SDM cannot be compromised particularly given the positive impact the SDM has at a time when the region has prioritised economic growth.

## **The Government's Fire Reform Programme**

- 2.8 In addition to the significant financial challenges for the fire and rescue services there has also been significant policy challenges through reviews such as those conducted by Sir Ken Knight, (Facing the Future 2013), and Adrian Thomas (Independent review of conditions of service for fire and rescue staff in England February 2015). These reviews continue to set the backdrop for the reform of the fire and rescue sector and is reflected in the Home Office's policy development. However, they have been less challenging because the Service has and remains an agile public service committed to efficient and effective service delivery.
- 2.9 On the 11th September 2015 the Government released a consultation entitled 'Enabling Closer Working between the Emergency Services' which progressed the fire reform programme. This was soon followed by a move of government department for the fire and rescue service on the 5th January 2016, from the Department for Communities and Local Government to the Home Office. The fire reform programme has also encapsulated the reform of the professional voice of the England and Wales fire and rescue services, the Chief Fire Officers' Association (CFOA), with the Home Office contributing to its priorities. CFOA has undergone structural change mirroring the National Police Chiefs Council (NPCC), in addition to a name change resulting in the National Fire Chiefs Council (NFCC).
- 2.10 On the 24<sup>th</sup> May 2016 the then Home Secretary, the Rt Hon. Theresa May, issued a statement which outlined a clear desire from central Government to affect change and generate impetus for further reform wider than the delivery of services - reform of Fire and Rescue Authorities. The Government and the Home Office remain committed to implementing governance structures which provide increased scrutiny, transparency and accountability of decision making, building on the reform of Police Authorities.
- 2.11 The outcomes to the above consultation introduced the Policing and Crime Bill, which received Royal Assent in January 2017 (Policing and Crime Act 2017, PACA 2017). It introduced a new duty of collaboration on each of the emergency services. This Act also introduced new powers for elected Mayors to take on the governance of Fire and Rescue Services. It also delivered the same powers to the PCCs, where local agreement can be achieved.

## **Changing Governance and Future Opportunities**

- 2.12 Government policy developments has also incorporated local councils with legislation enabling the inception of the West Midlands Combined Authority (WMCA) in June 2016 and a Mayor elected in May 2017. This change has provided a further opportunity to review the contribution that public services in the West Midlands can collectively make to the achievement of regional strategic priorities in a more efficient, effective and economical way.
- 2.13 The WMCA priorities are detailed in paragraph 1.12.

2.14 In view of the changing landscape and government expectations driven through policy and legislative reform, the Authority recognised that staying the same was not an option. The Authority identified four possible routes for the potential future governance structures for the Service:

- A Reformed Fire Authority (RFA),
- A Police and Crime Commissioner (PCC),
- A Mayor as part of the WMCA and
- A Combination of regional Fire and Rescue Services.

These possible governance structures were subsequently subject to an appraisal by an independently chaired Future Governance Working Group (the Group) in 2017. The work of the Group is discussed in paragraph 2.21. A more detailed description of each of these governance models is provided in Appendix 5.

2.15 These governance structures are enabled through a number of pieces of legislation. Governance through a PCC or a Mayor as part of a Combined Authority represents the newest structures and the policy of the current Government, enabled through the PACA 2017.

2.16 With the introduction of the WMCA came the first devolution agreement for the West Midlands in 2015, providing the region with additional £36.5 million a year of funding allocation over 30 years in addition to devolved responsibilities.

2.17 Amongst these priorities the 2015 devolution agreement for the WMCA encouraged the exploration of further opportunities for devolution on the basis of an appropriate relationship between the functions of a Mayor, the PCC's and the fire and rescue services. This intent is further outlined with respect to exploring such relationships in the mayoral manifesto.

2.18 These local and national changes have set the environment, pace and expectation of change to ensure the best outcomes for local communities.

### **WMFRA commitment to future governance**

2.19 In view of Home Office expectations around the reform of the fire and rescue service developing apace, the Authority has embraced the developments and considered how it works with, responds to, and influences the changes to ensure the maintenance of risk-based services to local communities, delivered in a value for money way. The Authority acknowledged that a failure to address this could cause the Service to lose relevance, credibility and impact public confidence (an emerging corporate risk) from the uncertainty around the future governance of the Service, with the potential to impact on the priorities in The Plan.

## The Evidence Base

2.20 The Authority committed itself to exploring an evidence based approach to understand how each of the future governance options, in light of the changing external influences highlighted in this review, may support the delivery of services to local communities, enable collaboration, whilst incorporating increased scrutiny, transparency and accountability of decisions; in a value for money way.

### Future Governance Working Group

2.21 The Authority commissioned a Future Governance Working Group (the Group) to provide an options appraisal for the Authority to be able to make an evidence based decision on the best option for governance of the Service in the future and the best approach to achieving this. The group was independently chaired by professional services firm Price Waterhouse Coopers and consisted of a number of key stakeholders from across both the public and private sector:

- WMCA
- Office of the West Midlands Police and Crime Commissioner
- NHS England
- Home Office
- West Midlands Ambulance Service – Board of Governors
- West Midlands Fire and Rescue Authority
- Greater Birmingham Chamber of Commerce
- Coventry and Rugby Clinical Commissioning Group

### The approach to assessment:

2.22 Initially and importantly the Group considered how collaboration currently existed as well as the potential for the provision of future collaborative services across blue light emergency services, local councils, WMCA and the NHS. A critical part to this was the impact the governance model would have on the community and the ability to deliver improved public service to the local community, with increased scrutiny, transparency and accountability of decisions in a value for money way.

2.23 Each of the governance models were assessed against the achievability of this through a set of high level community outcomes, recognising both strengths and opportunities for each of the governance options as well as the possible barriers and risks to progression. The analysis undertaken by the group suggested that:

*‘a two-stage process (two changes in governance, i.e. from Authority to PCC, then to Mayor) increases costs, risk and reduces benefits and as such should be avoided.’*

*‘The Mayor will happen and this will create opportunity in improving public services. WMFRA need to ensure they remain engaged in this to ensure the best opportunity for the delivery of outcomes for the future’.*

It also added that:

- The benefits of the WMCA model included the ability to work directly with all 7 of the metropolitan councils, the potential for working with the Police, and the non-constituents in enhancing public safety and management the demand services. It referenced the Telecare Service provided by the Service to 3 of the 7 constituent councils as good examples of this. It also discussed the potential for a regional emergency planning function and the WMCA as an appropriate footprint to integrate wider services in order to spread cost and outcomes as widely as possible.
- It referenced health as a central issue for the WMCA through its Mental Health Commission: *“As public sector reform is pursued, effective working across the local authority/health boundary will be required, as is hoped for in the STP process. The Mayor will also have convening powers which will at least require health to be at the table. There is certainly further collaboration opportunity for the Service with Health, with several good examples from elsewhere.”*

The Group conclusions can be found in Appendix 6.

- 2.24 The Group’s conclusions provided an evidence base to inform the Authority’s considerations and an avenue to provoke discussion about the merits of each of the options.

#### The Integrated Risk Management Plan (IRMP) Public Consultation:

- 2.25 The Service also undertook a public consultation during December 2016 to January 2017 to engage with the community and partners as part of its Integrated Risk Management Plan (the Consultation) on the future strategy to deliver risk based services across the West Midlands. As part of efforts to enable the community to develop its understanding about the changing landscape affecting the Service and to provide transparency, the consultation extended to future funding and governance. From a governance perspective the consultation outcomes identified a Reformed Fire Authority and a Mayoral Combined Authority as ‘desirable’ models for future governance for best supporting the delivery of its prevention, protection and response services to the communities of the West Midlands.
- 2.26 The influences of external change and a developing evidence base have provided the Authority with the justification to move forward and pursue the engagement of the WMCA and Mayor in determining the next steps in a proposed change in governance for West Midlands Fire Service.

### **3 HOW THE REGION CAN BENEFIT FROM A CHANGE IN GOVERNANCE MODEL AND INTEGRATING WMFS AS PART OF THE WMCA:**

- 3.1 A transfer of governance functions to the WMCA will need to satisfy the following statutory requirements:

Section 105B(1) of the Cities and Local Government Devolution Act 2016 requires that:

‘appropriate consent is given and the Secretary of State considers that the making of the order is likely to improve the exercise of statutory functions in the area or areas to which the order relates’.

Section 113(3) of The Local Democracy, Economic Development and Construction Act 2009 requires that:

‘The Secretary of State must have regard to the need -

- (a) To reflect the identities and interests of local communities and
- (b) To secure effective and convenient local government’

- 3.2 This review will demonstrate how governance delivered through the Mayoral Combined Authority will improve the exercise of the statutory functions in the WMCA area to which this review and associated scheme relates, whilst reflecting the identities and interests of local communities and securing effective and convenient local government.
- 3.3 This will be achieved by delivering a stronger focus on collaboration across the region providing a joined up strategic approach, which is key to the Service’s strategic direction and delivery of its SDM. The opportunities the WMCA presents to widen and strengthen the delivery of collaborative prevention and protection based services was recognised as part of the options appraisal undertaken by the Group (cited in section 2). This is based on the strong track record the Service currently has in collaborating with local councils and other agencies to deliver joined-up services which focus on reducing vulnerability and creating stronger communities. This can be seen in the leadership the Service is currently providing to the WMCA work streams through the CFO leading on Public Service Reform. This change will meet the statutory requirements in 3.1. At the same time these changes will deliver public safety, value for money, increased scrutiny, transparency and accountability to communities, through the singularly elected individual the Government desires, in addition to providing the best opportunity for improving collaboration. The proposed arrangements are set out in section 5.

### **A workforce to support joined up services and reduce vulnerability**

- 3.4 The Service’s strategy is ‘Making the West Midlands Safer, Stronger and Heathier’. The integrated SDM and five-minute attendance standard relies on an essential mix of resources and skills, provided through a whole-time multi skilled workforce delivering prevention, protection and response services.
- 3.5 The Service tackles the ‘causes of the causes’ and the over-arching risk in the West Midlands in this way. An example of its prevention activities is the holistic ‘Safe and Well’ visits. The Service gains access to more than 27,000 targeted-homes each year across the West Midlands as a direct result of the Service’s unique public standing in the community. These visits do not just focus on the potential causes of fire and safety issues, but go deeper to identify and address the wider health and or lifestyle issues which may, further down the line, lead to an emergency incident or acute intervention from the wider public services.

- 3.6 Under a WMCA governance arrangement promoting greater collaboration, greater benefit will be leveraged through interventions such as the holistic Safe and Well visits enabling the further reduction of vulnerability and providing added value within existing funding streams on a wide range of issues as recognised by Professor Sir Michael Marmot (Institute of Health Inequality) and Shirley Cramer (Chief Executive of Royal Society of Public Health).
- 3.7 The more joined-up delivery of services in this way, along with other initiatives such as better data and business advice (see Appendix 2) will not only address vulnerability within the community, strengthen the business community and enhance public safety in its widest context, but it will also deliver the economic savings referred to by the Group, as referenced in paragraph 2.23. The Service's 21<sup>st</sup> century professional, flexible, integrated SDM has the potential to deliver significantly improved value based outcomes to the communities through a more joined up public workforce.
- 3.8 Having considered the potential to deliver significantly improved value based outcomes through the WMCA this review acknowledges the duty the PACA 2017 places on emergency services to consider collaboration where it would be in the interests of efficiency or effectiveness. The Service has long standing collaborative relationships with West Midlands Police (WMP) and the West Midlands Ambulance Service (WMAS). Some examples are listed in Appendix 7.

