



West Midlands
Combined Authority

Audit, Risk & Assurance Committee

Date	15 April 2019
Report title	Constitution and Governance Review Progress and Update on PCC and Fire Governance Proposals
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Report has been considered by	None

Recommendation(s) for action or decision:

Audit, Risk & Assurance Committee is recommended to:

- (1) Note the information contained in this report and the position regarding PCC and Fire Governance proposals.

1. Purpose

- 1.1 This report updates members on the progress that is being made on the review of the constitution and review of governance of the Combined Authority. The report also gives a position statement on the stage reached in regard to proposals for the transfer of PCC and Fire Authority governance following WMCA Board on 22nd March 2019.

2. Background

- 2.1 A technical review of the WMCA Constitution is now underway. The Constitution was put in place when the WMCA was established and was based upon existing constitutional provisions within Constituent Authorities. The Constitution has provided a framework for lawful decision-making and governance however there was a clear aspiration for the outset to review the Constitution and to make it more fit for purpose.
- 2.2 The pace at which the Combined Authority has developed and in particular, the work that has been carried out in contemplation of significant governance changes around the PCC and Fire functions has precluded resources being allocated to a fundamental review until this time. It is also right to say that the governance changes referenced above have a potentially significant impact on the shape of the future constitution and until recently there has been a degree of uncertainty over the direction of travel on these matters. This has now largely been resolved as detailed later in this report.

Review of the Constitution

- 2.3 The review of the Constitution is now being undertaken. The structure of the Constitution is being considered to ensure that it is clear and easy to use. The approach will be based on the modular constitution approach which is reflected in most Local Authority constitutions. This should provide a logical structure that will be clear and legible for users. One of the current criticisms of the document is that it is hard to find your way through it and there is duplication or repetition.
- 2.4 Further clarity will be gained by having a clear and logical progress through the document which will lead from overarching principles, through procedure rules to specific detailed provisions. At the same time we will be looking to resolve a number of contradictions in the existing document and checking for any best practice requirements that have so far been omitted.
- 2.5 The opportunity will also be taken to resolve any issues that have become apparent during the initial operational phase of the Combined Authority and the introduction of Mayoral governance. There are clearly some areas which need further strengthening to ensure consistency and clarity. An example is around the annual budget process which needs to be set out more clearly. There is a challenge with some of the provisions which are implied into the Constitution by the provisions of the various statutory orders. These need to be put into clear and legible language that is reflective of the legislative intention where this not currently the case.
- 2.6 None of these comments should be taken as any reflection on the work done in establishing the Constitution which was done at some speed in order to realise the aspirations of the region to create the Combined Authority. However using the experience of the initial period of operation means this is the right time to complete this work.

Review of Governance

- 2.7 In conjunction with the work on the Constitution we are undertaking a review of governance within the Combined Authority. This has also been an aspiration for some time but has been affected by the PCC and Fire proposals.
- 2.8 The Governance Review will look at the extent to which our governance structures and processes are working well or whether there are issues or problems. It will look at whether the overall structure of committees and boards is right and levels of delegation, terms of reference and whether there is any streamlining necessary.
- 2.9 Specific consideration is being given to Overview and Scrutiny where some scrutiny development work is being undertaken in conjunction with the Centre for Public Scrutiny (CfPS). This is considering ways of working, structures, forward planning and identification of a scrutiny work plan. There is also consideration of how scrutiny engages with the Mayor and Portfolio Leads and how areas such as Transport are scrutinised.
- 2.10 As outlined above the work of review is already in hand and the additional certainty provided by recent Board decisions around Fire and PCC governance enables this to proceed at some pace. It is anticipated that emerging conclusions will be able to be shared during Quarter 1 of the financial year but there will need to be a detailed process of consultation and socialisation before final proposals can be adopted. It is expected that both Overview and Scrutiny and ARAC will be key to those discussions. The decision on adopting any changes to the WMCA Constitution is one for the WMCA Board and requires a unanimous decision.

3. Update on Police and Fire Governance Proposals

- 3.1 As indicated above there has been a degree of uncertainty over how these two matters would progress in recent months. The Combined Authority Board meeting on 22/3/19 has resolved these issues and there is now more clarity.
- 3.2 In relation to the proposals for the role of PCC to transfer to the Mayor from 2020 the results of the public consultation were considered at the Board Meeting and the decision was taken not to proceed with these proposals. This effectively means that the timetable to implement the changes for the Mayoral election in 2020 cannot be met and so it looks unlikely now that these proposals will be implemented although there may be future consideration of the issue in a future Mayoral term.
- 3.3 The proposals with regard to the Fire Service were put on hold in January following receipt of the final draft Order due to concerns over the operational independence of the Chief Fire Officer. Some intensive work has been carried out with colleagues in WMFS to achieve some proposed amendments to the WMCA Constitution which would give the same effective protections to this position to the ones that we were expecting in the Order. These proposals were accepted at the Board on 22/3/19 and the Combined Authority was given the agreement to move forward with the Order. Each Constituent Authority will also need to give their consent at the appropriate time and they have also been asked to confirm their individual approval of the constitutional provisions.
- 3.4 The Home Office have indicated that all being well they should be able to lay the Order before Parliament in early June 2019. This would give a potential go live date for the transfer of October 2019.

3.5 The proposals for the discharge of ARAC and Overview and Scrutiny responsibilities in respect of the Fire Service outlined in previous reports have not been affected by this delay and remain as previously outlined. Final details will be worked up as part of the approvals of operational matters that will need to be taken through Board in the run up to implementation should final approval be given. This will be done in consultation with the relevant Committees.

4. Financial Implications

There are no specific financial implications arising from this report.

5. Legal Implications

Legal implications are identified in the body of the report as appropriate.

6. Equalities Implications

There are no specific equality implications.

7. Inclusive Growth Implications

There are no specific inclusive growth implications.

8. Geographical Area of Report's Implications

Constitutional arrangements apply across the whole of the Combined Authority area. Issues relating to PCC and Fire governance are only applicable to the Constituent Authorities.

9. Other Implications

None.

10. Schedule of Background Papers

None.