

WMCA Board

| | |
|--------------------------------------|---|
| Date | 22 March 2019 |
| Report title | Proposal for the Transfer of West Midlands Police & Crime Commissioner Functions to the Mayor of the Combined Authority |
| Accountable Chief Executive | Deborah Cadman, West Midlands Combined Authority email: deborah.cadman@wmca.org.uk tel: (0121) 214 7200 |
| Accountable Employee | Henry Kippin, Director of Public Service Reform email: henry.kippin@wmca.org.uk tel: (0121) 214 7880 |
| Report has been considered by | Programme Board - 8 March 2019 |

Recommendation(s) for action or decision:

The WMCA Board is recommended to:

- (1) Note the public response, stakeholder responses and the analysis of the two-stage public consultation exercise.
- (2) Agree to submit the Governance Review, Scheme and consultation outcomes analysis to the Home Office in line with the indicative timetable agreed at November 2018 WMCA Board.
- (3) Forward the consultation analysis and outcomes, and the indicative timetable to Constituent Authorities, and note that Constituent Authorities will be asked to give final consideration to these proposals and a draft Order as set out in the timetable.

1. Purpose

1.1 The purpose of this report is as follows:

- a) To update the Board on the outcomes of the two-stage public consultation on both the principle and the Scheme of the proposed transfer of powers and responsibilities of the West Midlands Police and Crime Commissioner to the Mayor of the West Midlands Combined Authority.
- b) To provide the WMCA Board with independent analysis of the two-stage public consultation, provided by BECG.
- c) To seek approval of the Board to submit the Governance Review, Scheme and Consultation outcomes to the Home Secretary, with subsequent local consideration by Constituent Authorities.

2. Background

2.1 The legislative and policy background to this governance transfer is outlined in some detail within the reports to 9th February, 14th September and 9th November 2018 WMCA Board meetings – with the overall purpose of effecting a transfer of 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.

2.2 On 9th February 2018, the WMCA Board discussed and agreed the second Devolution Deal which had been negotiated with the Government. Part of that Deal included discussions regarding a governance model for combining the roles of PCC and Mayor. The Board also made it clear that the PCC had an important role to play in developing those proposals with the WMCA and Constituent Authorities.

2.3 The core principles of this transfer were outlined in the September Board paper and again in the November Board paper, and remain as follows:

- a) Consistency and Continuity – preserving the role, functions and capacities of the PCC within a Mayoral model in line with the Policing Protocol and aligning to Home Office policy.
- b) Distinct, Robust and Visible Police Governance – maintaining the role of the Police and Crime Panel, and with a commitment to clear, planned and visible ongoing governance (including an ongoing role for the Strategic Policing and Crime Board) at point of transfer.
- c) Clear separation of the Mayor's PCC and WMCA Chair roles – ensuring proper clarity of governance and the appropriate degree of separation between police governance and the wider politics of the WMCA
- d) Clarity over Budgets, Assets and Borrowing – maintaining appropriate ring-fencing and committing to continuity over existing protocols and scheme of consent at point of transfer.
- e) Joining up Crime Prevention – building on the 'and crime' elements of the portfolio and WMCA influence in skills, housing, transport, PSR and economic growth policy to address the causes of crime and support sustainable policing and better outcomes through collaboration.

- f) A Transparent and Collaborative Process – maintaining the WMCA’s commitment to working openly with the OPCC, constituent councils, WMP, the Home Office and other key stakeholders on both the content and process of this transfer.

- 2.4 At September 2018 Board, WMCA 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 by 19 October 2018 for incorporation within the iteration of the Scheme and Review presented in this report. 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. WMCA Board also requested that more work be carried out on an appropriate consultation design.
- 2.5 At the November 2018 Board meeting, WMCA 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.

3. The Public Consultation

- 3.1 The Combined Authority (WMCA) has been consulting across the seven West Midlands Council areas (constituent authorities) 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 consent route that applies to this proposal is section 107(f) of the Cities and Local Government Devolution Act 2016 which amended the Local Democracy, Economic Development and Construction Act 2009. This route does not require public consultation on the proposals, however the Board agreed that on this significant important issue a public consultation was a pre-requisite for their informed consideration of whether or not to submit proposals to the Home Secretary. The consultation also serves to provide evidence of local views to the Home Secretary.