### **Continued improvement and transformation**

- 3.9 It is clear that as funding for public services continues to reduce, there will be a need to further reform services to improve collaborative working. This reform has to deliver improved value to local communities and should also provide greater value to the public spend.
- 3.10 The Service's commitment to transformation and reform whilst maintaining its commitment to the delivery of its integrated SDM is detailed above and as such the Service is one of the leanest Fire and Rescue Services in the country. This scale of reform has been achieved through working with the Authority, staff, representative bodies, partners and communities, implementing innovative concepts to new ways of working, which have enabled efficiencies to be achieved whilst maintaining and improving services delivered to local communities.
- 3.11 This service transformation continues as the Service seeks to understand how future services can be delivered in a more efficient and effective way, whilst ensuring public safety is clearly met through the right ratio of resources to risk.
- 3.12 Being part of the WMCA will create further opportunities to progress transformation and create greater efficiencies enabled through a single structure. This is supported by the Group's appraisal of the WMCA as the model which provides the best opportunity to realise these benefits as detailed in paragraph 2.23.

## **Effective decision making**

- 3.13 A model which enables accountability and leadership to be aligned effectively will enable transparent and effective decision making and reduce bureaucracy. The WMCA will provide a stable and statutory body for the Service and the Mayor will provide an accountable figure for the Service and decisions made to local communities.
- 3.14 The Mayor as an accountable figure will satisfy the Home Office's desire for 'single accountability' across public services, which together with the benefits from increased integration, greater collaboration across public services, increased public safety and value for money provide a sound rationale for the benefits of transferring the governance of the Service from the Authority to the proposed model. As discussed throughout this section this change could enable increased value to the communities through the delivery of joined-up services across the West Midlands.
- 3.15 The current governance arrangements for the Service through the Authority provides a model where accountability is spread across all 27 of its members. Representation is provided for across all seven constituent councils with a particular focus on 'lead members' for each local authority and political representation is proportional to the West Midlands area. Moving to a model of single accountability through the Mayor will provide an increased political focus on this role. The detail around the proposed model set out in section 5, below, aims to ensure that whilst accountability cannot be spread, the Mayor would be supported by a 'Mayoral Fire Advisory Committee' (the Committee) in the delivery of this role. The Committee will not be a decision making committee, this responsibility will remain with the Mayor and Chief Fire Officer, as appropriate. The Committee will advise the Mayor, represent the Mayor and review decisions made by the Mayor. Further details around the role of the committee is set out in section 5 and Appendix 8.
- 3.16 The Mayor will provide a more visible figure of accountability for the Service, which will support the expansion of collaborative opportunities in line with Government expectations set out in the 'duty to collaborate', whilst enabling, through the model proposed below, focused engagement with constituent councils in the delivery of local services.
- 3.17 Clear and transformational leadership across the West Midlands, will also ensure the continuation of the progressive process of devolution of funding and powers as set out in the WMCA first devolution agreement, to achieve the right outcomes for the communities of the West Midlands.

## **4 THE DIRECTION FOR THE FUTURE GOVERNANCE OF THE SERVICE**

- 4.1 The options appraisal undertaken by the Group together with the outcome of the consultation, the current and future strategic directions of the Service, the WMCA and the overall direction set by the Government (both policy and legislation), supports the Authority as it seeks alignment to a governance model through the Mayor as part of the WMCA. The Authority believes this model would provide the best approach to the future delivery of services to the communities of the West Midlands as set out in paragraph 3. This is particularly so given the Authority maintains its belief that the Service is the largest and most complex Fire and Rescue Service outside of London, complexities recognised by Adrian Thomas as part of his review.

- 4.2 The route to a WMCA governance model has provided the opportunity to explore the relationship between the functions of a Mayor, the PCC and the Authority through local determination. This journey has triggered significant engagement with the Mayor, the WMCA, the PCC, the constituent council Chief Executives and the Leaders of the constituent councils. Support for the strategy to reform the Authority through joining the WMCA as proposed within this Review was unanimously provided at WMCA Board on the 3rd March 2017. This was preceded by approval of the overall direction and timeline for future governance of the Service by the Authority on the 20th February 2017. Subsequently the WMCA Board has approved the preparation of the Governance Review and Scheme on the 8<sup>th</sup> September 2017. These reports are referred to in the background papers, below.
- 4.3 It is proposed that the Service transfer into the WMCA at this stage to enable it to achieve the benefits identified by the Group and those listed above, whilst delivering on the duty to collaborate with the emergency services prescribed by the PACA 2017. This move will progress the intent in the first devolution agreement as set out in paragraph 2.17 whilst the Mayor and the WMCA explore the basis of an appropriate relationship between the functions of a Mayor and the PCC as further outlined in the mayoral manifesto.
- 4.4 A critical element to a change in governance to the WMCA will be the interim governance arrangements in continuing to provide the highest levels of public safety, supporting increased collaboration, without the associated costs an unnecessary change governance option would incur; as well as the risk of impact on engagement with staff, community and trust. In recognition of this the Authority believes that a Reformed Fire Authority (RFA) option can provide a more robust interim approach to governance, this was a key consideration of the Group. In its conclusions the Group determined that, 'the Authority should consider how its own governance should change, to enhance opportunities for further reform and collaboration'. As such, it is anticipated that the RFA will be implemented in June 2018 to support the progressive change to a WMCA governance model.
- 4.5 An important local dynamic within the reform of the Authority is the enabling power the PCC has to seek representation on the Authority by virtue of the PACA 2017. The PCC has followed up on the Authority's invitation to request a place on the Authority. This will be a key part of the RFA, subject to approval at full Authority. This evidences further progress around the intent to explore relationships within the West Midlands.

## 5.0 **PROPOSED GOVERNANCE MODEL:**

- 5.1 A Mayoral combined authority governance model for Fire and Rescue Services is very new. Changes implemented in Greater Manchester and those legislated for in London provide examples of how Mayoral models for governance for Fire and Rescue Services are developing. Further detail is set out in Appendix 9a – Mayoral Governance Models for Fire and Rescue Services and Appendix 9b – Comparison of London and Manchester models.

## **A WMCA Governance Model**

- 5.2 As part of this model it is proposed the WMCA take on the Authority's functions and as such will be to the employer of the Service's staff and own all properties, rights and liabilities in this proposed governance model. The WMCA as a 'corporate body' will have the right structures in place to support the requirements of employer status, as well as any liabilities that result from this. These functions are set out by the following legislation and detailed further in Appendices 1 and 4.

Local Government Act 1985

Local Government and Housing Act 1989

The Local Government Act 1972

The Fire and Rescue Services Act 2004

The Fire and Rescue Services Order 2007

Civil Contingencies Act 2004

Regulatory Reform (Fire Safety) Order 2005

The National Framework for Fire and Rescue Services in England 2012

- 5.3 This model proposes that the Mayor (only) as a singularly accountable figure, will have the power to exercise these functions, delegating decision making and operational functions as appropriate. The essential roles, responsibilities and accountabilities of Mayoral governance, should incorporate functions transferred to the WMCA but exercised only by the Mayor as follows:

- Fire and rescue functions as required of the Fire and Rescue Service Act 2004 and other enabling legislation (detailed above and in Appendix 1).
- Decisions and functions relating to all properties, rights and liabilities in relation to the exercising of fire and rescue functions
- Accountability for the Integrated Risk Management Plan
- Accountability for the Corporate Strategy
- Approval of Budget and setting of precept
- Appointment and dismissal of the CFO

### **5.4 The Mayoral Fire Advisory Committee (the Committee)**

1. *Enable leadership for the Service and Mayoral priorities across each of the 7 local constituent authorities of the WMCA.*

It is proposed that through the Committee arrangements the philosophy of collective representation across all seven constituent authorities remain and that the Committee reflects the membership and balance derived from the approved arrangements for the West Midlands Reformed Fire Authority. This will enable proportionality across each of the constituent councils, as well as enabling continuity and equitable spread in roles and responsibilities.

It is proposed that lead members will represent the priorities and strategy of the Mayor and WMFS in their respective councils and will report on performance in relation to fire functions.

Committee members will also support their local community fire stations in engaging with the community and through providing a link into respective constituent councils.

## 2. *Composition*

It is proposed the committee appointed should consist of 15 elected members from the WMCA constituent councils, the Police and Crime Commissioner (in accordance with the PACA 2017) and three further co-opted members from health, Ambulance and the WMCA to promote greater challenge, transparency and further collaboration.

Existing political balance will be applied to the Committee.

The Chair of the committee will be appointed by the Mayor.

It is recognised within this proposed model that the Mayor will gain greater accountabilities and this will need to be balanced effectively with both existing and future roles and responsibilities. It is proposed that the Committee members will support the Mayor in providing advice around fire related issues to ensure the right level of detail and understanding is provided to inform the Mayors role as the Authority.

The Committee will support the Mayor in providing advice around exercising fire functions to ensure the right level of detail and understanding is provided to inform the Mayors role as the Authority.

## 3. *Keep under review decisions made by the Mayor*

It is proposed that the role of reviewing decisions made by the Mayor is delegated to the Committee. Such reviews will be aligned to the National Framework for the Fire and Rescue Service and through prepared reports, will inform the WMCA about decisions made in relation to the exercising of fire and rescue functions. This will enable a continuation of knowledge and expertise in relation to fire at the outset of transferring the role of fire into the WMCA.

The Committee will review decisions made by the Mayor.

The proposed role of the Committee would be to report back to the WMCA on decisions made.

The Committee will not be a decision-making committee this responsibility will remain with the Mayor and Chief Fire Officer, as appropriate.

## 4. *Act as the 'voice' of the fire service within the 7 Constituent councils, regionally with other Fire and Rescue Services, nationally through the National Joint Council and Local Government Association.*

The Committee will support the Mayor by continuing with the strategic engagements cited in paragraph 1 thereby adding value to and influencing local, regional and national engagements through its sector expertise.

5. *Engage with and influence government policy on behalf of the Mayor in matters such as the impact of CSR on the ability to provide continuity of services to the West Midlands communities.*

Working regionally and nationally with the Fire Sector to engage with and influence issues such as flooding, funding, etc.

The Committee will continue to be a key resource in enabling a wider awareness of the challenges faced locally both from a fire-fighting and community perspective. It will continue to represent the Service through bodies such as AMFRA listed in paragraph 1.

6. *Enable the development of collaboration, partnerships and services to the community through engagement with local councils, emergency services and beyond, thereby fulfilling the requirements of the duty to collaborate.*

The Committee will provide the support required to fulfil the legislative obligations prescribed by the PACA 2017.

