

## WMCA Board

<b>Date</b>	Friday 9 June 2023
<b>Report title</b>	Transport Governance Review
<b>Portfolio Lead</b>	Governance - Councillor Bob Sleigh
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<b>Report has been considered by</b>	Executive Board - 3 May 2023 Mayor and Portfolio Leads - 19 May 2023

### Recommendation(s):

- (1) That the existing Transport Delivery Committee evolve into a new Transport Delivery Overview and Scrutiny Committee as detailed in the report.
- (2) That it be noted that, following the decision of the WMCA Board on 28 October 2022, a further report of the Independent Remuneration Panel has been prepared and will be considered elsewhere on the agenda in relation to the paying of allowances for:
  - a. the Deputy Mayor,
  - b. members of the Overview and Scrutiny Committee
  - c. members of the Transport Delivery Overview and Scrutiny Committee
  - d. scrutiny champions
  - e. members of the Audit, Risk and Assurance Committee

### 1. Purpose

- 1.1 This report sets out the recommendations from the Transport Governance Review (TGR).

### 2. Background

- 2.1 The Transport governance review resulted from the 2019 scrutiny review of transport governance and an agreement at the Mayor and Portfolio Leads Liaison meeting on 1 June 2021 to consider:

- Clarity regarding WMCA decision-making
- The number and frequency of meetings
- WMCA Board/ Committee reporting

2.2 A review working group was set up and chaired by Cllr Bob Sleigh, the review highlighted a need for consistency, clarity and simplification within transport governance and overall governance in the WMCA.

2.3 Terms of reference for the review were:

- To review the formal and informal decision making at member level on transport issues.
- To make recommendations to streamline and improve the arrangements, taking into account best practice elsewhere.
- To ensure decision making and governance arrangements are clearly understood and are communicated effectively by those who are a part of the governance structure for transport.

#### **2.4 Areas for consideration**

- Role of Transport Delivery Committee
- Lack of visibility of the golden thread in relation to transport strategy
- Lack of responsibility and accountability for transport decision-making
- Role of Overview & Scrutiny
- Where is capital project oversight taking place

2.5 Feedback from the consultation exercise concluded that there was a lack of clarity over roles and responsibilities within the existing structure and a lack of clarity as to who was accountable for certain functions and decision-making.

#### **2.6 Transport Delivery Committee (TDC)**

2.7 The TDC is a direct committee of the WMCA Board and has delegated authority for a small number of functions. The TDC is the only committee to remunerate all its members. The membership of the TDC is not in line with the other WMCA boards which have 2 representatives from each of the constituent local authorities. The TDC has 7 members from Birmingham City Council and 2 members from all the other constituent authorities, this membership is based on percentage payment of the transport levy.

The functions currently delegated to the TDC are:

- considering and approving the creation and development of:
  - Ticketing Schemes under s135 - 138 of the Transport Act 2000.
  - Concessionary Travel Schemes under s93 - 104 of the Transport Act 1985.
- determining what local bus information should be made available, and the way in which it should be made available, under s139 - 143 of the Transport Act 2000.

- approving and monitoring the WMCA's minor transport works capital program and the agreed budget for the scheme concerned.
- determining the operation, performance, contract management and development of tendered bus services, bus stations/stops, and passenger transport services, under s10 (1) of the Transport Act 1968 and within the agreed WMCA budget.

## **2.8 Strategic Transport Board (STB)**

STB is a non-constituted advisory board that falls outside of the requirements of the 1972 Local Government Act and as such is not required to meet in person or in public. The membership of STB is made up of the relevant executive members with responsibility for transport from each of the constituent authorities.

Transport strategy and policy is developed and determined at WMCA Board with feedback and advice from the STB. Feedback suggests that the work carried out by STB adds value to the reports and recommendations put forward to WMCA Board for decision. This report will therefore recommend that the STB continue in its existing form pending a future review of the WMCA's wider governance and decision-making arrangements.

## **Overview and Scrutiny**

- 2.9 There is currently uncertainty and duplication in the roles of the TDC and Overview & Scrutiny in reviewing the activity of Transport for West Midlands (TfWM) with TDC.
- 2.10 Accountability and strengthening the role played by overview and scrutiny is a key part of the new Devolution Agreement and Accountability Framework. The English Devolution Accountability Framework states that more needs to be done in relation to scrutiny and that it is crucial that local scrutiny of institutions with devolved powers sets new standards for holding their institutions to account for delivery, as well as playing a critical role in policy and strategy development.
- 2.11 This makes it crucial that committees can recruit committed, motivated members and retain them in post for more than one year to allow appropriate training, building of knowledge and focus on key policy and performance issues.
- 2.12 Government is already taking steps to support this through the Levelling Up and Regeneration Bill which will ensure combined authorities and combined county authorities are able to compensate constituent authority councillors for their roles on overview and scrutiny and audit committees.
- 2.13 The Government will also develop a new Scrutiny Protocol for all institutions with devolved functions on the relationship between the mayor/elected leader, the institution, and its scrutiny/audit functions. It will do this working with the currently established mayoral combined authorities and those areas which have agreed devolution deals for their areas, as well as organisations such as the Centre for Governance and Scrutiny.
- 2.14 The Statutory Scrutiny Guidance also states that in order to maintain awareness of scrutiny at the combined authority and provoke dialogue and discussion of its impact, the

business of scrutiny should be reported to the combined authority board or to the chairs of the relevant scrutiny committees of constituent and non-constituent authorities, or both.

