

**Report to:** The West Midlands Police and Crime Panel

**Report of:** The Secretary of the West Midland Police and Crime Panel

Date: 26 November 2018

**Consultation for the Transfer of the  
West Midlands Police and Crime Commissioner Functions**

**1 Purpose of Report**

1.1 To receive a presentation on the consultation for the transfer of West Midlands Police & Crime Commissioner functions.

**2. Recommendation**

**That the Police and Crime Panel consider the presentation attached and agree how to respond to the consultation.**

The following documents are appended to this report

1. WM Combined Authority Report on the Consultation for the Transfer of the PCC Functions  
Appendix A – WMCA Presentation  
Appendix B – WMCA Consultation Plan
2. PCC Response to the WM Combined Authority Governance Review and Scheme for the transfer of the PCC Functions 19 October 2018

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# **Consultation for the Transfer of West Midlands Police & Crime Commissioner Functions**

**Presentation to the West Midlands Police and Crime Panel  
26 November 2018**



## Background

Following the first devolution deal in 2015, a second deal was agreed in late 2017 between government, the Mayor and WMCA to strengthen the West Midlands' devolution arrangements.

The second devolution deal included a commitment for government, the WMCA and the PCC to work together to look at a detailed governance model and timetable for transferring the role and powers of the PCC to the elected Mayor in 2020.

As a result a Governance Review and Scheme were prepared and consulted upon with Constituent Councils, WMCA Board and Mayor, the PCC and his Office and the Chief Constable of WMP.

In considering the Review and the Scheme the Mayor and the WMCA board agreed the need for this to be underpinned by a robust consultation as part of an ongoing commitment to devolution and local democracy.



## What is being proposed?:

Under the proposals, the role, duties and responsibilities of the PCC will not change, but from 2020 they would be discharged by the Mayor instead of the PCC.

The Police and Crime Panel would also remain in place to scrutinise and support the Mayor in exercising these powers and responsibilities.

A similar arrangement is already in place in Greater Manchester, where the role of the PCC was incorporated into the Greater Manchester Combined Authority Mayor's role in 2017, and to an extent in London.

The Mayor would appoint a Deputy Mayor for Policing and Crime (DMPC), accountable to the Mayor, to work closely with them and exercise certain powers on their behalf. The spirit and intent of the proposals are to build on the work initiated by the current PCC arrangements whilst retaining the operational independence of the Chief Constable and West Midlands Police (WMP).

## Benefits & Opportunities

WMCA believes that the transfer of PCC functions to the elected Mayor would bring the following benefits to the public, business and public services:

- **Clearer accountability for citizens, business and government:**
  - Single accountable figure and point of contact in the West Midlands working across a range of Services
  - One election
- **Stronger collaboration between services to the public:**
  - Stronger links between different public services particularly those that contribute to crime
  - Reduce confusion and fragmentation for citizens and help prevent crime
- **Reduce demands on policing by addressing the causes of crime:**
  - Opportunity to create innovative models of neighbourhood working to target causes of crime
  - Availability of additional resources eg skills housing, economic growth etc
  - Joining up of data and intelligence
- **Ensuring public money is spent as efficiently as possible:**
  - Ring fenced precept and budgets
  - Not about large cost savings
  - Reducing duplication and better integration



### Consulted closely with the WMCA Board. Two key principles:

- Election of a Mayor with PCC powers in 2020
- Robust two-stage public consultation on both the principle and the detail.

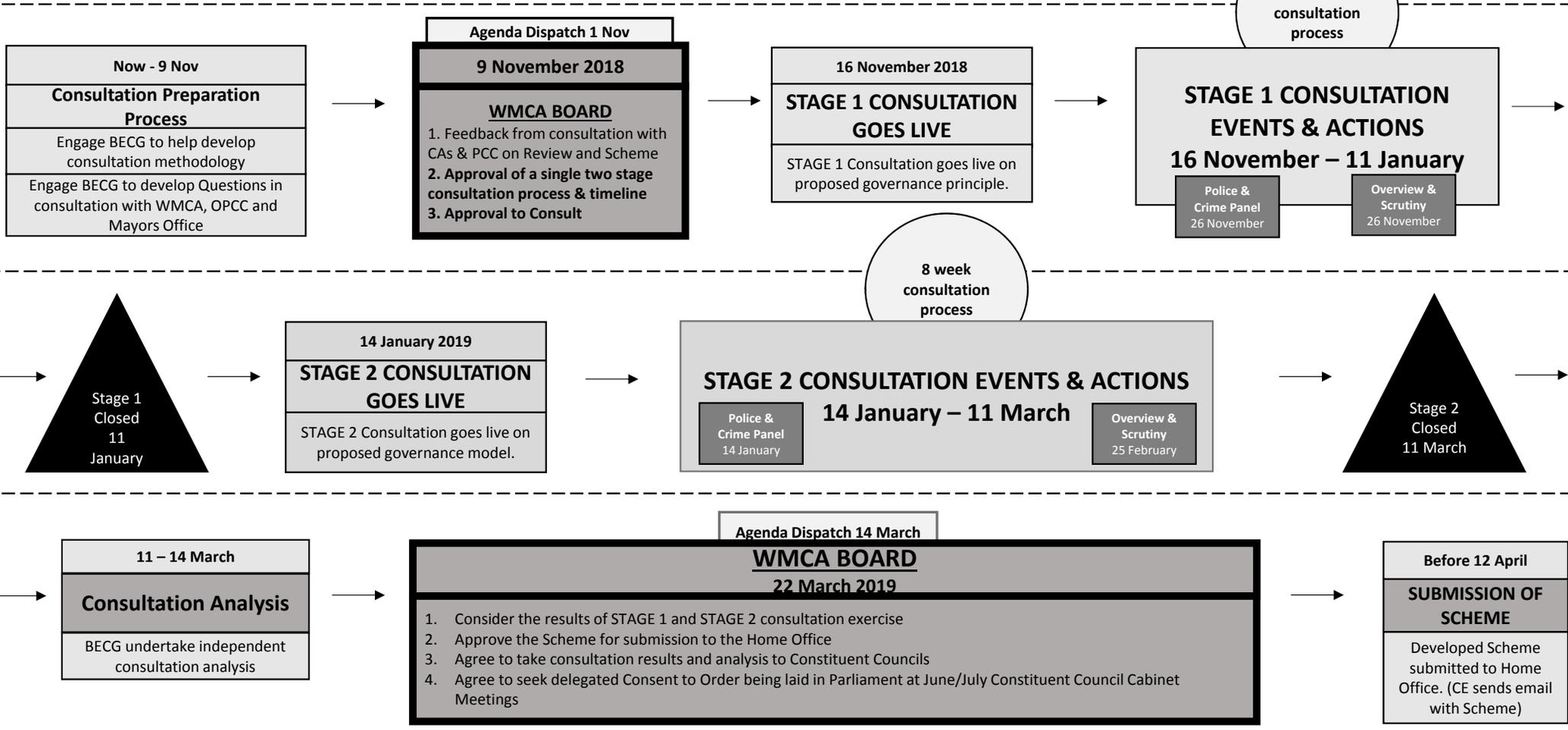
*A point to note is that the consent route (section 107(f)) that applies to this transfer process. As a result consent from the Constituent Authorities, the WMCA and the Mayor are the only requirement for the Order to be laid before Parliament, a review and scheme are not a requirement of this process.*

