



West Midlands  
Combined Authority

## Overview & Scrutiny Committee

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| <b>Date</b>                        | 25 February 2019   |
| <b>Report title</b>                | Update on consultation for the proposed Transfer of West Midlands Police & Crime Commissioner Functions  |
| <b>Accountable Chief Executive</b> | Deborah Cadman<br>Chief Executive of West Midlands Combined Authority<br>Email: <a href="mailto:deborah.cadman@wmca.org.uk">deborah.cadman@wmca.org.uk</a><br>Tel: (0121) 214 7200 |
| <b>Accountable Employee</b>        | Henry Kippin<br>Director of Public Service Reform<br>Email: <a href="mailto:henry.kippin@wmca.org.uk">henry.kippin@wmca.org.uk</a><br>Tel: (0121) 214 7880                         |

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

**The Overview & Scrutiny Committee is recommended to:**

- (1) Note the report to the Overview and Scrutiny Committee and put any relevant questions to Officers present.

## **1. Purpose**

- 1.1 To provide an update on the consultation process for the proposed transfer of West Midlands Police & Crime Commissioner Functions.
- 1.2 To seek to address a number of issues raised by the Overview and Scrutiny Committee in its November 2018 meeting.

## **2. Background**

- 2.1 The legislative and policy background to this proposed governance transfer are outlined in some detail within the reports considered at the September and November WMCA Board meetings – with the overall mandate of proceeding with the process to transfer governance to enable the election of a Mayor with PCC responsibilities for the West Midlands in 2020 in line with the region's second Devolution Deal. Both of these reports and the associated appendices are available on the WMCA website.
- 2.2 At the September Board meeting, Board members and the PCC agreed to take the Governance Review and Scheme back for consideration within their authorities – and to send feedback to WMCA officers for consideration. The Governance Review outlined the current and proposed PCC model, with specific reference to areas where clarity on governance, accountabilities and operational detail were required. The Scheme provided for the underlying legislative basis for the transfer. The Board also requested that more work be carried out on an appropriate consultation design
- 2.3 At the November Board meeting, Members noted the feedback received to date on the Governance Review and Scheme, agreed to a two stage consultation process and timetable, agreed on a revised Governance Review and Scheme to be consulted upon and agreed to receive a further report in March 2019 detailing the outcome of the consultation.
- 2.4 A verbal update and presentation on the proposals and consultation exercise was provided to the Overview and Scrutiny Committee on the 26 November 2018, which was attended by the Executive Director for Public Service Reform and the Monitoring Officer together with the Mayor.

## **3. Public Consultation Process**

- 3.1 The Combined Authority is consulting across the seven West Midlands Council areas (constituent councils) on the proposals to transfer the powers and responsibilities of the West Midlands Police and Crime Commissioner to the Mayor of the West Midlands in May 2020.
- 3.2 The consultation across the seven WMCA constituent council areas is taking place in two-stages. The first stage took place between Friday 16 November 2018 and Friday 11 January 2019 and focused on the principle of the transfer of responsibilities. The survey could be accessed online via the Combined Authority's website and paper copies were available at exhibition events in each Constituent Council area and in public buildings such as libraries.

- 3.3 The second stage of the consultation focuses on the proposed detail of how elements of the strategic leadership and direction of policing could operate within the proposed new model, and who would be responsible for making decisions if the proposals were to go ahead. This stage commenced on Monday 14 January 2019 and will close on Monday 11 March 2019.
- 3.4 Following the close of the first stage of the consultation on Friday 11 January 2019, BECG have been provided with the responses to undertake analysis in the form of a consultation report. This will be presented once the analysis of the results of the second stage of consultation has taken place and all of the consultation outcomes shared with the Board which will consider the report on 22 March 2019.

### Stage 1 Consultation

- 3.5 The consultation has attracted great interest across the region with a total of 6,059 people completing stage 1 of the consultation. The Authority is not publicly releasing the results of stage 1 of the consultation until stage 2 has been completed and analysed, in line with the Board decision taken in November 2018 following advice from BECG that advised against releasing earlier as it may unduly influence the result of the second stage.
- 3.6 In addition to the 6,033 responses there were a number of stakeholder responses to stage 1 of the consultation, including the minutes of the November 2018 Overview and Scrutiny Committee meeting. All responses are being analysed by BECG.
- 3.7 In addition to the formal analysis BECG are undertaking we have sought to answer some of the queries raised by the Overview and Scrutiny Committee, where further information was requested or required, in the following section of this report.

### Responding to Overview and Scrutiny Committee: Budget Issues

- 3.8 At the November Committee meeting it was explained, following concerns raised over the ring-fencing of police funds, that there was no danger of police funds being used for anything other than their intended purpose of policing. Furthermore legislation already existed to ensure this and any future Statutory Order would confirm that this would remain the case.
- 3.9 The Committee asked for clarity over future borrowing arrangements for policing if the proposals were to go ahead. It was explained that the Authority had received written assurance from the Treasury giving a clear intention that the borrowing cap issue would be addressed, citing Greater Manchester as an example.
- 3.10 If the proposals were to go ahead it can also be confirmed that the Statutory Order would provide for the proceeds of the sale from any police assets to be ring fenced to policing.