- 5.5 This proposed model seeks to create an efficient and effective decision making structure, which will support the Mayor in focusing on strategy and setting direction for the Service.
- 5.6 This proposed model compares favourably with the model recently implemented in Greater Manchester. The model for London which is yet to be implemented is different in that the London Commissioner role also acts as the governing body. It is understood that the scrutiny role of the Greater London Assembly can in the case of fire be delegated to its fire committee.
- 5.7 An overview of the proposed governance framework incorporating roles and responsibilities of the Mayor, committee and CFO/Officers is set out in Appendix 8.
- 5.8 **CFO/Officer roles**

This model will enable the Mayor to delegate functions to the CFO enabling the CFO to be directly accountable for:

- the management of the Service
- the delivery of WMFS Strategy (incl. matters relating to exercising functions of the Fire and Rescue Services Act 2004, etc.)
- the delivery of a staffing structure and model which supports current and future Strategy
- the deployment of resources to meet risk
- the transformation of services to meet WMFS and Mayoral/WMCA priorities.

5.9 The above areas of accountability would enable the CFO as head of paid service of West Midlands Fire Service to effectively manage staff, employee relations, workforce development, resources and assets to support the delivery of day to day functions, as well as the development of future delivery of services aligned to the strategy agreed with the Mayor. Such a proposal appears well placed when considered alongside Chief Officers for other emergency services.

5.10 In accordance with section 2(3) of The Police Reform and Social Responsibility Act 2011 a Chief Constable has direct control of the police force and civilian staff of a police force. This is therefore equivalent to the head of paid service conferred by s4 of the Local Government and Housing Act 1989. Furthermore, a Chief Constable is also a corporation sole by virtue of s2 of Schedule 2 of The Police Reform and Social Responsibility Act 2011.

## **6. The legislative route to enabling Mayoral governance**

6.1 The main pieces of legislation enabling the change to be enacted in governance can be listed as follows:

- The Local Democracy, Economic Development and Construction Act 2009 and
- The Cities and Local Government Devolution Act 2016
- The Policing and Crime Act 2017 (PACA 2017)

6.2 The preferred route to achieve Mayoral governance of WMFS is through the Cities and Devolution Act 2016. This legislation enables the WMCA to take on additional functions, either local authority and/or other public authority functions. This route will enable, through a devolution deal, the powers and functions of WMFRA to be devolved to the WMCA and exercised only by the Mayor.

6.3 The justification and evidence base to support this route has been provided throughout this review and is listed in the scheme. The scheme will be consulted upon and approved locally prior to being submitted to government. The process is detailed below.

### **6.4 Process and timeline:**

The following timeline demonstrates the next steps and stages required to effect the change in governance as outlined in this review. The timeline is indicative but it is envisaged that the governance could be implemented within a 15-18-month period. It should be noted that if the transfer of the Authority functions to the WMCA were to be achieved within this period, the RFA as an interim governance change may not be necessary move.

**October - November 2017:** Constituent Authority approval of content of governance review and scheme.

**8 December 2017:** WMCA approval of content of Governance Review and Scheme.

**January – February 2018:** Consultation of proposals set out in the scheme on behalf of the Secretary of State (a minimum of 6 weeks)

**March 18:** Analyse consultation responses locally

**April 18:** Governance Review, Scheme and analysis of consultation reviewed by Secretary of State (4-12 weeks)

**May - June 18:** Government development of Order detailing changes required in legislation to abolish WMFRA and amend legislation to enable future WMCA governance

**July - September 18:** Constituent Authority/ CA approval of detail of Order

**September - October July 18:** Order amended where needed locally enters Parliamentary Process

**November 18:** Secretary of State approves Order

**November/ December 18:** Authority functions can transfer to the WMCA

## 7. Schedule of background papers

WMFRA report: 'Route Map to Mayoral Governance' (20 February 2017)

WMFRA Report - Future Governance Working Group (20 February 2017)

Future Governance Working Group Report February 2017

West Midlands Combined Authority (WMCA) report (3 March 2017)

WMFRA report – 'Route map to Mayoral West Midlands, Combined Authority Governance - a Reformed Fire Authority (RFA) and decision (10 April 2017)

West Midlands Combined Authority (WMCA) report (8 September 2017)

## 8. Appendices

### Appendix 1 – The Most Pertinent Legislatively Prescribed Service Delivery Provisions:

The most pertinent legislatively prescribed service delivery provisions are as follows:

- **The Fire and Rescue Services Act 2004**

As a requirement of the Fire and Rescue Services Act 2004, the Government published the Fire and Rescue National Framework setting out the priorities and objectives for Fire and Rescue Authorities in England. FRA's must have regard to it in carrying out their duties. The Framework places responsibility on Fire and Rescue Services to prepare an Integrated Risk Management Plan (IRMP). The plan must include targets and objectives for reducing risks, balancing prevention and intervention, and determining response standards and resource allocation. In West Midlands this is called The Community Safety Strategy. The CFO will manage and advise the Mayoral on the IRMP, subject to the Mayor's approval.

- **The Fire and Rescue Services (Emergencies) (England) Order 2007**

Section 58 of the FRS Act 2004 specifies other emergencies for which fire and rescue authorities must make provision. These are set out in the above Order 2007 and specifies functions in connection with emergencies involving chemical, biological, or radio-active contaminants, structural collapse or a train, tram or aircraft (“transport emergencies”), but does not apply in relation to transport emergencies, unless the incident is likely to require a Fire and Rescue Authority to use resources beyond the scope of its normal day to day operations.

In addition, where a Fire and Rescue Authority has specialist resources, including specialist trained personnel, to enable it to deal with emergencies of a kind described in this Order, and such an emergency occurs or is likely to occur in the area of another Authority; this Order requires the Authority with the specialist resources, if asked to do so, to use those resources in that other Authority’s area so far as is reasonable for the purpose of dealing with the emergency. The CFO will manage the configuration of the resources as part of day to day business, however, the Mayor will retain oversight and be able to provide time critical resilience to emergencies on a regional and national scale.

- **The Regulatory Reform (Fire Safety Order) 2005**

This places emphasis on business continuity and containing and preventing the spread of small fires. It provides a minimum fire safety standard in all non-domestic premises. It designates a person (e.g. employer, manager or owner) as a responsible person who is then required to carry out certain fire safety duties, which include ensuring that general fire precautions are satisfactory and that fire risk assessments are conducted.

Fire Authorities are the primary enforcing agencies for all fire legislation in non-domestic use. The Authority has delegated the power to prosecute to the Chief Fire Officer. However, the Mayor will retain oversight.

- **The Civil Contingencies Act 2004**

The Civil Contingencies Act 2004 delivers a framework for civil protection. It establishes a statutory framework of roles and responsibilities for local responders; of which the Authority is one, and on emergency powers, establishing a framework for the use of special legislative measures that might be necessary to deal with the effects of the most serious emergencies. The Act also divides local responders into two categories. The Fire Authority is a Category 1 responder. This means that it is at the core of emergency response. Upon transfer of governance the CFO will continue to manage operational handling and the Mayor will retain oversight.

## Appendix 2 – A Risk Based Service and Risk Based Service Delivery

The Service is a unique public body in that it is funded to provide adequate cover against risk, informed by demand, as opposed to restricted to demand.

Risk is analysed by employing sophisticated processes to manage performance in responding to emergency incidents, based upon the principle of proportionality, dependent on the risk involved. Local geography is analysed, based on factors such as deprivation and the history of dwelling fire incidents within locations to determine the weighting of the risk. In this way, a picture is painted of the future likelihood of high risk incidents occurring in particular areas allowing a reliable Risk Map for assessing foreseeable future risk to be developed. The Area Risk Maps (ARM's) are then used as the basis for planning prevention, protection and emergency response strategies. This data is key not only relevant to WMFS but also to partners in authorities such as constituent councils, health and social care.

It serves a population of more than 2.8 million people with some of the most diverse and multi-cultural communities in the country, in a relatively small geographical space. The population demographics, socio-economic and health and well-being challenges means that the Service has amongst the highest levels of social risk in England, which makes its communities particularly vulnerable to fire, road traffic and other emergency incidents. The West Midlands has a disproportionate percentage of the total number of incidents with more fires per head of population in the West Midlands compared to the rest of the country including London. There are also proportionately more serious life threatening incidents in the West Midlands as is shown by analysing the Primary Fires. There is a similar pattern when total incidents - not just fires but all manner of emergencies.<sup>1</sup> Serving a relatively small geographical space means that WMFS' fire stations serve more people compared to the rest of the country, serving the highest levels of population outside of London, typically double the population of other non-Metropolitan FRS's.<sup>2</sup> Serving larger number of high risk people means WMFS stations are amongst the busiest in the country, attending more than double the number of incidents per Fire Station.<sup>3</sup>

### Prevention, Protection and Response Services:

#### Prevention – creating a healthier community through changing behaviours to improve outcomes

As well as responding to risks when they do happen WMFS is about preventing those incidents and protecting communities in the first instance – That is where its key successes and improvements have been. Nationally, the FRS has undergone a major cultural change to embrace prevention and develop a sophisticated understanding of community risk. This has brought about a dramatic reduction in fires (58%), deaths (38%) and injuries (35%) through services' engagement with communities.<sup>4</sup> The Service plays a very practical and essential role in managing and responding to the risks that face society and they are also uniquely placed to reduce some of the risk in the community through their unrivalled standing and high levels of public trust, satisfaction and confidence by situating firefighters at the very heart of the West Midlands community. This allows the community to have comprehensive

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<sup>1</sup> CIPFA Fire Statistics

<sup>2</sup> CIPFA Fire Statistics

<sup>3</sup> CIPFA Fire Statistics

<sup>4</sup> Fire Statistics Data Tables, Home Office

contact with firefighters who are then able to cross the front doors of residents in the high 80% of the time without any prior contact. This means WMFS firefighters are able to go further when conducting their comprehensive Safe and Well Checks in providing critical interventions, promoting health messages and making referrals to appropriate services to help keep people safe and reduce incidents of harm – *fire-fighting upstream*.

### Protection Services – creating a stronger business community

Serving the heartlands of businesses and the UK economy the Service plays a major role in contributing to the national protection activity. The West Midlands has large numbers of industrial and relatively high risk premises within its community. Often this is a legacy of former industrial heritage and how the cities have developed. One example of the relative risk is that the West Midlands has a higher percentage of unsatisfactory business audits undertaken, meaning they comprise the greatest business risk, which therefore requires further resources to enforce compliance.

Accordingly, protection services are geared towards supporting the local economy. This means prioritising the business sector, focusing on giving a wide range of advice and, when necessary, enforcing the law through qualified inspectors. Officers also work with building control and approved inspectors to inspect plans for new buildings and ensure compliance with the following:

- Clear access routes for fire appliances in areas of new build
- Adequate water supplies and firefighting facilities
- Suitable escape routes and fire resisting construction
- Safety systems such as fire alarms and escape lighting

Safety audits are carried out using a risk based system of ranking sites in order of priority, to ensure visits take place where they will achieve the greatest impact on safety.

The business help-first approach helps to foster positive perceptions in the diverse business community of the West Midlands where there are more small to medium businesses with 18,337 new businesses registered in Birmingham in 2014<sup>5</sup>, the highest in any UK city outside London. 80% of small to medium businesses in the West Midlands do not recover from a fire. An important part of the work the Service does is to work with such businesses to increase their resilience and help to keep businesses in businesses.