### Process

- A two-stage public consultation – consulting the public on both **principle** and **detail** during **two separate 8-week** periods
- Key role for scrutiny – building in two opportunities for both WMCA Overview and Scrutiny Committee and the Police and Crime Panel to scrutinise and assure the process
- Appropriate legal advice – taking and following Home Office, WMCA and independent legal advice that the process is legally robust and conducted along principles of good practice
- Independent question-setting and analysis – we have engaged an independent agency, BECG, accredited by the Consultation Institute, who are setting the questions objectively and after dialogue with the PCC and Mayor.
- A collaborative consultation process – working with constituent authority governance, legal and communications teams to both assure and plan the best possible consultation.



# West Midlands Combined Authority **The Consultation Process**



## The Consultation Process

As with previous consultations of this nature, the purpose here is twofold: to provide the Board with Public and Stakeholder views in respect of the proposal; and to provide evidence of local views to the Home Secretary.

We have appointed BECG as the agency responsible for supporting the design and analysis of the consultation who already have experience in the West Midlands as they supported the consultation on fire governance conducted in 2017.

BECG have been tasked with independently and objectively developing the questions and supporting information for the consultation using their knowledge and expertise and through engagement with the PCC and Mayor.

We are proposing to follow advice from BECG on the appropriate analysis of a two-stage consultation, which is that good practice would be to move from Stage 1 to Stage 2 of the consultation without reporting interim results so as not to unduly influence the second stage. BECG have advised that *“The proposed approach by WMCA to publish the results of both stages of consultation together will provide a comprehensive account of feedback for stakeholders and the WMCA board to consider. The alternative option would be to report on each stage separately. We would advise against this, given the potential for the results of stage one to unduly influence the consultation on stage two.”*

BECG will analyse and report on the results of both stages to the WMCA Board in March to enable the Board to make an informed decision prior to making a decision as to whether or not to submit the proposals to the Home Secretary.

## Consultation Methodology

The Consultation Methodology is set out in the Consultation Plan, it details the various stakeholders being targeted and the various methods in which we are seeking to engage the public. The consultation can 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)

The Consultation is being publicised in a number of ways:

- Social Media Campaign
- Press Releases
- Direct Email to Stakeholders
- WMCA Email Footer
- Home Page link to consultation at WMCA and the 7 Constituent Councils
- 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)



## Stage 1 Questions (Refer to Consultation Booklet)

**Q1:**

To what extent do you agree or disagree with the proposal to transfer the responsibilities of the PCC to the elected Mayor of the West Midlands?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree     Don't know

Please use the space below to provide any comments you may have about your answer:

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**Q2:**

To what extent do you agree or disagree that a Mayor with Police & Crime Commissioner functions would improve the efficiency and effectiveness of policing?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree     Don't know

Please use the space below to provide any comments you may have about your answer:

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## Stage 1 Questions

**Q3:**

To what extent do you agree or disagree that a Mayor with Police & Crime Commissioner functions would improve the governance of policing and crime?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree     Don't know

Please use the space below to provide any comments you may have about your answer:

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**Q4:**

To what extent do you agree or disagree that a Mayor with Police & Crime Commissioner functions would improve the ability of the public to hold the strategic leadership of policing and the wider social causes of crime to account?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree     Don't know

Please use the space below to provide any comments you may have about your answer:

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## Stage 1 Questions

**Q5:**

To what extent do you agree or disagree that a Mayor with Police & Crime Commissioner functions would create a stronger strategic focus on joined-up public services across the region?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree     Don't know

Please use the space below to provide any comments you may have about your answer:

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**Q6:**

To what extent do you agree or disagree that greater co-operation and integration is likely to be achieved with the Mayor having responsibility for both fire and police services?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree     Don't know

Please use the space below to provide any comments you may have about your answer:

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West Midlands  
Combined Authority

## Stage 1 Questions

**Q7:** To what extent do you agree or disagree that there should be one directly elected accountable individual for the functions that come under the Mayor and the PCC?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree     Don't know

Please use the space below to provide any comments you may have about your answer:

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## What happens next?

The first stage of the Consultation runs until the 11<sup>th</sup> January 2019 with the second stage open between January 14<sup>th</sup> – March 11<sup>th</sup> 2019.

The second stage will be focused on the detail of the governance, with the questions and supporting information developed independently by BECG with engagement with WMCA and the PCC. Both the Police & Crime Panel and the WMCA Overview & Scrutiny Committee will be engaged in the second stage as they have been in the first stage.

BECCG will provide independent analysis of the consultation results and report to WMCA Board on the 22<sup>nd</sup> March 2019 where Board will consider the consultation results and analysis and be asked to provide approval to submit the Scheme to the Home Office.

In June/July 2019 Constituent Councils will be consider the consultation results and analysis and be asked to provide delegated consent for approval, with the Home Office asking the Mayor and Constituent Council Leaders for approval in late August 2019 in line with the timetable to provide an election for a Mayor with PCC Powers in May 2020.

Any  
Questions?