### Responding to Overview and Scrutiny Committee: Consultation Process

- 3.11 The concerns of the Committee regarding the robustness of the consultation were responded to at the November meeting. It should be noted that the two stage process was a requirement agreed upon by the Board, having taken expert advice from BECG. Furthermore the timeframe was unanimously agreed by the WMCA Board in order to deliver the required two stage process to ensure the proposed transfer, if agreed, is undertaken to enable an election in May 2020 for a Mayor with PCC powers.

3.12 BECG who are accredited by the Consultation Institute have provided advice and guidance to the Combined Authority on the consultation process, they were commissioned to lead the development process for the content for both stages of the consultation. The Consultation process has been delivered within the Market Research Code of Conduct and in line with Local Government requirements by the Combined Authority. The CAs Human Intelligence Team are all members of the Market Research Society and as such abide by the Market Research Code of Conduct. The comprehensive MRS code covers research from the inception to design and from execution to use. MRS members must adhere to the MRS code of conduct to safeguard standards, promote confidence and champion's professionalism.

#### Responding to Overview and Scrutiny Committee: Police and Crime Panel

- 3.13 The Committee expressed the view that a Mayor with PCC Powers should be subject to effective accountability with a view expressed that scrutiny of such a role should be undertaken by this Overview and Scrutiny Committee.
- 3.14 The Police and Crime Panel, a statutory body, would continue in its role under a Mayor with PCC Powers. This had been confirmed by the Home Office and was the case in Greater Manchester where the Mayor already holds the powers and responsibilities of the Police and Crime Commissioner.
- 3.15 The Panel would retain its existing powers, the exception to this being confirmation hearings for senior staff. The Home Office have confirmed that the Panel's statutory function under the Police Reform and Social Responsibility Act 2011 to hold Confirmation Hearings for a Chief Executive and Chief Finance Officer would no longer apply, as these post would no longer be required solely for Policing and Crime. They would however continue to apply for Chief Constable and for a Deputy Mayor for Policing and Crime (if appointed). Discussions have also been had with colleagues at Greater Manchester Combined Authority who also confirmed this to be the case under their arrangements.
- 3.16 Stage 2 of the consultation exercise also asks questions regarding the potential membership of the Police and Crime Panel if the proposal was to go ahead. The consultation seeks views as to whether sitting WMCA Board Members and their substitutes should be excluded from membership of the Panel.
- 3.17 With the exception of these potential membership changes, minor terminology modifications for the Police and Crime Panel would be needed to reflect the change in terminology from PCC to Mayor. As such the Police and Crime Panel would continue to both scrutinise and support the role of Police and Crime Commissioner. The Police Reform and Social Responsibility Act 2011 sets out the key statutory tasks the Panel must undertake:
- Review the draft Police and Crime Plan
  - Consider the PCC's annual report
  - Scrutinising the decisions and actions of the PCC
  - Consider the draft policing budget and policing precept
  - Hold hearings when the PCC proposes to appoint a new Chief Constable or a Deputy PCC
  - Handle non-criminal complaints against the PCC or the Deputy PCC

## Responding to Overview and Scrutiny: Issues raised by the Police and Crime Commissioner

- 3.18 At the November Committee meeting the Police and Crime Commissioner expressed concerns over the wording and nature of the questions outlined within the stage 1 consultation document. The development process for the content for stage 1, as it has been for stage 2 also, was led by BECG independently. BECG consulted with WMCA Officers, the Mayor's Office and the Office of the PCC (OPCC) in the development of the content.
- 3.19 The Police and Crime Commissioner also raised with the committee concerns that whilst he, in his role, was an elected representative, a Deputy Mayor for Policing and Crime would not be. The ability to delegate to a Deputy is the same for a Police and Crime Commissioner as it would be for a Mayor with PCC powers and is clearly laid out in the Police Reform and Social Responsibility Act 2011. These delegations would not change with any transfer of powers. As with the current PCC legislation the ultimate responsibility and accountability would lie with the Mayor acting as PCC if the proposals were to go ahead, as is currently the case for the PCC, and as such will be reflected at the ballot box.

## Responding to Overview and Scrutiny: Role of Overview and Scrutiny in future Governance Model

- 3.20 At the November Committee meeting Overview and Scrutiny recommended that if proposals were to go ahead that the Overview & Scrutiny Committee's role in the scrutiny of police and crime powers undertaken by the Mayor be clearly defined within the final model for approval.
- 3.21 The Committee is referred to section 3.13 to 3.17 of this report which confirms that the Police and Crime Panel would remain in its statutory position.