These activities strategically align to the WMCA, which has prioritised economic development as part of its plans to use its extensive economic market area covered by the three Local Enterprise Partnerships (LEPs) to jointly create an economy which is the strongest outside London and contributes fully to the Government's vision of a wider "Midlands Engine for Growth".

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<sup>5</sup> Start-up Britain 2014

## Response Services – creating safer communities:

Although the Service has been very successful in reducing fires, there remains an underlying level of risk which means that the Service needs to be resourced to enable it to continue to respond effectively to all the risk in their communities. There is a key public expectation that the Service will respond swiftly to help effectively whatever the emergency. Emergency response will always remain a core priority because, despite efforts to prevent fires and reduce their impact, they and other emergencies continue to occur, putting life, property and the local economy at risk. Emergency calls range from rubbish fires, road traffic incidents, special service calls or a life threatening house fire.

Incidents which threaten life or property require swift attendance times. A swift attendance time reduces the risk to the victim and the responding firefighter, and the financial impact of fire on the local and national economy. WMFS believe that achieving the fastest response time possible is evidentially important to survivability.

Alongside coping with local risks the Service is an integral part of the National Resilience plans for dealing with serious incidents and major catastrophes including natural disasters, terrorism, whereby it provides specialist support in the event of Marauding Terrorist Fire Arms incidents, and specialist capabilities to the UN approved UK International Search and Rescue Teams.

**Appendix 3 – Current governance framework for WMFRA**  
**CURRENT WMFRA MODEL**  
**ROLES & RESPONSIBILITIES**

**HOW IS THIS ENABLED?**

**WHAT DOES THIS MEAN?**

<p><b>West Midlands Fire and Rescue Authority (WMRA)</b>          27 councillors proportionality representing 7 constituent councils.          Model based on Section 41 – lead member principles</p>	<ul style="list-style-type: none"> <li>• Governance (supervisory body) for WMFS</li> <li>• Accountable for ‘fire and rescue’ functions – FRS Act 2004:</li> <li>• Approve the Integrated Risk Management Plan (N.Framework), Corporate Strategy, budget *</li> <li>• Raise council tax precept</li> <li>• Owns all properties, rights and liabilities, including employment contracts</li> <li>• Appointment of Principal &amp; Statutory officers</li> <li>• Lead members (section 41) enable Local Authority representation</li> <li>• Regional and national (LGA/NJC) rep</li> <li>• Lobbies government - AMFRA</li> </ul>	<p>WMFRA is responsible for employing staff, owns all assets and is liable for all civil/criminal action.</p> <p>WMFRA is accountable to the communities for services provided as set out in the Fire and Rescue Services Act and other enabling legislation</p> <p>WMFRA collects council tax contributions from constituent councils</p>	<p>Officers prepare and present the IRM and Corporate Strategy for Authority approval</p> <p>Officers prepare and present all financial, property and asset plans for Authority approval</p> <p>Officers manage all activity to ensure services are delivered as set out in enabling legislation</p> <p>Officers line manage all employees &amp; employee/management relationships through employee relations framework</p>
<p><b>Committees</b>          Councillors undertake delegated responsibilities</p>	<p><b>Audit</b> – governance, risk management and financial control  <b>Scrutiny</b> – inform policy development and scrutinise performance  <b>Executive Committee</b> – urgent matters, approve procurement over £250k  <b>Plus:</b> Appeals, appointments, standards</p>	<p>Committees provide delegated roles on behalf of the WMFRA. Both Audit and Scrutiny are ‘statutory’ roles. Scrutiny is an important element of ‘good governance’ in ensuring robust frameworks are in place</p>	<p>Executive arrangements have reduced and now hear urgent matters &amp; scrutiny outcomes.</p> <p>Scrutiny supported by officers to enable an effective approach to reviews.</p>
<p><b>Chief Fire Officer/s</b>          Delegated responsibilities Accountable to WMFRA</p>	<p>Head of Paid Service          Control of all matters relating to administration of WMFRA functions under fire and rescue services act &amp; other legislation - firefighting, fire safety, road traffic collisions, emergencies, civil contingencies, MTFA, National Resilience.</p>	<p>Decision making to enable operational effectiveness through the right:</p> <ul style="list-style-type: none"> <li>• Allocation of resources</li> <li>• People</li> <li>• workforce development</li> </ul> <p>To enable delivery of the SDM &amp; WMFRA strategy</p>	<ul style="list-style-type: none"> <li>• line management of staff</li> <li>• development of staff</li> <li>• Day to day varying deployment of resources to meet risk</li> <li>• Effective varying of staffing structure and SDM to match resources to risk</li> <li>• Advises WMFRA on exercise of fire and rescue functions</li> </ul>

## **Appendix 4 – Legislative Responsibilities Currently Placed on WMFRA**

The responsibilities as set out in the following pieces of legislation will need to be transferred on abolition of the Authority.

- **Local Government Act 1985**

The Authority as it stands was legally created under the LGA 1985, which created joint fire authorities and stipulated the number of Members appointed from constituent councils to the Fire Authority (27). Section 34 also sets out the annual appointment of the Chair, Vice Chair and Clerk. The responsibilities as set out in this Act including their transfer will depend on the governance model adopted for the future provision of community services.

- **Local Government and Housing Act 1989**

This Act requires the designation of one of WMFS's officers as Head of Paid Service (the Chief Fire Officer) and outlines the specific responsibilities of this role. It also stipulates the requirement to appoint a Monitoring Officer. It is proposed the CFO will continue to be the head of paid service and will be accountable to the Mayor in the operation of their duties, subject to the detail set in the Scheme and the WMCA's Constitution. The requirement to appoint a Monitoring Officer will depend on the governance model adopted.

- **The Local Government Act 1972**

This Act requires the appointment of a Chief Finance Officer (section 151 Officer) in addition to the appointment of such officers as the Authority thinks necessary for the proper discharge of its functions. Under this Act the Authority may also acquire, appropriate or dispose of land/and or premises. Further, the Authority is permitted to make standing orders in respect to the making of contracts by them or on their behalf (subject to relevant procurement legislation). The responsibilities set out in this Act will depend on the governance model adopted.

## **Appendix 5 – The Governance Models**

### **A Fire and Rescue Authority**

Currently all Fire and Rescue Services (excluding Scotland, London and those abolished upon incorporation in combined authorities) whether Metropolitan, Combined or County Council, are governed through an Authority and Committees. These provide democratic accountability and governance of Fire Services to the communities they serve.

A Fire Authority is a statutory body. The Local Government Act 1985 and Local Government and Housing Act 1989, provides the basis for these arrangements. More specifically, for West Midlands Fire Service as a Metropolitan Service schedule 10 of the 85' Act sets out the number of Members that should sit on the Authority, apportioning this amongst each of the 7 West Midlands Local Authorities.

The purpose of a Fire Authority is to provide policy and political direction to the Service and to carry out strategic and legislative duties such as the approval of the Authority budget.

### **A Police and Crime Commissioner (PCC):**

The introduction of the Policing and Crime Act 2017 (PACA 2017) as an outcome of the 'Enabling Closer Working' consultation, introduced two key proposals:

It placed a duty on each of the emergency services to consider collaboration. PACA 2017 also enabled the governance of the Fire and Rescue Services to be provided for through a single elected accountable person, a Mayor or where this is locally determined, a PCC. PCC's now have the ability to submit a business case to the Secretary of State, to take over the governance of Fire and Rescue Services in their areas.

Any business case must be able to demonstrate the benefits of this change against the delivery of improved efficiency, effectiveness, economy and public safety.

The PACA 2017 provides two options for the future governance and management of both organisations (Police and Fire).

The first is where the PCC provides the governance for both the Police and Fire, with Chief Officers from both organisations reporting in through their separate management structures. This would lead to the disbanding of the Authority and the transference of the employer status for fire and rescue staff to the PCC.

The second also enables the PCC to provide governance for both Services but appoints a 'single employer', a Chief Officer, to oversee both organisations (Police and Fire). In this option the Chief Officer becomes the employer of fire and rescue staff.

The PACA 2017 also makes provision for differing arrangements in London where the London Fire and Emergency Planning Authority (LFEPA) will be abolished and the London Fire Service will be brought under the direction of the Mayor of London, who will set its budgets and strategic direction. The London Fire Commissioner will become a 'corporation sole', with the functions of the abolished LFEPA being transferred to the Commissioner. The Commissioner will have the functions of the Fire and Rescue Authority for Greater London. A Fire and Emergency committee will be formed with the purpose of scrutinising the Commissioner, Fire Service and Mayor.

### **West Midlands Combined Authority and the Mayor:**

As part of public sector reform, handing down power and money from central government to local authorities through devolution deals, means that decisions and spend can be made locally for the benefit of the region. This can be achieved through the joining of services to deliver better outcomes for the community. Devolution is a critical agenda for central government and through the Cities and Devolution Act 2016, has been delivered through a Mayor as the single accountable leader of a Combined Authority.

Mayoral elections for WMCA took place on the 4<sup>th</sup> May 2017 and following amendments to the PACA 2017 at Bill stage, provisions are in place for the Mayor to have the direct power to "exercise the functions of Fire and Rescue Services". This has provided a route for the governance of the Service to become functions of the Mayor as part of the WMCA and be provided for through this structure.

### **Combination of Fire and Rescue Services:**

The west midlands county footprint incorporates five fire and rescue services. Research undertaken during 2015 highlighted the possibility of the combination of Fire and Rescue Services with the potential to increased public safety and improved performance whilst delivering wider efficiencies. The commitment to joint working within the WMCA footprint is evident by the increase in the number of non-constituent members which brings into focus the wider fire and rescue services.

The Fire and Rescue Services Act 2004 and enables the PACA 2017 enables these changes to be made.

## **Appendix 6 – The Future Governance Working Groups Conclusions**

1. The analysis suggests that a two-stage process, whilst there is no “stand out” option, increases costs, risk and reduces benefits and as such should be avoided. There is considerable potential change in the next year or so:

- PCC business cases
- The development of the Combined Authority model in Manchester and London
- The programme of the Mayor and the WMCA
- Additional devolution deals

The WMFRA needs to ensure it continues to engage with stakeholders to ensure it can fully consider its position and the options available to it.

2. The Working Group found that there was enthusiasm and commitment from other organisations for collaboration. The Service has made great progress over recent years, and the working group felt that the Authority would benefit from considering its constitution and structure and how it might change enable further collaboration.

3. The Mayoral and WMCA model is just emerging and the first Mayor is yet to be appointed, so there is as yet lack of clarity about its programme. However, change with a new Mayor will happen and this will create opportunity in improving public services. The WMFRA need to ensure that they remain engaged in this to ensure the best opportunity for delivery of outcomes for future.

4. If a mayoral option is not available in the medium term for police or fire, then the options would need re appraised to ensure the benefits of collaboration across the emergency services and wider public services are realised.

5. The Bill does not enable governance changes with the Ambulance Service which may prevent full collaboration to be realised as well as the benefits from this.

6. Ambulance sits outside of governance analysis however the opportunities for collaboration are significant

7 A Fire/Fire combination would realise significant benefits at lower risk than other options. This would require local consensus and a formal business case, approved by the Home Office. The associated Council tax consequences, and any boundary issues would need to be considered.