## **Options Considered**

1. Formalisation of all existing committees
  - a. The Strategic Transport Board be formally constituted into a Committee of the Combined Authority.
  - b. Transport Delivery Committee be replaced by a new sub-committee of the Strategic Transport Board
  - c. Overview & Scrutiny function adopts a single committee model supported by task & finish groups on key matters. A single committee structure would be well-attuned to the cross-cutting nature of CA business allowing for deep dives through task & finish groups on specific transport matters

Following consultation, this was not considered to be a favourable option given the existing good work carried out by the Strategic Transport Board and concerns that to formalise all meetings under the 1972 Act would impede this good work and attendance at meetings would be poor and inqurate.

2. All Committees are made informal and non-constituted
  - a. Adopting the informal arrangements of Strategic Transport Board at each portfolio Board/Committee. This would mean a change in approach across the wider governance structure of the Combined Authority

The negatives of such an option are linked to the informal operating flexibility in that there would be no legal requirement for papers to be provided 5 working days prior to meetings, those meetings would not be published, and the public would have greater difficulty accessing them. All decisions would need to be made by WMCA Board following advice from the committees, which could lead to constraints in relation to decision making especially when there are time sensitive decisions to be made.

### **3.0 Preferred Option - Strengthening and overview and scrutiny**

- 3.1 The TDC will evolve into a new Transport Delivery Overview and Scrutiny Committee with fully remunerated constituent members (draft terms of reference are attached at Appendix A).
- 3.2 The new Transport Delivery Overview and Scrutiny Committee will have 20 members and membership should continue to be based (for constituent councils) on the percentage transport levy paid. There will also be 4 members representing the non-constituent shire areas. Whilst these shire areas do not contribute to the transport levy, there are many examples of cross-border travel between non-constituent and constituent areas (eg. for employment and leisure purposes), as well as the targeted rollout of specific Transport for West Midlands initiatives (eg. the Swift smartcard in Cannock Chase and Redditch). Including a small number of non-constituent members, in a non-voting capacity, on the committee would provide an additional perspective and wider evidence base for its discussions

<b>Authority</b>	<b>Seats</b>	<b>Levy %</b>	<b>Remunerated</b>
Birmingham City Council	Seven	38.3	Yes
City of Wolverhampton Council	Two	10.5	Yes
Coventry City Council	Three	12.9	Yes
Dudley Metropolitan Council	Two	11.0	Yes
Sandwell Metropolitan Council	Two	11.2	Yes
Solihull Metropolitan Council (7.4%)	Two	7.4	Yes
Walsall Metropolitan Council (9.8%)	Two	9.8	Yes
Staffordshire Non-Constituent	One (non-voting)		No
Shropshire Non-Constituent	One (non-voting)		No
Warwickshire Non-Constituent	One (non-voting)		No
Worcestershire Non-Constituent	One (non-voting)		No

- 3.3 Existing delegations given to TDC from WMCA Board (as listed in section 2.7 above) will need to revert to WMCA Board for decision. These decisions will however only be made following consideration where appropriate at the new Transport Delivery Overview and Scrutiny Committee with recommendations being made back to WMCA Board.
- 3.4 The existing Overview & Scrutiny Committee and Transport Delivery Overview and Scrutiny Committee will provide feedback from pre-decision scrutiny, task and finish groups and scrutiny policy/strategy development sessions in reports to WMCA Board on a quarterly basis. This will strengthen the role of scrutiny and provide greater oversight of the work being done by scrutiny and the impact and value being added through its work.
- 3.5 The existing Overview & Scrutiny Committee and new Transport Delivery Overview and Scrutiny Committee will be supported by task & finish groups on key matters and allow for greater scrutiny on specific, timely matters.
- 3.6 Relevant private sector, expert witnesses and subject matter experts will be invited to both scrutiny committees when appropriate to provide expert advice and lived experience feedback.

3.7 Quoracy issues will be addressed through raising the profile of scrutiny, ensuring that members with sufficient experience and the ability to commit adequate time are nominated to the committees and full remuneration for constituent authority members. To help achieve this, there will need to be better engagement with Local Authorities to ensure that the right members are appointed to the committees and that feedback and updates are being provided to LA scrutiny committees in relation to the work of the WMCA O&S committees. A full and comprehensive induction and member development programme (specific to the WMCA) will also be developed.