## Stage 2 Consultation Process

- 3.22 The second stage of the consultation focuses on the proposed detail of how elements of the strategic leadership and direction of policing could operate within the WMCA and who would be responsible for making decisions if the proposals were to go ahead. This stage commenced on Monday 14 January 2019 and will close on Monday 11 March 2019.
- 3.23 As with the development of stage 1 content, BECG have undertaken a process of seeking to engage the WMCA, OPCC and Mayor's Office in developing a content that they believe will meet the requirements of the decision taken by the Board. The stage 2 development led by BECG sought to engage with Officers, the Mayor's Office and the OPCC to discuss what should be included. Additionally the Chair and Vice Chairs of Overview and Scrutiny and the Police and Crime Panel were contacted and invited to provide feedback on draft content.
- 3.24 The final stage 2 content developed by BECG was signed off and agreed with by both WMCA and OPCC Officers. The Overview and Scrutiny Committee are asked to respond to stage 2 of the consultation as a key stakeholder before the close of the consultation on 11 March 2019.
- 3.25 Questions 1 to 5 of the stage 2 consultation (see stage 2 booklet or go to [www.wmca.org.uk/policeconsultation](http://www.wmca.org.uk/policeconsultation) ) were advised by BECG following the consultation with WMCA and the OPCC.

- 3.26 Question 6 was recommended for inclusion by the OPCC with the agreement of WMCA. In addition the consultation asks a final open question inviting responders to provide any further comments or observations they may have about the proposals to transfer the powers and responsibilities of the Police and Crime Commissioner to the Mayor of the West Midlands and the consultation exercise that has been undertaken.
- 3.27 As with stage 1 of the consultation WMCA will be undertaking further consultation events to provide an opportunity for people to come and ask questions about the consultation and what will happen next. These will be held on the WMCA's exhibition bus except for the event inside New Street Station. The events are:
- Saturday 2nd February - 9am - 3pm Wolverhampton City Centre,
  - Wednesday 6th February - 3pm - 7pm West Bromwich Bus Station,
  - Saturday 9th February - 9am - 3pm Dudley Market,
  - Monday 11th February - 12pm - 6pm Birmingham New Street Station,
  - Tuesday 12th February - 12pm - 6pm Walsall Park Street,
  - Thursday 28th February 2pm - 6pm Solihull Mel Square,
  - Saturday 2nd March 9am-3pm Coventry City Centre, Ironmonger Row

### Next Steps

3.28 On 22 March 2019 the WMCA Board will consider the BECG analysis and results of the consultation exercise in determining whether or not they wish to continue with the process to move towards an election in May 2020 for a Mayor with PCC Powers.

3.29 The table below illustrates the indicative timeline to May 2020:

| <b>Action</b>   | <b>Who</b>                  | <b>Date</b>        |
|---|-----------------------------|--------------------|
| Consideration of Consultation Outcomes and Approval to submit | CA Board/PCC                | 22 March           |
| Scheme to Home Secretary                                      | CA                          | 11 April 2019      |
| Preparation of Order  | Home Office                 | May - July 2019    |
| Delegated Consents  | CA and Constituent Councils | June – July 2019   |
| Consent to Order  | CA and Constituent Councils | End of August 2019 |
| Lay in Parliament   | Home Office                 | Oct/Nov 2019       |
| Confirmation of Order   | Home Office                 | December 2019      |
| Election of Mayor with PCC Powers                             |                             | May 2020           |

## **4. Financial Implications**

- 4.1 The Financial implications of progression of governance arrangements and the statutory order are being met through internal resources of the WMCA, with support from the Home Office and OPCC as appropriate.
- 4.2 Wider costs of transition are being developed with a view to resources for transition planning being earmarked with the WMCA's annual budgeting and Medium-Term Financial Planning processes.

## **5. Legal Implications**

5.1 The legal implications in terms of legislation are outlined in previous reports. Further legal implications are reported through the Governance Review and Scheme for consideration.

## **6. Equalities Implications**

6.1 There are no direct equalities implications arising out of this report.

## **7. Inclusive Growth Implications**

7.1 The WMCA Board has asked for the inclusive growth implications of each board paper to be outlined in this section. We are developing a set of materials that will allow officers and partners to do this robustly.

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

8.1 These proposals only have effect within the Constituent Council areas, ie the WM metropolitan area.

## **9. Other Implications**

9.1 There are no other implications highlighted in regards to this report.

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

- Governance Review
- Governance Scheme
- Report to WMCA Board 14 September 2018
- Report to WMCA Board 9 November 2018

## **11. Appendices**

11.1 Stage 2 Consultation Booklet (**these will be handed out at the Overview and Scrutiny Committee meeting on the 25 February 2019, the content of the booklet can be viewed at [www.wmca.org.uk/policeconsultation](http://www.wmca.org.uk/policeconsultation) )**