# Consultation for the Transfer of West Midlands Police & Crime Commissioner Functions

**Consultation & Engagement Plan v7.0**

## Pre-consultation

Stakeholder/Advisory	Methods of Communication	More detail
PCC & OPCC	Meetings, document sharing, telephone and email correspondence	<p>WMCA have engaged with the OPCC in developing the Governance Review and Scheme prior to the September 2018 WMCA Board meeting.</p> <p>WMCA have engaged BECG to provide guidance on the wording and structure of the consultation questions and supporting information, this process specifically involved directly consulting the OPCC on possible content, seeking feedback on proposals and taking this on board where BECG felt it was required.</p>
Constituent Councils	Meetings, document sharing, telephone and email correspondence	<p>WMCA Board agreed that all Constituent councils should review the Governance review and scheme and provide feedback to the November WMCA Board meeting.</p> <p>WMCA have engaged Council Leaders and representatives following the September 2018 WMCA Board meeting in developing a consultation proposal that meets requirements set out by the Constituent Councils.</p> <p>WMCA have sought to engage Constituent Council Communication Leads in explaining proposed consultation process and answering nay queries.</p> <p>WMCA has engaged Constituent council Monitoring Officers and Legal Leads in developing the proposed consultation process.</p>
Home Office	Meetings, document sharing, telephone and email correspondence	Regular contact between WMCA and the Home Office via telephone/ email correspondence and meetings has taken place in the development process of the Governance review and scheme and now in the development of the proposed consultation process, timeline and methodology.
BECG	Meetings, document sharing, telephone and email correspondence	<p>BECG were procured by WMCA in order to:</p> <ol style="list-style-type: none"> <li>1) Undertake engagement process with OPCC/PCC, the Mayor's Office and WMCA Officers to independently develop proposals and guidance on the content of questions to be included in the consultation exercise at both stages</li> <li>2) To review the Consultation Plan, providing guidance and recommendations for improvement where required to ensure that the consultation and engagement methodology met the standards they would expect see from such consultation as an accredited member of the Consultation Institute.</li> <li>3) Producing a robust and an in-depth consultation review document is critical for the credibility of any large-scale public consultation. Based on the brief given to BECG they would complete analysis of the responses received and the produce a consultation report. This will be done in conjunction with the WMCA team. In doing so BECG will: <ul style="list-style-type: none"> <li>• Ensure the consultation analysis report resulting from the consultation is objective and accurate.</li> <li>• Assist in ensuring the feedback analysis is easy to digest, using graphs/diagrams where appropriate to help illustrate the results of the consultation.</li> <li>• Ensure the document accurately illustrates the extent of the public consultation delivered.</li> </ul> </li> </ol>

## Stakeholder Consultation – Stage 1

### Timescale: 16 November 2018 to 11 January 2019

Items in **blue** are traditional methods.

Items in **red** are digital methods.

All of the methods of communication will be undertaken by the WMCA unless specified. Throughout the consultation we will be monitoring responses.

Stakeholder	Methods of communication	More detail	Start of consultation	During consultation	Two weeks before consultation ends
Key stakeholders eg BIDs, chambers of commerce, colleges	<b>Email</b>		Initial email detailing about the consultation	Reminder to have their say. We can see from the consultation responses who has responded.	Last chance to have their say. Reminder that their input is important.
All	<b>Footer on email</b>	<b>Graphic on bottom of email that stakeholder can click on and be taken straight to the consultation (similar to WMFS consultation)</b>	Once the website is live	Ongoing	Ongoing
West Midlands Combined Authority area Councillors/MPs/MEPs	<b>Email with option for meetings if required</b>		Initial email detailing about the consultation and offer of meeting if required. Asked to share with constituents and through social media	Reminder to have their say. We can see from the consultation responses who has responded.	Last chance to have their say. Reminder that their input is important.
<b>Hard to Reach Groups</b>	See sections below  As well as the specific methods mentioned below we would expect some of the hard to reach groups to see other methods of communication we are producing eg social media (organic)				
Equality and Diversity Groups	<b>Email</b> <b>Easy Read document and questionnaire</b> <b>Large print and questionnaire</b> <b>Telephone number for responses/help</b> <b>Consultation Events</b>	Equality and Diversity Manager will receive a standard message to send to the groups along with a copy of the in Easy Read document with questionnaire and option to order audio. There will be details of how members of the groups can respond to the consultation including attending a consultation event and telephoning in to get help to fill in the questionnaire. (We will also attend any meetings if requested)	Initial email as per “more detail”	Reminder to have their say. We can see from the consultation responses who has responded.	Last chance to have their say. Reminder that their input is important.



## Stakeholder Consultation – Stage 1

### Timescale: 16 November 2018 to 11 January 2019

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All of the methods of communication will be undertaken by the WMCA unless specified. Throughout the consultation we will be monitoring responses.

	<p>We will ask the regional comms teams in each of the seven districts to contact their equality and diversity groups to tell them about our consultation. We will share a list of groups (name of group only) to them to avoid duplication.</p> <p>(Email from regional comms team)  <a href="#">Easy Read document and questionnaire</a>  <a href="#">Telephone number for responses/help</a>  <a href="#">Consultation Events</a></p>	<p>We will send a summary of the leaflet to the comms teams along with a copy of the Easy Read document with questionnaire and options for audio. There will be details of how members of the groups can respond to the consultation including attending a consultation event and telephoning in to get help to fill in the questionnaire.</p>	<p>Initial email to regional comms as per “more detail”. We are already liaising with regional comms to gain their support for the whole of the consultation. A consultation toolkit will be supplied.</p>	<p>Reminder to have their say.</p>	
	<p><a href="#">Paid for social media</a></p>	<p>We will monitor the response to the consultation from the hard to reach groups. Where there are gaps we will produce an advert on social media and target the hard to reach groups and ensure that they are representative of the Combined Authority area.</p>		<p>Facebook ad to cover any hard to reach groups and WMCA areas that haven’t responded. The duration of the ad will be decided on the responses we receive.</p>	
<p>Visually impaired</p>	<p><a href="#">Email all of the Talking Newspapers in the West Midlands</a></p>	<p>Equality and Diversity Manager will receive a summary of the leaflet to send to. There will be details of how members of the groups can respond to the consultation including attending a consultation event and telephoning in to get help to fill in the questionnaire.</p>	<p>Initial email as per “more detail”.</p>	<p>Reminder to have their say.</p>	

## Public Consultation – Stage 1

**Timescale: 16 November 2018 to 11 January 2019**

Items in **blue** are traditional methods.