The Consultation Process

- 3.3 Independent agency BECG was appointed to support and accredit the design and analysis of the consultation. Part of their role was to independently develop the content for each stage of the consultation, building in input from WMCA Officers and the Office of the Police and Crime Commissioner (OPCC).
- 3.4 The consultation exercise was undertaken by the WMCA Public Relations Team with support from the OPCC, BECG, Constituent Council Officers and other officers of the WMCA. The Consultation Methodology was set out in the Consultation and Engagement Plan which was developed by WMCA Officers in consultation with the OPCC. It details the various stakeholders being targeted and the various methods in which we were seeking to engage the public, the consultation could be accessed in a number of ways:
- Online Questionnaire Booklet
 - Hard Copy Questionnaire Booklet
 - Easy Read Format
 - Audio
 - Public engagement events (one in each Constituent Council)

- Attendance at Overview and Scrutiny Committee (Nov'18 and Feb'19)
- Attendance at Police and Crime Panel (Nov'18 and Feb'19)

- 3.5 The consultation was publicised in a number of ways, these included:
- Social Media Campaign
 - Press Releases
 - Direct Email to Stakeholders
 - WMCA Email Footer
 - Home Page link to the consultation at WMCA, the 7 Constituent Councils and the OPCC
 - Direct Email to WMCA Cllrs, MPs and MEPs
 - Hard to Reach Groups programme including equality and diversity groups
 - Public engagement events (one in each Constituent Council)
- 3.6 The consultation across the seven WMCA constituent council areas took place in two-stages at the request of the Board. 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 second stage of the consultation focused on the proposed detail of how the strategic leadership and direction (governance) 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 closed on Monday 11 March 2019.
- 3.7 It was agreed by WMCA Board that the results of both stages of the consultation would be analysed by BECG and published in the papers for the March Board meeting. BECG had previously advised the Authority against publishing the results of the first stage of consultation prior to the completion of the second stage of consultation. This approach sought to ensure that the results of stage one did not unduly influence responses to the second stage.
- 3.8 The Consultation process has been delivered within the Market Research Code of Conduct and in line with Local Government requirements by the Combined Authority.
- 3.9 The final data set included online and paper questionnaires received by the agreed closing dates. Paper responses to the consultation were only added to the data set if they were filled in on the official documentation. Before final analysis the data set was checked for duplicate responses, where it could be ascertained that responses were duplicates either by identical emails, name and/or addresses, or where there was significant duplication in open ended responses. Duplication checks led to 65 responses being removed from the final data set on the basis of this process.
- 3.10 The final data table included all valid responses to questions. The numbers vary from question to question as not all respondents provided a response to all question. Open ended responses were grouped together under key themes for purposes of analysis.

Response to Consultation

- 3.11 Stage 1 of the consultation focused on the principle of the proposals. It attracted a great deal of interest, with a total of 6,059 completions. A consultation event was held by WMCA in each of the seven Constituent Council areas.

3.12 Stage 2 of the consultation focused on the detail of how elements of the strategic leadership and direction of policing might operate within the WMCA, and who would be responsible for making decisions if the proposals were to go ahead. A total of 735 responses were received. Whilst the response to stage 2 was lower, the level of response was commensurate with previous ‘governance’ consultations relating to the Combined Authority.

3.13 The full results and analysis of the consultation are detailed in **Appendix A – BECG Consultation Analysis and Report**. The tables below provide a summary of the responses to each of the questions asked in Stage 1 and Stage 2. (The percentages have been rounded to the nearest whole number therefore they may not exactly total to 100 %.)

| Consultation Questions | Strongly Agree/ Agree | | Neither agree or disagree | | Strongly Disagree / Disagree | | Don't Know | |
|---|-----------------------|----|---------------------------|---|------------------------------|----|------------|---|
| | Responses | % | Responses | % | Responses | % | Responses | % |
| 1. Principle of transfer | 3503 | 58 | 228 | 4 | 2261 | 37 | 41 | 1 |
| 2. Improve efficiency and effectiveness | 3345 | 56 | 320 | 5 | 2279 | 38 | 79 | 1 |
| 3. Improve governance of policing and crime | 3216 | 54 | 363 | 6 | 2246 | 38 | 78 | 1 |
| 4. Improve ability of public to hold leadership and social causes of crime to account | 3300 | 55 | 393 | 7 | 2228 | 37 | 82 | 1 |
| 5. Create stronger focus on joined-up public services | 3492 | 58 | 374 | 6 | 2078 | 35 | 74 | 1 |
| 6. Greater co-operation/ integration with Mayor responsible for fire and policing? | 3332 | 55 | 411 | 7 | 2194 | 36 | 84 | 1 |
| 7. One accountable individual for the functions that come under the Mayor and PCC | 3533 | 59 | 271 | 5 | 2138 | 35 | 60 | 1 |