#### **4. Member Engagement Groups (MEGs)**

4.1 Feedback from existing members of the TDC and Overview and Scrutiny Committee suggest that the existing MEGs add value to the work of the TDC and should be continued.

4.2 The following MEGs will continue to operate:

- Rail, Metro, Sprint and Active Travel
- Sustainability
- Passenger First
- Finance and Performance
- Passenger Safety
- Air Quality, congestion and Environmental Impact

4.3 It is recommended that MEGs are chaired by Scrutiny Champions and paid a Special Responsibility Allowance (SRA), which is in line with existing arrangements under the TDC. MEG chairs must not be the chair or vice chair of one of the Overview & Scrutiny committees.

#### **5. Scrutiny Champions**

5.1 The introduction of Scrutiny Champions will be trialled for 12 months, following which a report will be presented to the Overview and Scrutiny Committee to consider whether to continue with and expand the use of scrutiny champions to the Overview and Scrutiny Committee.

5.2 Scrutiny Champions will cover the following areas, to complement the MEGs:

- Rail, Metro, Sprint and Active Travel
- Sustainability
- Passenger First
- Finance and Performance
- Passenger Safety
- Air Quality, Congestion and Environmental Impact

5.3 Scrutiny Champions will:

- Act as chairs for the Member Engagement Groups
- Build an effective relationship with relevant portfolio leads, Executive Directors at Transport for West Midlands and their teams.
- Meet with TfWM and WMCA Lead Officers on a regular basis to agree work plans and items for consideration at Member Engagement Meetings

- Be aware of policy developments and direction of travel within the relevant area of expertise
- Keep abreast of relevant external developments.
- Lead on and actively engage in the development of key lines of enquiry for their respective areas.
- Provide regular updates to the transport Overview and Scrutiny Committee
- Work with the Chair and Vice Chair of the Transport Delivery Overview and Scrutiny Committee, the Statutory Scrutiny Officer and lead officers to develop a comprehensive workplan for the Transport Delivery Overview and Scrutiny Committee.

5.4 As per existing practice in relation to TDC Member Engagement Group chairs, Scrutiny Champions will be appointed at the first meeting of the Transport Delivery Overview & Scrutiny committee by the members of that committee.

## **6. Why Transport Delivery Overview and Scrutiny?**

6.1 Transport is the most public facing function of the WMCA that has the potential to impact the public in a very direct and visible way. There is great and enhanced public interest in ensuring that our transport function is fit for purpose from both a strategic and operational perspective. Transport also constitutes an important determinant of health and has a key impact on health outcomes.

## **7. Strategic Aims and Objectives**

7.1 Connect our communities by delivering transport and unlocking housing and regeneration schemes

7.2 Develop our organisation and our role as a good regional partner

## **8. Financial Implications**

8.1 There may be financial implications based on the findings of the Independent Remuneration Panel. The IRP will consider the paying of allowances for:

- The Deputy Mayor
- The Overview and Scrutiny Committee
- The Transport delivery Overview and Scrutiny Committee
- Member Engagement Groups
- The Audit, Risk and Assurance Committee

## **9. Legal Implications**

9.1 The new Transport Delivery Overview and Scrutiny Committee will be a scrutiny committee as defined under the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 and as such the following must apply:

- The majority of members of a combined authority's overview and scrutiny committee must be members of that combined authority's constituent councils.

- At least two-thirds of the total number of members of the overview and scrutiny committee must be present at a meeting of the overview and scrutiny committee before business may be transacted.
- Each member of the overview and scrutiny committee appointed from the constituent councils is to have one vote and no member is to have a casting vote.
- Members of the overview and scrutiny committee who are appointed other than from the constituent councils shall be non-voting members of the committee but may be given voting rights by resolution of the combined authority
- Any questions that are to be decided by the overview and scrutiny committee are to be decided by a simple majority of the members present and voting on that question at a meeting of the overview and scrutiny committee.
- The Chair of the committee must not be from the same political party as the Mayor.

## **10. Single Assurance Framework Implications**

- 10.1 There are no Single Assurance Framework Implications directly associated with this report.

## **11. Equalities Implications**

- 11.1 It is important to ensure that the membership of all WMCA committees is diverse and inclusive. To make the right decisions for the area, the Overview and Scrutiny Committee and the Transport Delivery Overview and Scrutiny Committee will ensure that when suitable, witnesses with lived experiences of the matters under consideration and subject matter experts will be invited to attend meetings to provide feedback and give evidence.
- 11.2 All scrutiny meetings are held in public, and recordings are made available after the meeting on the WMCA website.

## **12. Inclusive Growth Implications**

- 12.1 There are no specific inclusive growth implications associated with this report

## **13. Geographical Area of Report's Implications**

- 13.1 There are no specific geographical implications associated with this report.

## **14. Other Implications**

- 14.1 There are no other implications directly associated with this report.