8 The PCC model is relatively new but is having an impact on Police effectiveness. Although there would be some risk associated with the Fire/Police combination, there could be significant cost benefits.

## Appendix 7 – Collaborative Relationships

### **Multi-Agency Specialist Assessment Team (MASAT):**

Combining the resources, expertise and specialist knowledge of the Service, West Midlands Ambulance Service (WMAS) and West Midlands Police (WMP) for the initial assessment of hazardous substance at potential/suspected Chemical Biological, Radiological and Nuclear (CBRN(e)) incidents achieves a flexible and a scalable approach, which delivers an effective and efficient response.

The relationships formed through this work has enabled greater communication particularly with WMP. Through these relationships, shared work locations have now been established, which further the ongoing support for daily activities and the ability to share information.

The Multi Agency Specialist Assessment Team (MASAT) seeks to develop a single, joint and co-ordinated emergency services response to a suspected/potential CBRN(e) event, implementing consistent working practices and maximising interoperability across equipment, resources and knowledge.

The MASAT is a combination of CBRN(e)/HAZMAT specialist resources from WMFS, WMAS and Police Officers from the four regional forces. By working as a single operational entity the MASAT will provide an initial assessment of suspected/potential CBRN incidents and rapidly detect, identify and monitor the presence of any hazardous substance, to secure an informed and proportionate multi-agency response. The team may also be deployed to other incidents which encounter hazardous materials, for example, chemical suicides and drugs or explosive laboratories where chemicals are found.

The principal contributions of each service are:-

#### ➤ Ambulance Service

The WMAS Hazardous Area Response Team (HART) provide an initial health assessment of any incident and alert the wider health community on their potential scale and impact. The team support Fire and Police Service responders, ensuring a safe system of work and providing immediate medical care to MASAT staff.

#### ➤ Fire Service

The Fire Service provide a Detection Identification and Monitoring (DIM) capability to rapidly identify and analyse suspected CBRN(e) substances. The team also ensure that items recovered are handled and retained with due care for forensic integrity. The team also ensure that safe systems of work exist for Breathing Apparatus equipment and rescue functions.

#### ➤ Police Service

The Police Service will have primary responsibility to command the response to an actual or potential CBRN(e) event by managing any civil disorder, to ensure a permissive environment exists in which the other emergency services can operate. It will also conduct intelligence/scene assessments to inform operational risk assessments and any subsequent response.

Benefits:

A more dynamic, effective and efficient delivery of services when an incident occurs as all emergency services respond together using the same approach and together.

### **Collaborative Pensions Board:**

WMFS and WMP chair each other's respective Pensions Board meetings. This arrangement was established in order to provide an independent Chair at each Pension Board meeting without incurring additional costs.

Benefits:

- This has been a quick win for both services and has removed the potential costs associated with recruiting an independent Chair into this role.
- Sharing of practice and development of working relationships between the WMP and WMFS.

### **Emergency Planning / LRF**

For a number of years WMFS and WMP have shared the co-ordination and delivery of the Local Resilience Forum (LRF) in support of the Local Authorities and other Category 1 and 2 responders under the Civil Contingencies Act.

WMFS and WMP provide the Chair and Vice Chair of both the Strategic LRF and the General Working Group (GWG) that supports the LRF. The administrative resources for the LRF are employed by WMP but directly support the Chair from WMFS.

### **Local Police Units & Operations Commanders:**

This collaboration is underway with WMFS Operations Commanders regularly attending WMP Local Police unit meeting and vice versa.

There are regular meetings between the Principal officers in WMFS and WMP to ensure that all opportunities are discussed such as:

- The possibility of sharing data and information about properties and estates
- Looking at closer alignment of LPU/Command plans to take account of each other's local priorities
- The chance of Police sharing data about RTCs to help WMFS measure the impact of prevention activity

## Appendix 8 – Proposed Future Governance Framework for Mayoral model

### ROLES & RESPONSIBILITIES

<p><b>Mayor</b> Single elected accountable figure</p>	<ul style="list-style-type: none"> <li>• Governance (supervisory body) for WMFS, guided by LGA and LGiH Acts</li> <li>• Exercises all 'fire and rescue' functions – FRS Act 2004 and enabling:</li> <li>• Accountable for the:             <ul style="list-style-type: none"> <li>• Integrated Risk Management Plan (N.Framework)*</li> <li>• the Corporate Strategy – The Plan*</li> <li>• Budgets (Capital and revenue)*</li> </ul> </li> <li>• Raises precept</li> <li>• Responsible for Senior &amp; Statutory Officer appointments</li> </ul>
<p><b>WMCA</b> (governing body)</p>	<ul style="list-style-type: none"> <li>• Owns all <b>functions</b>, properties, rights and liabilities, including employment contracts of WMFS staff</li> </ul>
<p><b>Fire Advisory Committee</b> (Specialist review and advice to Mayor)</p>	<ul style="list-style-type: none"> <li>• Leadership for WMFS priorities across seven local constituent authorities</li> <li>• Enabling development of local authority and health care partnerships</li> <li>• Review functions - i.e. reviewing decisions made against the local risk plan and the corporate strategy (statutory functions)</li> <li>• Enabling regional fire and local government relationships</li> <li>• Lobbying functions with other FRSs through AMFRA</li> <li>• A voice and representation within LGA and NJC working with alongside NFCC</li> <li>• Ceremonial support for Mayor for WMFS</li> </ul>
<p><b>Chief Fire Officer/Officers</b> Accountable to the Mayor</p>	<p>Head of Paid Service for WMFS Accountable to the Mayor for the delivery of services within a balanced budget:</p> <ul style="list-style-type: none"> <li>• the delivery of WMFS Strategy (incl. matters relating to exercising functions of the fire and rescue services ac, etc)</li> <li>• the delivery of a staffing structure &amp; models supporting current and future Strategy</li> <li>• the deployment of resources to meet risk</li> <li>• the transformation of services to meet WMFS and Mayoral/WMCA priorities.</li> </ul>

### WHAT WILL THIS MEAN?

<ul style="list-style-type: none"> <li>• The WMCA owns all properties rights and liabilities of the former WMFRA and all functions</li> <li>• The WMCA employ all staff including the CFO</li> <li>• The Mayor <b>only</b> can exercise all fire and rescue functions and can delegate these to a committee and/or officers other than* functions</li> <li>• The Mayor is accountable figure to the communities for services provided, as set out in the Fire and Rescue Services Act and other enabling legislation</li> <li>• The Mayor provides strategic policy direction</li> <li>• The Mayor oversees the efficiency and effectiveness of WMFS</li> </ul>
<p>The MFAC has clear delegations around scrutiny of Mayoral decisions, providing reports to the WMCA Supports the Mayor both locally and nationally as the political 'voice' for WMFS</p>
<p>Accountability for the delivery of Strategy and Integrated Risk Plan, enabled through robust decision making at the right level. Delivering operational effectiveness through the right:</p> <ul style="list-style-type: none"> <li>• Allocation of resources</li> <li>• Recruitment and management of staff</li> <li>• workforce reform &amp; development</li> </ul>

## **Appendix 9a – Mayoral Governance Models for Fire and Rescue Services**

**London arrangements:** The Mayor of London already provides a role for oversight of the current London Fire and Emergency Planning Authority (LFEPA). The new London Mayoral model which is created by the Policing and Crime Act 2017, places responsibility for the governance of the London Fire Brigade with the London Fire Commissioner (LFC), transferring the functions of the LFEPA to the LFC. This role will also be the Chief Fire Officer for the Fire Brigade.

The detail around this model is still emerging and a 'scheme of supervision' is currently being created to ensure the Mayor is able to hold the LFC to account for the exercise of functions.

A 'fire, resilience and emergency planning committee' was constituted on the 3<sup>rd</sup> May 2017 and is intended to provide a scrutiny function to the LFC on behalf of the Mayor.

**Manchester arrangements:** The Manchester Mayoral model created through the Cities and Devolution Act 2016, transfers the governance of the Fire and Rescue Service and the functions of the previous Fire Authority, to the Greater Manchester Combined Authority (GMCA). However, these functions are only exercisable by the Mayor. The transfer of these functions took place on the 8<sup>th</sup> May 2017.

The Mayor is able to delegate to both the CFO and a 'fire committee'.

A 'fire committee' is provided for within the order that created the fire function within GMCA, The Greater Manchester Combined Authority (Fire and Rescue Functions) Order 2017. The role of the fire committee is not set out in this order and but is in the early stages of being developed.

### **What are the differences?**

The London model places accountability for governance, delivery of fire and rescue functions and services, the ownership of assets and employment of staff on the LFC role. This role will also be the CFO for the Fire Service.

The scrutiny role enabled through the 'fire, resilience and emergency planning committee' is essential for this model.

The Manchester model enables the responsibility for the delivery of services, the ownership of assets and employment of staff to be spread. Whilst the GMCA employs staff and owns assets, the Mayor is accountable for the exercising of 'fire and rescue' functions. The Mayor can delegate some functions to a deputy, committee and the CFO.

The advantages of the LFC model will be that there is clarity in roles and responsibilities around decision making concerning the management of fire service resources and in particular the development of the workforce. The accountability of the LFC will enable a progressive and agile approach to the transformation of workforce and services delivered to local communities.

The LFC holds a great deal of accountability and liability within a 'Corporation Sole' model which will present risks. It is assumed that whilst this model is now legislated for, there is still some detail being worked out as progress to implement has so far been deferred.

The Manchester model retains accountability for decision making with the Mayor. These decisions can be delegated to a committee or to the CFO. There will need to be clear delegations between the roles of the GMCA, Mayor, Committee and CFO, to ensure that the fire service is able to maintain operational effectiveness and transform services through effective decision making. The committee model offers additional political support to the Mayor, informed advice and guidance and maintains a clear connection through lead members with each of the constituent councils in the region.

There remains within each model, essential scrutiny functions.

## Appendix 9b – Comparison of London and Manchester models

This comparison seeks to clarify the differences between the governance models of Manchester Fire and Rescue Service and London Fire Brigade. The Manchester model is now in place but in its infancy, the London model is not as yet and there are elements to both which are still emerging and developing.

