



Decision of the Mayor of the West Midlands

Report Title:	Consent to the making of an Order to transfer Police & Crime Commissioner Functions to the Mayor of the West Midlands
Decision Maker:	Mayor of the West Midlands
Legal Power to make decision:	Local Democracy, Economic Development and Construction Act 2009 as amended by Levelling Up and Regeneration Act 2023
Authority/Delegation:	Mayoral function conferred by the Local Democracy, Economic Development and Construction Act 2009 as amended by Levelling Up and Regeneration Act 2023
Author:	Helen Edwards, Director of Law & Governance
Type of Decision	<input checked="" type="checkbox"/> Public <input type="checkbox"/> Exempt
Key Decision?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Where has this report previously been considered:	Not applicable

1. Purpose

To provide the Mayor's consent to the making of an Order to transfer Police & Crime Commissioner Functions to the Mayor of the West Midlands in accordance with s107F of the Local Democracy, Economic Development and Construction Act 2009 (The 2009 Act) as amended by the Levelling Up & Regeneration Act 2023. The Order will be titled "The West Midlands Combined Authority (Transfer of Police and Crime Commissioner Functions) Order 2024. It will become a Statutory Instrument if approved.

2. Recommendation/s and Reason for Consideration

That the Mayor gives consent to the making of the Order "The West Midlands Combined Authority (Transfer of Police and Crime Commissioner Functions) Order 2024.

The recommendation is to enable the Secretary of State to lay the statutory instrument before Parliament, to initiate the transfer of functions of the Police and Crime Commissioner to the Mayoralty for the May 2024 elections.

3. Alternative Options Considered & reason for preferred option

Not to consent to the making of the Order. This has been rejected because the Mayor has requested the transfer of the powers to align with the 2024 Mayoral elections. If consent to the Order is not given, this timetable could not be achieved.

4. Background

The Government's White Paper, 'Levelling Up the United Kingdom' contained the following commitment:

The UK Government will take steps to remove barriers to combined authority mayors taking on public safety functions. Where there are existing or planned mayoral combined authorities with coterminous boundaries to PCCs and Fire and Rescue Authorities, the UK Government will look to transfer these functions to the Mayor.

The Home Office proposed an indicative timetable for the above, and following a public consultation exercise, the Order is expected to be introduced into Parliament in early February 2024. The order will provide:

1. That the Mayor is to exercise functions of a Police and Crime Commissioner in relation to the Area.
2. There will be no Police and Crime Commissioner for the Area from 7th May 2024.
3. That any election of a Police and Crime Commissioner for the Area that would otherwise take place (whether before, on or after 7th May 2024) by virtue of section 50(1)(b) of the Police Reform and Social Responsibility Act 2011 (PRSR)(ordinary elections) is not to take place.
4. That the term of office of the Police and Crime Commissioner for the West Midlands is to continue until 7th May 2024.
5. That any election to fill a vacancy in the office of Police and Crime Commissioner for the West Midlands which would otherwise take place under section 51 of the PRSR Act (election to fill vacancy in office of commissioner) is not to take place if the vacancy occurs within the period starting on the day on which this article comes into force and ending with 7th May 2024.

If the Order is made, all functions presently exercised by the Police and Crime Commissioner will become functions exercisable by the Mayor for the West Midlands with effect from the 8 May 2024 and all property, rights and liabilities of the Police and Crime Commissioner will transfer to the Mayoral Combined Authority (MCA), with future decisions on such matters being vested in the Mayor.

In his letter to the Secretary of State for the Home Department, dated 2 November 2023, requesting that the process of the transfer of powers is commenced, the Mayor stated:

- A previous consultation in 2019 showed overwhelming support for the proposed transfer of functions.
- The Mayor believes that the force has a very capable Chief Constable in Craig Guildford overseeing a significant number of incredibly talented and dedicated officers. however
- The Mayor believes that the current policing governance structure is not working, leading to an increase in crime levels in the region.
- The Mayor believes that there should be a single point of accountability for residents in the region.
- The Mayor has always sought to carry out his mayoral duties in a cross party, collaborative way, and is cognizant of the fact that when this issue was previously brought to the West Midlands Combined Authority (WMCA) Board in 2019 it was voted down on political grounds, so is not taking this decision lightly, however,
- The Mayor now believes that the level of crime in the West Midlands has reached a point where something has to change and has therefore requested the transfer of the function, and is consenting to the making of the relevant Order.

5. Risk and Investment Appraisal / Risk Implications if not going through SAF

Preparatory work with officials from the Office of the Police and Crime Commissioner, West Midlands Police and the Home Office has commenced in tandem to this process to ensure that the if the Order is made the transfer of functions can happen in a manner that ensures no disruption to the exercise of the Police and Crime Commissioner functions and/or to the work of the Police/Chief Constable. Several workstreams have been established and a programme lead appointed to co-ordinate the programme.

6. Single Assurance Framework Implications

Not applicable

7. Legal Implications

On 2 November 2023 the Mayor wrote to the Secretary of State for the Home Department to request that they initiate the process to transfer the Police and Crime Commissioner powers and functions to the West Midlands Mayoralty to enable the West Midlands to elect its first Mayor with Police and Crime Commissioner powers in May 2024. This was in accordance with Section 107F(4) of the Local Democracy, Economic Development and Construction Act 2009, as amended (“the 2009 Act”).

The Secretary of State for the Home Department has carried out a public consultation, and having considered the responses, has advised that they intend to lay an Order before Parliament on 7 February 2024. The Secretary of State has written to the

Mayor to seek consent for the Order to be laid. This decision is intended to provide the necessary consent of the Mayor as required by s107F of the 2009 Act for the Order to be laid on 7 February 2024. The Order will be made under the powers conferred by the 2009 Act as amended by the Levelling Up and Regeneration Act 2023.

8. Finance Implications

There are no direct financial implications resulting from the Order to transfer Police and Crime Commissioner Functions to the Mayor of the West Midlands as the work to integrate the functions will be undertaken by existing Office of the Police and Crime Commissioner, West Midlands Police and WMCA staff.

Budget and funding for carrying out Police and Crime Commissioner 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. The Home Office underwrites all financial risks relating to policing.

If the Order is approved, there will be one combined Mayoral election instead of two separate elections. Total costs of any election are shared equally by the number of bodies participating. Currently the Home Office funds the Police and Crime Commissioner share of election costs. The Home Office will not provide any financial support to fund the election if it is merged with the Mayoral election. Costs will therefore be shared equally between participating bodies where local government elections are taking place in a Constituent Authority's area on the same day, as is anticipated. The share of any election costs involving the Mayor will continue to be funded by the WMCA and budgetary provision has been set aside in the Budget for 2024/25, which is due to be considered by WMCA Board on 9 February 2024.

9. Procurement Implications

None

10. Equalities Implications

There are no direct equality, diversity or inclusion implications in relation to the electorate voting for a Mayor with Police and Crime functions rather than a directly elected Police and Crime Commissioner. There is no requirement to undertake a full Equality Impact Assessment.

11. Inclusive Growth Implications

No direct implications

12. Geographical Area of Report's Implications

This will cover the area of the West Midlands Combined Authority constituent members.

13. Other Implications

None

14. Schedule of Background Papers

None

Signed by
Andy Sweet.
Mayor of the West Midlands
on 7th Feb '24.