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Methods of Communication	More detail	Start of consultation	During consultation	Two weeks before consultation ends
<b>Leaflet</b>	Will include information on the consultation, questionnaire, details of events, where reader can find out more, start and end date and how they can take part in the consultation	Leaflet and questionnaire will be available for the whole period of the consultation.		
<b>Questionnaire</b>	Questions to be agreed with Begc. Once signed off questionnaire will be included in printed leaflet and online on the West Midlands Combined Authority's website.	Questionnaire available for the whole period of the consultation.		
<b>Access to leaflet, questionnaire and pre-paid envelope at venues</b>  <b>Poster</b>	We will work with the regional comms team to enable access to the leaflet, questionnaire and pre-paid envelope in their libraries and civic centres.  We will also have copies available at our Travel Information Centres.	Agreed quantity sent to key contact and displayed with poster saying about the consultation	Regional comms team to advise if extra stock needs to be delivered to their venues	
<b>Video (phase 1)</b>  <b>Video or Animation (phase 2)</b>	A short video about the consultation, saying how people can take part and where they can find out more information.  A short video or animation about the outcome and consultation will be produced. (We will decide on how well received the video is)	Video available for the whole period of the consultation in phase 1.  Animation available for the whole period of the consultation in phase 2.		
<b>Graphic</b>	A graphic will be produced for social media, electronic screens, footer on emails, posters, website etc	One graphic will be used across the methods of communication to help raise awareness of the consultation and to attract people's interest.		



**West Midlands  
Combined Authority**

## Public Consultation – Stage 1

**Timescale: 16 November 2018 to 11 January 2019**

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Methods of Communication	More detail	Start of consultation	During consultation	Two weeks before consultation ends
Electronic screens – poster at bus stations and near interchanges	<p>A “Have your say” poster will be produced to go on electronic screens that we have in the West Midlands. It will use the graphic as detailed, start and end dates and a link to the website for more information.</p> <p>Poster changed to “Last chance to have your say” and link to website.</p>	Electronic screens for the duration of the consultation		Last chance to have your say poster
Printed poster	<p>A “Have your say” poster will be produced in various sizes (depending on location) and put up at locations across the West Midlands (across the transport network). It will use the graphic and have details of the consultation events, start and finish dates and a link to the website for more information.</p>	Poster up for the whole duration.		
Real Time Information (RTI) screens at bus stops	<p>A “Have your say” poster will be produced and we will use just wording as well where the RTI can’t support a picture. Will be directed to the website.</p> <p>Poster and text changed to “Last chance to have your say” and link to website.</p>	To keep the consultation fresh the RTI won’t appear for the whole time of the consultation. It will be interchanged with other campaigns taking place.		Last chance to have your say poster/words
Email to signed up list	<p>An email will be sent to all the contacts we have on our database with a link to the webpage on the WMCA website.</p>			Last chance to have your say email

## Public Consultation – Stage 1

**Timescale: 16 November 2018 to 11 January 2019**

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Methods of Communication	More detail	Start of consultation	During consultation	Two weeks before consultation ends
Easy Read document with questionnaire	Leaflet and questionnaire produced in Easy Read	Sent to Equality and Diversity groups by WMCA and regional comms. Also, available on request. On WMCA webpage		
Audio cd with questionnaire	Summary of the leaflet to send to. There will be details of how members of the groups can respond to the consultation including attending a consultation event and telephoning in to get help to fill in the questionnaire.	Sent to Equality and Diversity groups on request by WMCA and regional comms. Also, available on request.		
FAQs	Frequently Asked Questions and Answers produced to further explain about the consultation.	Available at the start on the web	Updated during the consultation if required	
Website	Webpage created with  Graphic for main webpage (to link to webpage) Information Link to questionnaire Easy Read document FAQs Video			
Events	Events in seven districts Events spread over the consultation period.  WMCA staff involved in the consultation available to talk about the consultation and help fill out questionnaire if required.  Information boards/pullups used to display information on the consultation.  Wobble board to highlight the consultation to people who may be passing the event and want to find out more.	On different days including Saturdays and a variety of times to offer the opportunity for people to attend.		



**West Midlands  
Combined Authority**

## Public Consultation – Stage 1

**Timescale: 16 November 2018 to 11 January 2019**

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Methods of Communication	More detail	Start of consultation	During consultation	Two weeks before consultation ends
<b>Social media</b>	Facebook (organic) post using graphic Twitter  As above by regional comms team	Various messages detailing about the consultation, events, where to find out more (libraries) plus a link to the webpage.		Last chance to have your say
<b>Media</b>	Media release Media monitoring and analysis Media engagement as required	Media release announcing the start and dates of events		Last chance to have your say
Regional Comms support	Toolkit produced  <b>Website links to our webpage</b> <b>Intro text produced for emails/newsletter send outs</b> <b>Social media messages produced</b> <b>Libraries information plus posters and copies of leaflets with questionnaire and pre-paid envelopes supplied</b> <b>Equality and Diversity groups supplied with intro text, copy of Easy Read and audio copies sent through for send out.</b>	throughout		Last chance to have your say



## Public Consultation – Stage 1

Timescale: 16 November 2018 to 11 January 2019

## Constituent Council Public Events

Use of WMCA Events Bus

Date	Time	Location
Tuesday 27 November 2018	3pm to 8pm	West Bromwich Bus Station, Stand A, West Bromwich Ringway, St Michael Street, B70 7AB
Saturday 1 December 2018	9am to 3pm	Queen Square, Wolverhampton City Centre, WV1 1TH
Wednesday 5 December 2018	9am to 3pm	Ironmonger Row, behind Primark, Coventry City Centre, CV1 1FD
Saturday 8 December 2018	9am to 3pm	Dudley Market Place, near the Duncan Edwards Statue, DY1 1PJ
Monday 7 January 2019	10am to 5pm	Mell Square, near Marks and Spencer, Solihull town centre, Solihull, B91 3AT
Tuesday 8 January 2019	12 to 6pm	<b>Main concourse*</b> , by the information screens inside New Street Railway Station, Birmingham
Wednesday 9 January 2019	3pm to 7pm	Walsall town centre, Park Street near to Poundland, WS1 1LY





**West Midlands  
Combined Authority**

## Stakeholder Consultation – Stage 2

### Timescale: 22 January to 11 March 2019

Items in **blue** are traditional methods.

Items in **red** are digital methods.

We will use all of the methods of communication detailed below. All of the methods of communication will be undertaken by the WMCA unless specified. Throughout the consultation we will be monitoring responses.