	<p><b>London Fire Brigade to London Fire Commissioner</b></p> <ul style="list-style-type: none"> <li>• <a href="#">The Policing and Crime Act 2017</a> (PACA 2017)</li> </ul>	<p><b>Manchester Fire and Rescue Service to Greater Manchester Combined Authority</b></p> <ul style="list-style-type: none"> <li>• The Greater Manchester Combined Authority (Fire and Rescue Functions) Order 2017 (<a href="#">S.I.2017/469</a>)</li> <li>• The Greater Manchester Combined Authority Order 2011 (<a href="#">S.I.2011/908</a>)</li> </ul>
<p><b>What are the Fire Authority functions and how has/will this change?</b></p>	<p>The London Fire and Emergency Planning Authority (LFEPA) is the Fire Authority for London Fire Brigade.</p> <p>This is to be abolished by the above Act and its functions are to be transferred to the London Fire Commissioner (LFC). These are the ‘fire and rescue’ functions and passes responsibility for providing fire services to the Mayor from October 2017 (though date tbc by Parliament). The PACA 2017 requires the London Assembly to arrange for those functions granted to it by Schedule 2 of that Act to be discharged on its behalf by a particular committee, proposed to be known as the Fire, Resilience and Emergency Planning Committee.</p> <p>Source:  <a href="https://www.london.gov.uk/moderngov/documents/g6205/Public%20reports%20pack%20Wednesday%2003-May-2017%2010.00%20London%20Assembly%20Plenary.pdf?T=10">https://www.london.gov.uk/moderngov/documents/g6205/Public%20reports%20pack%20Wednesday%2003-May-2017%2010.00%20London%20Assembly%20Plenary.pdf?T=10</a> (p.28)</p> <p>This change is due to take place in April 2018</p>	<p>The Greater Manchester Fire and Rescue Authority (GMFRA) have been abolished.</p> <p>The functions of the GMFRA are transferred to Greater Manchester Combined Authority (GMCA) under the above 2017 order. This took place on the 8<sup>th</sup> May 2017. GMCA will employ staff and own assets.</p> <p>The ‘fire and rescue’ functions of the GMCA may only be exercisable by the Mayor. These relate to the ability to vary staff and resources to enable the delivery of services.</p>

<p><b>Body corporate</b></p>	<p>The LFC will be a ‘corporation sole’ and all proprieties, rights and liabilities of the LFEPA will transfer across to this role.</p>	<p>The GMCA is a ‘body corporate’ and all proprieties, rights and liabilities of the previously GMFRA, transfer across to the combined authority.</p>
<p><b>What are the Mayors responsibilities and what can be delegated?</b></p>	<p>The Mayor:</p> <ul style="list-style-type: none"> <li>• appoints the LFC</li> <li>• can dismiss the LFC</li> <li>• sets the terms of employment for the LFC</li> <li>• will hold the LFC to account for the exercise of the Commissioner’s functions.</li> <li>• approves the local risk plan and the LFC’s corporate strategy.</li> <li>• Can guide and/or direct the LFC in his/her functions</li> </ul> <p>The Mayor is not responsible for the functions of the FRS Act 2004. This is the responsibility of the LFC and as such all decisions relating to the delivery of services and employment of staff rest with the LFC</p>	<p>The Mayor:</p> <ul style="list-style-type: none"> <li>• Is responsible for exercising all fire functions under the Fire and Rescue Service Act 2004</li> <li>• appoints and can dismiss the manager of the FRS (the CFO)</li> <li>• sets his / her terms of employment.</li> <li>• Will hold the CFO to account</li> <li>• approves the local risk plan, the corporate strategy and civil contingency arrangements.</li> <li>• Delegates roles and responsibilities to the CFO</li> </ul> <p>the Mayor as the governing body is responsible for functions under the FRS Act 2004? If so this needs adding here as it provides an important distinction to London.</p>
<p><b>What responsibilities can the Mayor delegate?</b></p>	<p>The Mayor may delegate responsibilities to a Deputy Mayor for Fire.</p> <p>The Greater London Assembly must also receive the local risk plan and corporate strategy.</p> <p>The Assembly must arrange for its responsibility to be discharged by a “Fire and Emergency Committee” (the Committee).</p>	<p>Members and officers of the GMCA may assist the Mayor in the exercising of fire and rescue functions.</p> <p>The Mayor may delegate the exercising of fire and rescue functions to a ‘Fire Committee’, except for those set out above.</p>

<p><b>What does the committee do?</b></p>	<p>The Fire, Resilience and Emergency Planning Committee, will provide scrutiny of:</p> <ol style="list-style-type: none"> <li>1. the LFC's documents (including any revisions) i.e. the local risk plan and the corporate strategy and make recommendations to the Mayor.</li> <li>2. Review the exercise of functions of the LFC, investigate and prepare reports about any actions or decisions of the London Fire Commissioner, Deputy Mayor for Fire, an officer of the London Fire Commissioner, functions of the London Fire Commissioner and any other matters considered of importance relating to fire and rescue services in Greater London;</li> </ol> <p>The committee also has the power to submit proposals to the LFC.</p> <p>Wider powers of the Assembly include the power to call the proposed LFC or Deputy Mayoral candidate to a 'confirmation hearing' following which the committee call the proposed LFC or Deputy Mayoral candidate to a 'confirmation hearing' following which the committee can veto the appointments if unsatisfied.</p> <p>The power to require the Deputy Mayor for Fire, The London Fire Commissioner and any officer of the London Fire Commissioner to attend the Committee to answer questions.</p>	<p><i>The actual role of the fire committee of the GMCA fire function is not set out in legislation as it has been for the London model. However, the arrangements highlighted in the above section cannot be delegated. This could create the assumption that the committee would provide a scrutiny or advisory function to support the Mayor in decision making.</i></p> <p><i>Further information is being sought via Manchester Fire and GMCA.</i></p>
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	<p>A 'scheme of supervision' for the Mayor of London is currently being drafted to enable oversight of the LFC and decision making processes.</p>	
<p><b>Committee appointments</b></p>	<p>There are no statutory rules regarding the size of this committee or the number of meetings it must hold. The London Assembly proposed that the Fire Committee should comprise 7 Assembly Members and meet 6 times in a full municipal year.</p> <p>The members term of office is fixed by the Assembly. Membership may be wider than Members of the Assembly (with powers to vote on matters) - procedures for these members yet to be drawn up.</p>	<p>The GMCA Fire Committee will comprise of no more than 15 members.</p> <p>It will consist of 1 elected member from each of the 10 constituent councils.</p> <p>Each constituent council will nominate a member.</p> <p>The Mayor may then appoint 5 or fewer further members onto the Fire Committee, from the elected members of one or more of each of the constituent councils.</p>
<p><b>Committee composition</b></p>	<p>Current composition of the Greater London Authority is: Labour Group – 48%, GLA Conservatives Group - 32%, Green Party Group – 8%, UK Independence Party – 8%, Liberal Democrat Group – 4%.</p> <p>The London Assembly, at its annual meeting on 13 May 2016, unanimously agreed to dis apply the strict application of proportionality rules from the establishment of its committees and subcommittees.</p> <p>The Fire Committee may appoint a sub-committee(s) to discharge any of its functions, other than any of the special scrutiny functions. The number of members of any sub-committee and their terms of office are to be fixed by the Fire Committee. Persons who are not members of the Assembly may be members of a sub-committee.</p>	<p>The Fire Committee must reflect as far as reasonably practicable, the balance of the political parties among the constituent councils when appointed to the committee.</p>

<p><b>Who will Chair the Committee</b></p>	<p>The Assembly may determine the Chair (and Deputy Chair (if any)), or otherwise determine that the Fire, Resilience and Emergency Planning Committee is to appoint the Chair (and Deputy Chair (if any)).</p>	<p>The Mayor will appoint a member of the Fire Committee to Chair.</p>
<p><b>What is the role of the Chief Fire Officer of the Fire Service?</b></p>	<p><i>As highlighted above the LFC who will be the CFO will take on all functions of LFEPA, including 'fire and rescue' functions. The LFC will:</i></p> <ul style="list-style-type: none"> <li>• <i>Employ all staff</i></li> <li>• <i>Own all assets</i></li> </ul> <p><i>This provides the LFC with the role and power to decide how staff, equipment and assets will be used to deliver services aligned to the local risk plan.</i></p>	<p>As highlighted above the Mayor can delegate to the CFO. Whilst this model is now in place the delegations to the 'committee' and CFO are yet to be understood.</p> <p>At the very least it is likely that the CFO will be delegated the control of all operations as required under the Fire and Rescue Service Act 2004.</p>

## **1b. West Midlands Combined Authority SCHEME**

This scheme is prepared and published following/pursuant to the decision of the West Midlands Combined Authority (WMCA) on 8 September 2017.

The proposals in this scheme will be subject to a further public consultation.

The scheme provides as follows:

1. It is proposed that the functions exercisable by the West Midlands Fire and Rescue Authority (WMFRA) across the area that the WMCA covers, should become functions of the WMCA pursuant to sections 105 A of the Local Democracy, Economic Development and Construction Act 2009.

These functions are those as set out in the following acts and where relevant identified sections:

- Local Government Act 1985 (including Part IV, schedule 10)
- Local Government in Housing Act 1989
- Fire and Rescue Service Act 2004
- Fire and Rescue Order 2007
- National Framework for Fire and Rescue Services in England 2012.
- Regulatory (Fire) Reform Order 2005
- Civil Contingencies Act 2014

The requirements for change are set in 1.13 to this scheme.

- 1.2 It is proposed that the properties, rights and liabilities of the WMFRA would become functions of the WMCA.
- 1.3 It is proposed that the functions relating to fire and rescue referred to in 1.1 should become WMCA functions.
- 1.4 It is proposed that the fire and rescue functions once they become functions of the WMCA are exercisable only by the Mayor (section 107D (1) Cities and Local Government Devolution Act 2009).
- 1.5 For the purposes of the exercise of the fire and rescue functions, the Mayor may do anything that the WMCA may do under section 113A of the LDEDC Act 2009 (general power of EPB or combined authority) (1).
- 1.6 It is proposed that the WMCA has the same borrowing powers in respect to its functions, relating to fire and rescue as are currently exercised by the WMFRA.
- 1.7 It is proposed that the WMCA retain the same core grant and precept funding arrangements in respect to its functions relating to fire and rescue, as currently exercised by the WMFRA.

- 1.8 Any decisions/acts made before abolition of the WMFRA should have effect as if agreed by, or, in relation to the Mayoral WMCA. For example, the setting of the precept for, under section 40 Local Government Finance Act 1988 to the constituent councils in respect of the financial year beginning before transfer in governance, should have effect as if issued by the Mayoral WMCA.
- 1.9 It is proposed that Members of the WMCA may assist the Mayor in the exercise of the fire and rescue functions in line with delegations, provided that the functions may not include:
- Functions relating to the budget and setting of the precept
  - Functions relating to statutory plans such as the Integrated Risk Management Plan (IRMP) and strategies
  - Functions relating to all properties, rights and liabilities
  - The appointment of the Chief Fire Officer and Principal officers

### **Mayoral Fire Advisory Committee**

- 1.10 It is proposed that the Order should contain provision for the Mayor to arrange for a committee of the WMCA (the Mayoral Fire Advisory Committee), consisting of members appointed by the constituent councils, to advise and support the Mayor in relation to West Midlands Fire Service (WMFS).
- 1.11 It is proposed the committee appointed should consist of 15 Elected members from across the constituent councils, proportionally balanced, the Police and Crime Commissioner (in accordance with the Policing and Crime Act 2017) and two further co-opted members from Health and Ambulance to promote greater challenge, transparency and further collaboration.
- 1.12 The following additional provisions are proposed to apply to the Mayoral Fire Advisory Committee (the Committee): (section 107D(6))

### **Governance:**

- Appointment of elected members from each of the constituent councils will be made so that the members of the committee taken as a whole, reflect as far as reasonably practicable, the overall balance of political parties prevailing amongst the constituent councils.
- The majority of members of the committee must be members of the constituent councils, all of those members have one vote.
- Where a member is not from a constituent council they don't have a vote automatically, but can be given one by resolution of the WMCA.
- Two-thirds of members must be present for a meeting to be quorate.
- The Chair of the Committee will be appointed by the Mayor.