Stage 1 Response

Stage 2 Response

| Consultation Questions | Strongly Agree/ Agree | | Neither agree or disagree | | Strongly Disagree / Disagree | | Don't Know | |
|--|-----------------------|----|---------------------------|----|------------------------------|----|------------|---|
| | Responses | % | Responses | % | Responses | % | Responses | % |
| 1. Having a Mayor and DMPC is more appropriate than having two separate representatives | 471 | 65 | 33 | 5 | 222 | 30 | 6 | 1 |
| 2. The DMPC position should be restricted to individuals in the WMCA area | 585 | 81 | 74 | 10 | 61 | 8 | 9 | 1 |
| 3. The DMPC position should exclude WMCA Board Councillors and substitutes | 533 | 74 | 101 | 14 | 77 | 11 | 14 | 2 |
| 4. SPCB is important to facilitate public engagement in identifying and resolving policing and crime matters | 544 | 75 | 87 | 12 | 83 | 11 | 11 | 2 |
| 5. Councillors who sit on the WMCA Board and substitutes should be restricted from sitting on the PCP | 554 | 77 | 67 | 9 | 86 | 12 | 17 | 2 |
| 6. The current day to day working practices of the OPCC should be retained initially | 500 | 69 | 124 | 17 | 82 | 11 | 16 | 2 |

3.14 As well as formal consultation responses made by stakeholders using online or paper methods, WMCA received stakeholder representations regarding the proposed transfer of responsibilities from the PCC to the Mayor from MPs and interested groups across the region. The Police and Crime Commissioner, Police and Crime Panel and the WMCA's Overview and Scrutiny Committee were all engaged in, and made representations to, the consultation process. It is clear from these engagements that a range of opinions exist as to the nature and desirability of the governance changes being proposed.

4. Next Steps

4.1 The process from here on in – outlined in the timetable below – requires the Board to approve submission of the Scheme, Governance Review and Consultation Analysis to the Home Secretary, before offering a further opportunity for the Board / to consider progress before being asked to Consent to the proposal. It also provides individual constituent councils the opportunity for further consideration before being required to provide Consent.

4.2. Subject to the Board agreeing to the submission of the Scheme to the Home Secretary, a further Report to both the Board and Constituent Councils will be required in June/ July 2019. This will consider progress to date and seek the necessary delegated consents

prior to the Home Secretary seeking final consent to the Draft Order at the end of August 2019, prior to it being submitted to Parliament.

| Action | Who | Date |
|--|-----------------------------|--------------------|
| Submission of the Scheme and Consultation Results/ Analysis to Home Secretary | CA Board | 11 April 2019 |
| Preparation of The Order | Home Office | May - July 2019 |
| Constituent Council meetings to consider consultation results and provide Delegated Consents | Constituent Councils | June – July 2019 |
| WMCA Board meeting to consider progress and provide Delegated Consents | CA Board | July 2019 |
| Request from Home Secretary to Consent to Order | CA and Constituent Councils | End of August 2019 |
| The Order is laid before Parliament | Home Office | Oct/Nov 2019 |
| Confirmation of The Order | Home Office | December 2019 |
| Election of Mayor with PCC Powers | | May 2020 |

5. Financial Implications

- 5.1 The Financial implications of progression of governance arrangements and the statutory order are being met through internal resources of the WMCA, with support from Constituent Councils, Home Office and OPCC as appropriate.
- 5.2 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.

6. Legal Implications

- 6.1 The legal implications in terms of legislation are outlined in this and previous reports. Further legal implications are reported through the Governance Review and Scheme for consideration.
- 6.2 Delegated consents from the Board and constituent councils will be need to be sought during the June/ July 2019 cycle of meetings.

7. Equalities Implications

- 7.1 There are no direct equalities implications arising out this report.

8. Inclusive Growth Implications

- 8.1 There are a number of implications identified within the Governance Review arising from the proposed transfer. These will be analysed in detail during the transition process, and pending WMCA decision-making outcomes.

9. Geographical Area of Report's Implications

9.1 These proposals only have effect within the Constituent Council areas, i.e. the WM metropolitan area.

10. Other Implications

10.1 There are no other implications to highlight arising from this Report

11. Schedule of Background Papers

11.1 Governance Review and Scheme

11.2 Report to WMCA Board re 2nd Devolution Deal Approval 9 February 2018

11.3 Report to WMCA Board 20 July 2018

11.4 Report to WMCA Board 14 September 2018

11.5 Report to WMCA Board 9 November 2018

12. Appendices

12.1 Appendix A – BECG Consultation Report

12.2 Appendix B – Appendices to BECG Consultation Report