Stakeholder	Methods of communication	More detail	Start of consultation	During consultation	Two weeks before consultation ends
Key stakeholders eg BIDs, chambers of commerce, colleges	Email		Initial email detailing about the outcome and next phase of consultation	Reminder to have their say. We can see from the consultation responses who has responded.	Last chance to have their say. Reminder that their input is important.
All	Footer on email	Graphic on bottom of email that stakeholder can click on and be taken straight to the consultation (similar to WMFS consultation). Graphic will be updated from Phase 1.	22 January	Ongoing	Ongoing
West Midlands Combined Authority area Councillors/MPs/MEPs	Email with option for meetings if required		Initial email detailing about the outcome and offer of meeting if required. Asked to share with constituents and through social media	Reminder to have their say. We can see from the consultation responses who has responded.	Last chance to have their say. Reminder that their input is important.



**West Midlands  
Combined Authority**

## Stakeholder Consultation – Stage 2

### Timescale: 22 January to 11 March 2019

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We will use all of the methods of communication detailed below. All of the methods of communication will be undertaken by the WMCA unless specified.

Throughout the consultation we will be monitoring responses.

Stakeholder	Methods of communication	More detail	Start of consultation	During consultation	Two weeks before consultation ends
<b>Hard to Reach Groups</b>	See sections below  As well as the specific methods mentioned below we would expect some of the hard to reach groups to see other methods of communication we are producing eg social media (organic)				
	We will respond to everyone in the appropriate format, who asked to receive further information (that gave us permission to under GDPR)		Details of the next phase		
Equality and Diversity Groups	<b>Email</b> <a href="#">Easy Read document and questionnaire</a> <a href="#">Large print and questionnaire</a> <a href="#">Telephone number for responses/help</a> <a href="#">Consultation Events</a>	Equality and Diversity Manager will receive a standard message to send to the groups along with a copy of the in Easy Read document with questionnaire and option to order audio. There will be details of how members of the groups can respond to the consultation including attending a consultation event and telephoning in to get help to fill in the questionnaire. (We will also attend any meetings if requested)	Initial email as per “more detail”	Reminder to have their say. We can see from the consultation responses who has responded.	Last chance to have their say. Reminder that their input is important.



**West Midlands  
Combined Authority**

## Stakeholder Consultation – Stage 2

### Timescale: 22 January to 11 March 2019

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We will use all of the methods of communication detailed below. All of the methods of communication will be undertaken by the WMCA unless specified.

Throughout the consultation we will be monitoring responses.

Stakeholder	Methods of communication	More detail	Start of consultation	During consultation	Two weeks before consultation ends
	<p>We will ask the regional comms teams in each of the seven districts to contact their equality and diversity groups to tell them about our consultation. We will share a list of groups (name of group only) to them to avoid duplication.</p> <p>(Email from regional comms team)  <a href="#">Easy Read document and questionnaire</a>  <a href="#">Telephone number for responses/help</a>  <a href="#">Consultation Events</a></p>	<p>We will send a summary of the leaflet to the comms teams along with a copy of the Easy Read document with questionnaire and options for audio. There will be details of how members of the groups can respond to the consultation including attending a consultation event and telephoning in to get help to fill in the questionnaire.</p>	<p>Initial email to regional comms as per “more detail”. We are already liaising with regional comms. A consultation toolkit will be supplied for this phase.</p>	<p>Reminder to have their say.</p>	
	<p><a href="#">Paid for social media</a></p>	<p>We will monitor the response to the consultation from the hard to reach groups. Where there are gaps we will produce an advert on social media and target the hard to reach groups and ensure that they are representative of the Combined Authority area.</p>		<p>Facebook ad to cover any hard to reach groups and WMCA areas that haven’t responded. The duration of the ad will be decided on the responses we receive.</p>	
Visually impaired	<p><a href="#">Email all of the Talking Newspapers in the West Midlands</a></p>	<p>Equality and Diversity Manager will receive a summary of the leaflet to send to. There will be details of how members of the groups can respond to the consultation including attending a consultation event and telephoning in to get help to fill in the questionnaire.</p>	<p>Initial email as per “more detail”.</p>	<p>Reminder to have their say.</p>	

## Public Consultation – Stage 2

### Timescale: 22 January to 11 March 2019

Items in **blue** are traditional methods.

Items in **red** are digital methods.

We will use all of the methods of communication detailed below. All of the methods of communication will be undertaken by the WMCA unless specified.

Throughout the consultation we will be monitoring responses.

Methods of Communication	More detail	Start of consultation	During consultation	Two weeks before consultation ends
<b>Leaflet</b>	Will include details of phase 1, outcome, details of phase 2, questionnaire, details of events, where reader can find out more, start and end date and how they can take part in the consultation	Leaflet and questionnaire will be available for the whole period of the consultation.		
<b>Questionnaire</b>	Questions to be agreed with Begc. Once signed off questionnaire will be included in printed leaflet and online on the West Midlands Combined Authority's website.	Questionnaire available for the whole period of the consultation.		
<b>Access to leaflet, questionnaire and pre-paid envelope at venues</b>  <b>Poster</b>	We will work with the regional comms team to enable access to the leaflet, questionnaire and pre-paid envelope in their libraries and civic centres.  We will also have copies available at our Travel Information Centres.	Agreed quantity sent to key contact and displayed with poster saying about the consultation	Regional comms team to advise if extra stock needs to be delivered to their venues	
<b>Video (phase 1)</b>  <b>Video or Animation (phase 2)</b>	A short video about the consultation, saying how people can take part and where they can find out more information.  A short video or animation about the consultation will be produced.	Video available for the whole period of the consultation in phase 1.  Animation available for the whole period of the consultation in phase 2.		
<b>Graphic</b>	Graphic will be updated for social media, electronic screens, footer on emails, posters, website etc	One graphic will be used across the methods of communication to help raise awareness of the consultation and to attract people's interest.		



**West Midlands  
Combined Authority**

## Public Consultation – Stage 2

### Timescale: 22 January to 11 March 2019

Items in **blue** are traditional methods.

Items in **red** are digital methods.

We will use all of the methods of communication detailed below. All of the methods of communication will be undertaken by the WMCA unless specified. Throughout the consultation we will be monitoring responses.