### **Functions:**

- The Committee will not be a decision-making committee this responsibility will remain with the Mayor and Chief Fire Officer, as appropriate.
- The Committee will advise the Mayor, support the Mayor and review decisions made by the Mayor.

- Where decisions are reviewed, the Committee will submit a report to the WMCA Overview and Scrutiny Committee.
- The Committee will support the Mayor in providing advice around exercising fire functions, to ensure the right level of detail and understanding is provided to inform the Mayor's role as the Authority.
- The Committee will represent the priorities and strategy of the Mayor and WMFS in their respective local authorities and will report on performance in relation to fire functions.
- The Committee will represent the priorities and strategy of the Mayor and WMFS within the 7 constituent councils, regionally with other Fire and Rescue Services, nationally through the National Joint Council and Local Government Association.
- The Committee will seek to influence the Government on behalf of the Mayor in matters related to the delivery of fire and rescue services locally, regionally and nationally.
- The Committee will enable the development of partnerships and services to the community through constituent council engagement.

A member's allowance scheme for the committee will be payable by the WMCA.

- 1.13 The Chief Fire Officer (CFO) as head of paid service will be accountable to the Mayor in the operation of their duties.
- 1.14 It is proposed that the CFO maintains full accountability for the operational functions of the Fire Service. This will include:
- The management of the Fire and Rescue Service
  - The appointment and development of staff
  - The delivery of WMFS Strategy (including matters relating to exercising functions of the Fire and Rescue Services Act 2004, etc.)
  - The delivery of staffing structures and models which support current and future Strategy
  - The deployment of resources to meet risk
  - The transformation of services and reform of the workforce to meet WMFS and Mayoral/WMCA priorities.
- 1.15 Modification requirements of enactments in their application to the WMCA as a Fire and Rescue Authority.

## **Primary Legislation**

### *Local Government Act 1972*

1. In section 138(5) of the Local Government Act 1972 (powers of principal councils with respect to emergencies or disasters) (a), the reference to "metropolitan county fire and rescue authority" is to apply as if it included "the WMCA as a fire and rescue authority".

### *Greater Manchester Act 1981*

2. (1) The Local Government and Housing Act 1989(c) is modified as follows.

(2) In section 67 (application of provisions about companies in which local authorities have interests), subsection (3)(k) applies as if the reference to “joint authority established by Part IV of that Act” included a reference to “the WMCA as a fire and rescue authority”.

(3) In section 155 (emergency financial assistance to local authorities) subsection (4)(g) applies as if the reference to a “joint authority established by Part IV of the Local Government Act 1985” included a reference to “the WMCA as a fire and rescue authority”.

#### *Crime and Disorder Act 1998*

3.— (1) The Crime and Disorder Act 1998(d) is modified as follows.

(2) In the definition of “fire and rescue authority” in section 5(5) (authorities responsible for strategies), the reference in paragraph (b) to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to “the WMCA as a fire and rescue authority”.

(3) In the definition of “relevant authority” in section 115(2), the reference in paragraph (j) to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to “the WMCA as a fire and rescue authority”.

#### *Local Government Act 2003*

4. Section 23(1) of the Local Government Act 2003 (meaning of “local authority” for purposes of Part 1 (a) the reference in paragraph (k) to “a joint authority established by Part IV of that Act” is to apply as if it included a reference to “the WMCA as a fire and rescue authority.”

#### *Fire and Rescue Services Act 2004*

5.— (1) The FRS Act 2004(b) is modified as follows.

(2) Section 4A (power to provide for police and crime commissioner to be fire and rescue authority) has effect as if at the end of subsection (3)(b) there were inserted—  
“, and (c) outside the Area.”;

(3) Section 4B(1)(changes to existing fire and rescue authorities) has effect as if the reference to fire and rescue authorities in England outside Greater London did not include the WMCA.

6. In section 1 of the FRS 2004 Act(1), after subsection (4) insert—

“(5) This section is also subject to an order under Part 6 of the Local Democracy, Economic Development and Construction Act 2009 which transfers the functions of a fire and rescue authority to a combined authority established under section 103 of that Act.”.

### **Secondary legislation**

7. In paragraph (a) of the definition of “local authority” in regulation 2(1) of the Pipelines Safety Regulations 1996 (interpretation)(c) the reference to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to “the WMCA as a fire and rescue authority”.

8. In article 1(2) of the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009 (application of order to best value authorities) (d) the reference in paragraph (c) to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to “the WMCA as a fire and rescue authority”.

9. In regulation 3 of the Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012 (relevant authorities) (e) the reference in paragraph (a) to a “metropolitan county fire and rescue authority established

under section 26 of the Local Government Act 1985” is to apply as if it included a reference to “the WMCA as a fire and rescue authority”.

10.— (1) The Local Government Pension Scheme Regulations 2013(f) are modified as follows.

(2) After regulation 64(8), insert—

“(8A) Paragraph (8B) applies where the exiting employer is the WMFRA and the liabilities of the fund in respect of benefits due to the WMFRA’s current and former employees (or those of any predecessor authority) have been or are to be transferred to the WMCA by virtue of this Order.

(8B) Where this paragraph applies, no exit payment is due under paragraph (1) and paragraph (2) does not apply.”.

11. In regulation 2(1) of the Explosives Regulations 2014 (interpretation)(g) in the definition of “local authority”, the reference in paragraph (c) to “a metropolitan county fire and rescue authority” is to apply as if it included a reference to “the WMCA as a fire and rescue authority”.

12. In regulation 2(1) of the Control of Major Accident Hazards Regulations 2015(a) in paragraph (b) of the definition of “local authority”, sub-paragraph (ii) is to apply as if there were substituted for that sub-paragraph—

“(ii) the Area, the WMCA as a fire and rescue authority;”.

## **APPENDIX 2 – Constituent Council Report (example)**

### **Cabinet – XXXXX 2017**

GOVERNANCE OF West Midlands Fire Service

**Portfolio:** Councillor xxxxx

**Related portfolios:** Councillor xxxxx

#### **1.Summary**

- 1.1 The purpose of this report is to consult constituent authorities on the now prepared Governance review (Appendix A) and scheme (Appendix B) for the proposed governance model of the West Midlands Fire Service (under the Mayoral West Midlands Combined Authority) prior to going out for formal public consultation.

#### **2.Recommendations**

The Cabinet is asked to recommend to full Council:

- 2.1 Agree that proposed arrangements for West Midlands Fire Service should include the WMCA Fire Service budget being ring fenced for Fire Service functions.
- 2.2 Approve the prepared governance review and scheme.
- 2.3 Agree to move forward to public consultation for the scheme and proposed governance model.
- 2.4 Approve to delegate authority as required to the Chief Executive in consultation with the Leader to make minor amendments to the Governance review and Scheme.
- 2.5 Support/lead on the public consultation in the local authority area on behalf of the WMCA.
- 2.6 Note the timeline of this governance route to the Mayoral Combined Authority.

#### **3. Background**

- 3.1 In response to the Policing and Crime Bill (2016) consultation, the West Midlands Fire and Rescue Authority (WMFRA) set out a direction seeking the future sustainability of services under a Mayoral WMCA model of governance.
- 3.2 In recognising the need for an independent review of the possible future governance options, WMFRA commissioned an appraisal panel in April 2016. The Groups outcomes and conclusions are detailed in the attached Governance Review (Appendix A).

- 3.3 The outcomes of the group were then built upon through a public consultation undertaken during December 2016 to January 2017, seeking public and partner opinion regarding the future strategy to deliver risk-based services across the West Midlands. A Reformed Fire Authority (RFA) and Mayoral Combined Authority were identified as the 'desirable' options for the future governance of West Midlands Fire Service (WMFS).
- 3.4 Accepting the findings of both the Group and the public consultation, considering these against the Strategy of WMFS, the priorities of the WMCA and the expectations of government, the route to future Mayoral WMCA governance was agreed by WMFRA on the 20 February 2017.
- 3.5 The WMCA supported the WMFRA's broad proposal for the transfer of its functions to the Mayoral Combined Authority on 3rd March 2017.
- 3.6. Alongside this, work is underway to implement a RFA as an interim measure until WMFRA functions are transferred to and assumed by the Mayoral Combined Authority.
- 3.7 On the 8 September 2017 the WMCA board noted the timeline for the mayoral governance route and approved the development of a governance review and scheme, for Mayoral Combined Authority governance of WMFS pursuant to Sections 111 and 112 (1d) of Local Democracy, Economic Development and Construction Act 2009. The Scheme is detailed in Appendix B. The timeline referred to here is provided in this report in paragraph 3.13.
- 3.8 The benefits of the Mayoral WMCA governance model provides huge opportunities for the joint transformation of public services to West Midlands communities, providing value for money in the delivery of public safety. These opportunities have been detailed in the Governance Review.
- 3.9 The Governance Review in Appendix A provides a review of existing governance arrangements and functions, this includes the proposed new model under the Mayoral combined authority.
- 3.10 The Scheme detailed in Appendix B details the roles, accountabilities, and powers required by each individual /body in the proposed governance model.
- 3.11 Following constituent authority consultation on the Governance Review and Scheme, the Scheme must enter a formal public consultation in adherence to section 113 (3) Local Democracy, Economic Development and Construction Act 2009.
- 3.12 The Government will use these documents and the results of the consultation to approve the model and create an order to amend existing legislation, in order to confer the necessary powers on the Mayoral WMCA to carry out the functions currently exercised by the WMFRA.
- 3.13 Timeline (indicative) for this journey:

Details	Date
WMCA approve the Governance Review and for a Scheme to be developed.	8 September 2017
Development of governance review and scheme, which will consider the business case for the change in governance.	September 2017
Constituent Authority approval of content of governance review and scheme.	October - November 2017
WMCA approval of content of Governance Review and Scheme.	8 December 2017
Consultation of proposals set out in the scheme on behalf of the Secretary of State (6 weeks minimum)	January – February 2018
Analyse consultation responses locally	March 2018
Governance Review, Scheme and analysis of consultation reviewed by Secretary of State (4-12 weeks)	April 2018
Government development of Order detailing changes required in legislation to abolish WMFRA and amend legislation to enable future Mayoral WMCA governance	May – June 2018
Constituent Authority/ CA approval of detail of Order	July - September 2018
Order amended where needed locally enters Parliamentary Process	September - October July 2018
Secretary of State approves Order	November 2018
WMFRA functions transfer to the WMCA	November/ December 2018

#### **4. Financial implications**

- 4.1 The cost of this governance route has and will continue to be met from within existing approved budgets which have largely been delivered through WMFS. Support has also been provided by the WMCA and local authority Legal Services.
- 4.2 Future reports will detail any additional costs that will need to be met.
- 4.3 The financial implications for local authorities would be those arising from any resources allocated to supporting the public consultation.

#### **5. Legal implications**

- 5.1 The legal implications and process for devolving powers to the WMCA are set out above in this report.
- 5.2 The proposals in this report will meet the government's expectations that all Fire and Rescue Services consider one of the alternative routes leading to reform.
- 5.3 WMFRA have been consulting with the legal heads of service from all seven constituent local authorities for advice and guidance.

