

## WMCA Board

<b>Date</b>	12 January 2024
<b>Report title</b>	Amendments to the WMCA Constitution to incorporate Police & Crime Commissioner Functions
<b>Portfolio Lead</b>	Finance – Councillor Bob Sleigh
<b>Accountable Chief Executive</b>	Laura Shoaf, West Midlands Combined Authority email: laura.shoaf@wmca.org.uk
<b>Accountable Employee</b>	Helen Edwards, Director of Law & Governance email: helen.edwards@wmca.org.uk
<b>Report has been considered by</b>	Not applicable

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

#### The WMCA Board is recommended to:

- (1) Note that if the government legislates to transfer PCC functions to the Mayor of the WMCA, its Constitution will be updated following the elections to include the PCC Corporate Governance Framework in force immediately prior to the transfer.
- (2) Agree that the Corporate Governance Framework for PCC functions will be kept under review following any transfer of functions, and amendments to the Constitution that require Board approval submitted to a Board meeting at an appropriate time.

#### 1. Purpose

- 1.1 The purpose of this report is to ensure that PCC functions can be carried out effectively following any transfer of functions.

#### 2. Background

- 2.1 The Levelling Up and Regeneration Act 2023 (“the Act”) came into force on 26 October 2023.

- 2.2 On 2 November 2023 the Mayor wrote to the Home Secretary to ask him to consider transferring PCC functions to the Mayor using the Home Secretary's powers under s107F of the Act.
- 2.3 The Home Secretary is currently carrying out a public consultation to allow him to decide whether to lay an Order before Parliament to transfer PCC functions to the Mayor of the West Midlands from the point of the next mayoral election in May 2024. This will maintain democratic accountability by ensuring that PCC functions are only exercised by a mayor who was elected on that basis. This is the link to the consultation:  
[West Midlands police and crime commissioner functions transfer \(accessible\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/west-midlands-police-and-crime-commissioner-functions-transfer)
- 2.4 The Mayor will be required to make a decision whether to consent to the laying of an Order before Parliament to transfer PCC functions.
- 2.5 If PCC functions are transferred, they will transfer with effect from 7 May 2024. It is crucial that there should be continuity of governance arrangements to enable the PCC functions to be carried out effectively without any interruption in service as a result of the transfer.
- 2.6 As the functions of the PCC will not be transferred until after the 2024 elections, neither the Mayor nor the CA Board has any power to agree a scheme of governance in advance of the transfer. The current PCC Corporate Governance Framework is agreed by the current PCC and the Office of the Police and Crime Commissioner (OPCC).
- 2.7 The Monitoring Officer is under a duty to ensure that WMCA has governance arrangements in place to ensure that it can fulfil its responsibilities. With effect from the date of any transfer this will include PCC functions. The Monitoring Officer's advice is that the existing PCC Corporate Governance Framework should be adopted initially and then reviewed following the transfer. Upon initial adoption minor changes will be made to correctly reflect the situation, for example references to the West Midland Mayor instead of the Police and Crime Commissioner. PCC functions will be exercisable only by the Mayor of the WMCA, but any amendments to the Constitution that require the approval of the WMCA Board will be brought to the Board for approval.

### **3. Financial Implications**

- 3.1 There are no direct financial implications as a result of ensuring that there is an appropriate scheme of governance in place. The Corporate Governance Framework adopted will include arrangements for dealing with financial decisions and budgets and will ensure robust financial decision making.
- 3.2 The Financial Management Code of Practice provides for a Mayor to prepare a scheme of governance for PCC functions advised by the authority's s73("s151") officer and in consultation with the Chief Constable and the Police Force Chief Finance Officer.
- 3.3 Budget and funding for carrying out PCC functions will transfer to the WMCA with the functions including all assets and liabilities. Budget and funding will be strictly ring fenced to policing so any potential savings will not be available as part of the wider WMCA budget.

#### **4. Legal Implications**

- 4.1 The Home Secretary is currently carrying out a public consultation as to whether to transfer PCC functions to the Mayor of the West Midlands. This is permissible under the Levelling Up and Regeneration Act 2023. Following the consultation, the Home Secretary will decide whether to lay an Order before Parliament to transfer the functions. The Mayor will need to make a decision whether to consent to the laying of this Order. If this Order is passed the functions will transfer following the May 2024 elections.
- 4.2 To ensure continued smooth operation of the PCC functions, WMCA must have in place a scheme of governance that is agreed and operational from the date of the transfer. This can be reviewed and amended as appropriate following the transfer, but it would pose an unacceptable risk for the transfer to take place without governance arrangements already in place.

#### **5. Single Assurance Framework Implications**

- 5.1 There are no Single Assurance Implications.

#### **6. Equalities Implications**

- 6.1 There are no Equalities Implications

#### **7. Inclusive Growth Implications**

- 7.1 There are no Inclusive Growth Implications

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

- 8.1 This report relates to the whole of the WMCA geographical area to which the PCC functions will relate.

#### **9. Other Implications**

- 9.1 If a statutory instrument is made transferring the PCC powers to the WMCA, that statutory instrument will provide for PCC employees to transfer to the WMCA. WMCA officers are working closely with OPCC colleagues to prepare for a smooth transition. It is envisaged that PCC employees should transfer to WMCA's officers at Summer Lane, and be integrated as far as possible into the existing workforce. Some separation of function will remain to ensure continuity, but this will be reviewed over time to ensure efficient operation of all functions across WMCA
- 9.2 If the transfer goes ahead, the person elected as West Midlands Mayor in May 2024 will decide on the form, function, budget and location of the Office of Police and Crime Commissioner. The arrangements being made in respect of the transfer are to put in place measures to allow PCC functions to be functional on day one, until an elected Mayor sets out their visions for the service.

#### **10. Schedule of Background Papers**

PCC Corporate Governance Framework