Methods of Communication	More detail	Start of consultation	During consultation	Two weeks before consultation ends
Electronic screens – poster at bus stations and near interchanges	<p>A “Have your say” poster will be produced to go on electronic screens that we have in the West Midlands. It will use the graphic as detailed, start and end dates and a link to the website for more information.</p> <p>Poster changed to “Last chance to have your say” and link to website.</p>	Electronic screens for the duration of the consultation		Last chance to have your say poster
Printed poster	<p>A “Have your say” poster will be produced in various sizes (depending on location) and put up at locations across the West Midlands (across the transport network). It will use the graphic and have details of the consultation events, start and finish dates and a link to the website for more information.</p>	Poster up for the whole duration.		
Real Time Information (RTI) screens at bus stops	<p>A “Have your say” poster will be produced and we will use just wording as well where the RTI can’t support a picture. Will be directed to the website.</p> <p>Poster and text changed to “Last chance to have your say” and link to website.</p>	To keep the consultation fresh the RTI won’t appear for the whole time of the consultation. It will be interchanged with other campaigns taking place.		Last chance to have your say poster/words
Email to signed up list	<p>An email will be sent to all the contacts we have on our database with a link to the webpage on the WMCA website.</p>			Last chance to have your say email

## Public Consultation – Stage 2

### Timescale: 22 January to 11 March 2019

Items in **blue** are traditional methods.

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We will use all of the methods of communication detailed below. All of the methods of communication will be undertaken by the WMCA unless specified.

Throughout the consultation we will be monitoring responses.

Methods of Communication	More detail	Start of consultation	During consultation	Two weeks before consultation ends
Email and information to people who signed up as part of phase 1	We will respond to everyone in the appropriate format, who asked to receive further information (that gave us permission to under GDPR)			
Easy Read document with questionnaire	Easy Read Leaflet and questionnaire updated with outcome and phase 2	Sent to Equality and Diversity groups by WMCA and regional comms. Also, available on request. On WMCA webpage		
Audio cd with questionnaire	Summary of the leaflet to send to. There will be details of how members of the groups can respond to the consultation including attending a consultation event and telephoning in to get help to fill in the questionnaire.	Sent to Equality and Diversity groups on request by WMCA and regional comms. Also, available on request.		
FAQs	Frequently Asked Questions and Answers updated to explain phase 2.	Available at the start on the web	Updated during the consultation if required	
Website	Webpage updated with  Graphic for main webpage (to link to webpage) Information (update on outcome) Link to questionnaire Easy Read document FAQs Animation			

## Public Consultation – Stage 2

### Timescale: 22 January to 11 March 2019

Items in **blue** are traditional methods.

Items in **red** are digital methods.

We will use all of the methods of communication detailed below. All of the methods of communication will be undertaken by the WMCA unless specified.

Throughout the consultation we will be monitoring responses.

Methods of Communication	More detail	Start of consultation	During consultation	Two weeks before consultation ends
<b>Events</b>	<p>Events in seven districts Events spread over the consultation period.</p> <p>WMCA staff involved in the consultation available to talk about the consultation and help fill out questionnaire if required.</p> <p>Information boards/pullups used to display information on the consultation.</p> <p>Wobble board to highlight the consultation to people who may be passing the event and want to find out more.</p>	On different days including Saturdays and a variety of times to offer the opportunity for people to attend.		
<b>Social media</b>	<p>Facebook (organic) post using graphic Twitter</p> <p>As above by regional comms team</p>	Various messages detailing about the outcome, phase 2 of the consultation, events, where to find out more (libraries) plus a link to the webpage.		Last chance to have your say
<b>Media</b>	<p>Media release Media monitoring and analysis Media engagement as required</p>	Media release announcing outcome, phase 2 and the start and dates of events		Last chance to have your say
Regional Comms support	<p>Toolkit produced</p> <p><b>Website links to our webpage</b> <b>Intro text produced for emails/newsletter send outs</b> <b>Social media messages produced</b> <b>Libraries information plus posters and copies of leaflets with questionnaire and pre-paid envelopes supplied</b> <b>Equality and Diversity groups supplied with intro text, copy of Easy Read and audio copies sent through for send out.</b></p>	throughout		Last chance to have your say



**Response from the West Midlands Police and Crime Commissioner to the West Midlands Combined Authority report *Governance Review and Scheme for the transfer of the Police and Crime Commissioner Functions***

In accordance with the request at Recommendation 2 of the report *Governance Review and Scheme for the transfer of the Police and Crime Commissioner Functions*, approved at West Midlands Combined Authority (WMCA) Board on 14 September 2018, this is the response of the West Midlands Police and Crime Commissioner (“the Commissioner”).

**Key highlights**

- **The Mayor’s other responsibilities will mean that they will only be able to give a portion of their time to policing. The Police and Crime Commissioner role is specifically focused on policing, and is therefore able to concentrate fully on policing issues. This could mean policing gets less in depth scrutiny, less holding to account, and less strategic leadership if the function transfers to the Mayor.**
- **The Mayor will be accountable not only for how they fulfil their policing role, but a range of other things too. It could be less clear to the public what the Mayor’s policing role is. The Mayor will delegate the day-to-day policing function to a Deputy Mayor, who will be appointed, not elected. These changes could make the Mayor’s personal accountability for policing less clear.**
- **It remains a concern that policing resources and assets could be diverted away from policing. Instead of being owned by a separate legal entity, they will be owned by the wider Combined Authority. There are particular concerns about how the Combined Authority’s “borrowing cap” will work, which could affect both the police’s modernisation plans, and the investment plans of the Combined Authority.**
- **Many Mayoral decisions are subject to control by a committee made up of Local Authority Leaders. There is a risk that the Mayor’s policing functions become subject to influence by this committee, again diluting accountability.**
- **The Police and Crime Commissioner role is designed to protect the operational independence of policing by having clarity about the roles of both the Commissioner and Chief Constable. The Mayoral model is not only more generalist, but is part of a complex network made up of multiple organisations and stakeholders, many of which can influence the Mayor. There is a risk that the operational independence of policing could be affected in the proposed arrangements.**
- **If the boundaries of the Combined Authority change (i.e. a local authority leaves or joins), or the boundaries of West Midlands Police change (i.e. following merger with another Force), the policing governance function may need to be removed from the Mayoral Combined Authority.**
- **The proposed consultations are inadequate because they do not allow time for evaluation between the first and second halves of the consultations.**

## **Summary**

### Specially designed or multi-purpose?

The Police and Crime Commissioner (PCC) role was designed in law for the strategic direction and holding to account policing. It is full-time, and allows in-depth scrutiny and challenge. It is this single purpose role that allows focus on issues like gangs and violence, drugs, and victim services, and the flexibility to innovate and adapt. A PCC has a democratic mandate to hold the Chief Constable to account, and the legitimacy to collaborate with other police forces and exercise national responsibilities, for example in counter-terrorism and serious and organised crime.