5.4 All relevant legislation pertaining to this governance route has been detailed in the Governance Review and Scheme.

## **6. Equality implications**

6.1 There are no direct equalities implication at this stage, however participants from all the equality strands will be invited to comment during the consultation process. Once consultation has been completed an equality impact assessment will be undertaken in line with the City's equalities procedures.

6.2 It is a requirement of the Secretary of State's consultation process that the consultation responses 'reflect the identities and interests of local communities' in the West Midlands (Local Democracy, Economic Development and Construction Act 2009 section 111 3a).

## **7. Consultation**

The route to future Mayoral WMCA governance was agreed by WMFRA on the 20 February 2017 and full details of consultation and evidence gathering are listed within the Governance Review

### **Background papers**

WMFRA report: 'Route Map to Mayoral Governance' (20 February 2017)

WMFRA Report - Future Governance Working Group (20 February 2017)

Future Governance Working Group Report (February 2017)

West Midlands Combined Authority (WMCA) report (3 March 2017)

WMFRA report – 'Route map to Mayoral West Midlands, Combined Authority Governance - a Reformed Fire Authority (RFA) and decision (10 April 2017)

WMCA Board Report - 8 September - Mayoral WMCA Governance of WMFS

<https://governance.wmca.org.uk/documents/s617/Report.pdf>

### **Author**

First name Last name

Job Title

[Symbol] 65xxxx

[Symbol] joe.bloggs@XXXX.gov.uk

Firstname LastnameCouncillor Lastname

Executive DirectorPortfolio holder

XX October 2017XX October 2017

**APPENDIX 3 – Draft Scheme with proposed amendments from constituent authorities  
in bold and italic font.**

**West Midlands Combined Authority SCHEME**

This scheme is prepared and published following/pursuant to the decision of the West Midlands Combined Authority (WMCA) on 8 September 2017.

The proposals in this scheme will be subject to a further public consultation.

The scheme provides as follows:

1. It is proposed that the functions exercisable by the West Midlands Fire and Rescue Authority (WMFRA) across the area that the WMCA covers, should become functions of the WMCA pursuant to sections 105 A of the Local Democracy, Economic Development and Construction Act 2009.

These functions are those as set out in the following acts and where relevant identified sections:

- Local Government Act 1985 (including Part IV, schedule 10)
- Local Government in Housing Act 1989
- Fire and Rescue Service Act 2004
- Fire and Rescue Order 2007
- National Framework for Fire and Rescue Services in England 2012.
- Regulatory (Fire) Reform Order 2005
- Civil Contingencies Act 2014

The requirements for change are set in 1.13 to this scheme.

- 1.2 It is proposed that the properties, rights and liabilities of the WMFRA would become functions of the WMCA.
- 1.3 It is proposed that the functions relating to fire and rescue referred to in 1.1 should become WMCA functions.
- 1.4 It is proposed that the fire and rescue functions once they become functions of the WMCA are exercisable only by the Mayor (section 107D (1) Cities and Local Government Devolution Act 2009).
- 1.5 For the purposes of the exercise of the fire and rescue functions, the Mayor may do anything that the WMCA may do under section 113A of the LDEDC Act 2009 (general power of EPB or combined authority) (1).
- 1.6 It is proposed that the WMCA has the same borrowing powers in respect to its functions, relating to fire and rescue as are currently exercised by the WMFRA.
- 1.7 It is proposed that the WMCA retain the same core grant and precept funding arrangements in respect to its functions relating to fire and rescue, as currently exercised by the WMFRA.
- 1.8 *It is proposed that both the funding and reserves for fire are ring fenced within the Mayoral WMCA.***
- 1.9 Any decisions/acts made before abolition of the WMFRA should have effect as if agreed by, or, in relation to the Mayoral WMCA. For example, the setting of the precept for, under section 40 Local Government Finance Act 1988 to the constituent councils

in respect of the financial year beginning before transfer in governance, should have effect as if issued by the Mayoral WMCA.

1.10 It is proposed that Members of the WMCA may assist the Mayor in the exercise of the fire and rescue functions in line with delegations, provided that the functions may not include:

- Functions relating to the budget and setting of the precept
- Functions relating to statutory plans such as the Integrated Risk Management Plan (IRMP) and strategies
- Functions relating to all properties, rights and liabilities
- The appointment of the Chief Fire Officer and Principal officers

### **Mayoral Fire Advisory Committee**

1.11 It is proposed that the Order should contain provision for the Mayor to arrange for a committee of the WMCA (the Mayoral Fire Advisory Committee), consisting of members appointed by the constituent councils, to advise and support the Mayor in relation to West Midlands Fire Service (WMFS).

1.12 It is proposed the committee appointed should consist of **a minimum of 15** Elected members from across the constituent councils, proportionally balanced, the Police and Crime Commissioner (in accordance with the Policing and Crime Act 2017) and two further co-opted members from Health and Ambulance to promote greater challenge, transparency and further collaboration.

1.13 The following additional provisions are proposed to apply to the Mayoral Fire Advisory Committee (the Committee): (section 107D(6))

#### **Governance:**

- Appointment of elected members from each of the constituent councils will be made so that the members of the committee taken as a whole, reflect as far as reasonably practicable, the overall balance of political parties prevailing amongst the constituent councils.
- The majority of members of the committee must be members of the constituent councils, all of those members have one vote.
- Where a member is not from a constituent council (a co-opted member) they don't have a vote.
- Two-thirds of members must be present for a meeting to be quorate.
- The Chair of the Committee will be appointed by the Mayor **in consultation with constituent council leaders**

#### **Functions:**

- The Committee will not be a decision-making committee this responsibility will remain with the Mayor and Chief Fire Officer, as appropriate.
- The Committee will advise the Mayor, support the Mayor and review decisions made by the Mayor.

- Where decisions are reviewed, the Committee will submit a report to the WMCA Overview and Scrutiny Committee.
- The Committee will support the Mayor in providing advice around exercising fire functions, to ensure the right level of detail and understanding is provided to inform the Mayor's role as the Authority.
- The Committee will represent the priorities and strategy of the Mayor and WMFS in their respective local authorities and will report on performance in relation to fire functions.
- The Committee will represent the priorities and strategy of the Mayor and WMFS within the 7 constituent councils, regionally with other Fire and Rescue Services, nationally through the National Joint Council and Local Government Association.
- The Committee will seek to influence the Government on behalf of the Mayor in matters related to the delivery of fire and rescue services locally, regionally and nationally.
- The Committee will enable the development of partnerships and services to the community through constituent council engagement.

A member's allowance scheme for the committee will be payable by the WMCA.

- 1.14 The Chief Fire Officer (CFO) as head of paid service will be accountable to the Mayor in the operation of their duties.
- 1.15 It is proposed that the CFO maintains full accountability for the operational functions of the Fire Service. This will include:
- The management of the Fire and Rescue Service
  - The appointment and development of staff
  - The delivery of WMFS Strategy (including matters relating to exercising functions of the Fire and Rescue Services Act 2004, etc.)
  - The delivery of staffing structures and models which support current and future Strategy
  - The deployment of resources to meet risk
  - The transformation of services and reform of the workforce to meet WMFS and Mayoral/WMCA priorities.
- 1.16 Modification requirements of enactments in their application to the WMCA as a Fire and Rescue Authority.

## **Primary Legislation**

### *Local Government Act 1972*

1. In section 138(5) of the Local Government Act 1972 (powers of principal councils with respect to emergencies or disasters) (a), the reference to "metropolitan county fire and rescue authority" is to apply as if it included "the WMCA as a fire and rescue authority".

### *Local Government in Housing Act 1989*

2. (1) The Local Government and Housing Act 1989(c) is modified as follows.
- (2) In section 67 (application of provisions about companies in which local authorities have interests), subsection (3)(k) applies as if the reference to “joint authority established by Part IV of that Act” included a reference to “the WMCA as a fire and rescue authority”.
- (3) In section 155 (emergency financial assistance to local authorities) subsection (4)(g) applies as if the reference to a “joint authority established by Part IV of the Local Government Act 1985” included a reference to “the WMCA as a fire and rescue authority”.

#### *Crime and Disorder Act 1998*

- 3.— (1) The Crime and Disorder Act 1998(d) is modified as follows.
- (2) In the definition of “fire and rescue authority” in section 5(5) (authorities responsible for strategies), the reference in paragraph (b) to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to “the WMCA as a fire and rescue authority”.
- (3) In the definition of “relevant authority” in section 115(2), the reference in paragraph (j) to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to “the WMCA as a fire and rescue authority”.

#### *Local Government Act 2003*

4. Section 23(1) of the Local Government Act 2003 (meaning of “local authority” for purposes of Part (1)(a) the reference in paragraph (k) to “a joint authority established by Part IV of that Act” is to apply as if it included a reference to “the WMCA as a fire and rescue authority.”

#### *Fire and Rescue Services Act 2004*

- 5.— (1) The FRS Act 2004(b) is modified as follows.
  - (2) Section 4A (power to provide for police and crime commissioner to be fire and rescue authority) has effect as if at the end of subsection (3)(b) there were inserted—  
“, and (c) outside the Area.”;
  - (3) Section 4B (1)(changes to existing fire and rescue authorities) has effect as if the reference to fire and rescue authorities in England outside Greater London did not include the WMCA.
6. In section 1 of the FRS 2004 Act(1), after subsection (4) insert—  
“(5) This section is also subject to an order under Part 6 of the Local Democracy, Economic Development and Construction Act 2009 which transfers the functions of a fire and rescue authority to a combined authority established under section 103 of that Act.”.

### **Secondary legislation**

7. In paragraph (a) of the definition of “local authority” in regulation 2(1) of the Pipelines Safety Regulations 1996 (interpretation)(c) the reference to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to “the WMCA as a fire and rescue authority”.
8. In article 1(2) of the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009 (application of order to best value authorities) (d) the reference in paragraph (c) to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to “the WMCA as a fire and rescue authority”.
9. In regulation 3 of the Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012 (relevant authorities) (e) the reference in paragraph (a) to a “metropolitan county fire and rescue authority

established under section 26 of the Local Government Act 1985” is to apply as if it included a reference to “the WMCA as a fire and rescue authority”.

10. The Local Government Pension Scheme Regulations 2013(f) are modified as follows.

(1) After regulation 64(8), insert—

“(8A) Paragraph (8B) applies where the exiting employer is the WMFRA and the liabilities of the fund in respect of benefits due to the WMFRA’s current and former employees (or those of any predecessor authority) have been or are to be transferred to the WMCA by virtue of this Order.

(8B) Where this paragraph applies, no exit payment is due under paragraph (1) and paragraph (2) does not apply.”.

11. In regulation 2(1) of the Explosives Regulations 2014 (interpretation)(g) in the definition of “local authority”, the reference in paragraph (c) to “a metropolitan county fire and rescue authority” is to apply as if it included a reference to “the WMCA as a fire and rescue authority”.

12. In regulation 2(1) of the Control of Major Accident Hazards Regulations 2015(a) in paragraph (b) of the definition of “local authority”, sub-paragraph (ii) is to apply as if there were substituted for that sub-paragraph—

“(ii) the Area, the WMCA as a fire and rescue authority;”.