The proposed Mayoral model is more generalist. Policing will not get the Mayor's full-time attention. It will be one among many responsibilities, including transport, housing and jobs. Even though policing will be the most complex, highest risk and most expensive service the Mayor and West Midlands Combined Authority (WMCA) would be responsible for, it is proposed to delegate the role to an appointed Deputy. A Deputy Mayor will not have the same legitimacy to challenge and scrutinise the Chief Constable. The appointed Deputy Mayor will be at a disadvantage compared to elected PCCs, and may be less likely to have a leading role in regional and national collaborations.

### Direct or diffuse accountability?

The PCC is directly, personally accountable via elections. Voters can decide who will be PCC solely on the candidates' plans for policing, or what they have achieved for policing while in office.

In the Mayoral model, voters are choosing based on lots of issues, not just policing. Also, as many functions will be delegated to an appointed Deputy Mayor, it is less clear whether it is the Mayor or Deputy Mayor that is responsible, making accountability more nebulous.

### Legal autonomy or susceptible to influence?

The PCC is a separate legal entity. They exercise powers, such as setting the police budget or dismissing the Chief Constable, autonomously, and are scrutinised by an independent Panel.

In exercising the policing governance function, the Mayor will be subject to influence by a committee made up of local authority leaders, of which the Mayor is part. Local councils, not the Mayor or the public, pick who is on this committee, and the Mayor cannot replace its members. As a result, Mayoral decisions about policing may be subject to considerations unrelated to policing. Also, because the function moves from being a standalone legal entity to being part of the WMCA, there are uncertainties about control of police resources – which would need to be protected from use for non-policing purposes - and issues like borrowing.

### Operational independence

Police must be free to investigate crime without fear or favour. Effective and efficient policing is PCCs' main responsibility, and they must swear an oath to protect the operational independence of policing. They work with a single purpose monitoring officer whose job is to ensure the rules are followed. Across England, Wales, Scotland and Northern Ireland (except Greater Manchester), the governance of policing is a standalone function, separate from local authorities and local councillors.

West Midlands Combined Authority is a new kind of local authority, in which the Mayor works with committees of local councillors to try to deliver their agenda. There is no dedicated monitoring officer for policing matters, and local councillors have more opportunity to influence Mayoral decisions.

**Foreword by West Midlands Police and Crime Commissioner, David Jamieson**

1. I am a supporter of the Mayoral West Midlands Combined Authority. I have been an Observer member for over two years, and have allocated police grant totalling about £360,000 to support WMCA projects and activities, including the Mental Health Commission, joint work on reducing female offending and work to improve the secure estate for young people. The Force and my Office are playing a leading role in much of this work. I see the Public Service Reform agenda, particularly as it relates to youth justice and data sharing and analytics, as offering potential to develop a more preventative approach. I have engaged closely with the proposals for the transfer of the Fire Authority to WMCA. Previously, in 2015-16, I sought to enter into discussions with Combined Authority colleagues about how my role might work with what was then the proposed mayorality, but that offer was rebuffed. I have since sought to maintain close engagement with the mayorality, and Andy Street and I meet regularly.
2. I must be very clear however that neither my manifesto, nor my Police and Crime Plan, says that there should automatically be a transfer of the policing governance function. The 300,000 people who voted for me in May 2016 were not doing so on the understanding that I would transfer the policing governance function to WMCA and its then still proposed mayor.
3. In my Police and Crime Plan I commit to "play[ing] an appropriate role in broader discussions about regional governance including the West Midlands Combined Authority." This I have done. I was not, however, part of the Devolution Agreement 2 negotiations. My Office was asked for suggested content and, in good faith, we developed a number of proposals. On policing governance, we submitted the following:

*"WMCA, the Police and Crime Commissioner and Government will work together to review approaches to the governance of policing in our area, commencing in early 2018. The review will seek to identify a governance model that is in the best interests of the people of the West Midlands by preserving the efficiency, effectiveness and clear accountability of West Midlands Police".*

4. This is not the formulation that appeared in Devo 2 and it has never been explained to me why our proposal was rejected. Instead, without my knowledge or participation, it was "agreed" that the policing governance function for West Midlands Police would merge into the mayorality, and that I would support this process. I do not believe WMCA or the government have the statutory authority to seek to direct me in this way. However, I was pleased by WMCA's clear decision on 9 February 2018 that the proposed governance transfer cannot go ahead without my consent.
5. The Oath of Office for Police and Crime Commissioners, which I last took in May 2016, places on me a duty to act with "integrity and diligence" in fulfilling my role as a PCC. I would be breaching this oath if I were to simply accept that there should be a fundamental change to the governance of West Midlands Police without understanding what will be achieved by such a step. The Police Reform and Social Responsibility Act 2011 was flagship legislation for the coalition administration, and was the subject of much national and local scrutiny. Its introduction was the largest reform of police governance since Watch Committees in 1835. The introduction of PCCs was accompanied by an extensive effort to ensure that the checks and balances in the model were right. This was as it should have been.
6. Placing policing governance into the responsibility of a Combined Authority, with its complex inter-relationships between a Mayor, a new form of local authority, a cabinet / committee of local

authority leaders, unusual statutory basis, multiple stakeholders (LEPs, County Councils, District Councils, constituents, non-constituents, observers etc) and novel devolution and funding arrangements, is an equally momentous change - one that is taking place just a few years after PCCs first took office. I do not accept the assertion that the two models are basically the same. I suggest that only now are PCCs fully defining and exploiting the scope of their role. Despite this, the proposals for a further change to police governance have had none of the detailed Parliamentary scrutiny that accompanied the introduction of PCCs. There have been no detailed discussions with the National Police Chiefs Council, no Home Office led seminars and workshops, no substantive engagement with the Association of Police and Crime Commissioners and other representative bodies. I am not aware of any regulatory impact assessment, or Home Affairs Committee inquiry. There has been no assessment of what it is that is wrong with the PCC model that needs fixing with this change. There have been no reviews of the effectiveness of the model introduced in Greater Manchester, or assessment of the working relationships in areas where the mayoral and policing boundaries overlap but do not align. There appears to have been no consideration of the implications that would arise if the merger of policing governance in the West Midlands went ahead, and then the constituent membership of WMCA, or the boundary of West Midlands Police, changed. This lack of evidence and assessment makes it more difficult for me to make a decision as to whether the transfer of the policing governance function should go ahead. Acting with this level of uncertainty creates risk.

7. The public's confidence in policing is built on fundamental principles, notably the local accountability and operational independence of Chief Constables. Governance reform based on uncertainty represents a significant risk to those principles. If the public do not have confidence in the local governance of policing, then confidence in policing itself will erode.
8. Before I make a decision on whether the transfer should go ahead, I expect to see credible evidence that there will be an improvement in the local policing governance function and that the fundamental principles on which our policing governance model is based will be preserved and enhanced. There needs to be clear evidence why a specialised, dedicated and focused PCC-based governance role - which was, after all, specifically designed for policing - is less good than a Mayoral CA model that makes policing governance one among a multiplicity of functions. WMCA's governance review does not address these questions, and instead seeks to replicate the current model to the fullest extent possible. I have asked for this consultation response in order to begin to fill this vacuum.

**David Jamieson, West Midlands Police and Crime Commissioner**

**19 October 2018**

## **Introduction**

9. The Commissioner welcomes WMCA's clear decision that he has a role equal to that of constituent members in deciding whether a transfer of Police and Crime Commissioner (PCC) functions should proceed. As set out in its report on 9 February, WMCA agreed that any transfer of the policing governance function would only proceed "provided that the final governance model proposed following discussions is **agreed by each of the Constituent Authorities, the Mayor and the Police & Crime Commissioner**" [emphasis added]. WMCA has no statutory authority to direct the Commissioner in the manner in which he makes this decision.
  
10. In making a decision on whether to agree a "final governance model", the Commissioner will consider the following tests, which are adapted from those used in comparable circumstances:
  - The quality and findings of public consultations on, first, the principle and, second, the detail of the proposed transfer
  - The likely impact of the transfer on the effective delivery of statutory policing governance functions
  - The likely impact of the transfer on the efficiency and effectiveness of West Midlands Police
  
11. The policing governance function comprises dozens of statutory duties and requirements. This paper does not address all these, but instead concentrates on the main responsibilities:
  - Strategic direction
  - The Strategic Policing Requirement and police collaboration
  - Holding to account
  - Budgets and resources for policing
  - Appointment of a Chief Constable
  - Suspension and dismissal of a Chief Constable
  - Partnership working associated with community safety, the criminal justice system and other public sector partners
  
12. With regard to the likely impact on the efficiency and effectiveness of West Midlands Police, this paper discusses:
  - Impact on crime and disorder, community safety, and the prevention of crime
  - Operational independence

## **General observations**

13. West Midlands Police is an operational delivery organisation with a revenue budget of roughly £550m and around 10,000 Officers and staff. It is the second largest police force in England and Wales. It is responsible for the delivery of key public services that are critical to community safety and public confidence, locally, regionally and nationally. WMP has an operating budget larger than all but one of WMCA's constituent member local authorities, and is significantly larger than WMCA itself, and arguably carries as broad a range of functions as a local authority – ranging from addressing localised ASB to the response to, and investigation of, a mass casualty terrorist attack involving chemical, biological or radiological weapons. WMP carries at least as much risk as local authorities in relation to, for example, child and adult safeguarding, and yet also manages risks such

as Covert Human Intelligence Source handling, offender management, intrusive covert surveillance and property interference, firearms capabilities, public order and witness protection, which are almost entirely unknown to local authorities. However, if it were proposed that WMCA were to take over the governance function of a local authority, there would be an expectation of detailed consultation, a clear rationale, statements of anticipated benefits, and so on. Given the disparity between WMCA and the scale of the policing governance function for an organisation the size of West Midlands Police, it is arguably surprising that the Governance Review does not consider the willingness, capability and capacity of WMCA to reorient its strategic intent towards what would be by far its largest and most onerous budgetary and statutory duties. Instead, the report essentially proposes bolting on a policing governance function broadly unchanged from that which currently exists to WMCA as an institution which again will be broadly unchanged.

14. The Governance Review starts from the presumption that, in governance terms, it is appropriate for the Mayor to largely delegate the policing governance function to someone else, an appointed Deputy. Given that it could be asserted that policing is financially much larger than the existing WMCA, as complex in its range of functions as WMCA, and brings significant new risks to WMCA, the conclusion that the Mayor should automatically hand off governance of this function to a Deputy is arguably questionable. An alternative approach might be to create Deputies for the Mayor's existing responsibilities in transport, skills, etc, and delegate these functions to them, thereby allowing the Mayor sufficient capacity to devote himself or herself to policing governance, which is a very costly, complex and high risk function. Instead, the Governance Review automatically assumes that policing is a second tier function, suitable for delegation.
  
15. The viability of the policing governance transfer is predicated on the coterminosity of the WMP and WMCA boundaries – the latter derived from the boundaries of the constituent member local authorities. In a nutshell, as long as Coventry, Solihull, Birmingham, Walsall, Wolverhampton, Sandwell and Dudley are the constituent members, and WMP only encompasses these local authority areas, then a Mayor with policing governance responsibilities for WMP becomes statutorily possible. It should be observed that neither of these contiguities is necessarily permanent. Three eventualities would potentially require the recreation of a separate PCC: First, if any existing constituent authority left WMCA (thus denying the voters in that area the ability to pick the Mayor who sets the police precept for their area). Second, if any other local authority area became a constituent member (thus if, for example, Warwickshire County Council became a constituent member, Warwickshire voters would be able to vote for the West Midlands Mayor, and hence who sets the policing precept for West Midlands residents, as well as having another vote for the Warwickshire PCC who sets the precept for Warwickshire Police in their area). Third, if WMP merged with a Force outside the WMCA area (while such a merger is unlikely, West Mercia Police's decision to withdraw from its Strategic Alliance with Warwickshire Police demonstrates that such shifts could occur).

### **Public consultation**

16. It is recognised that public consultation has not yet gone ahead, and therefore consideration at this point will be as to whether the proposed approach to consultation is likely to provide sufficient opportunity for engagement and response.
  
17. The consultation proposals are inadequate. It is proposed that there will be a consultation in two halves, separated only by the weekend of 12-13 January 2019. The results of the first half of the

consultation will not be published before the second half begins. First, there will be no opportunity for reflection between the two segments, making the separation of the two arguably meaningless. Second, this will doubtless be confusing to the public, who will not understand why their responses to the first consultation will not be considered before another consultation on a similar issue is launched. Finally, the second half of the consultation concludes just three days before papers have to be published for a WMCA Board meeting, making reasonable consideration of the consultation findings implausible.

18. Proper public consideration requires two, separate consultations, conducted in accordance with Cabinet Office approved methodologies. The second should only proceed after consideration of the findings of the first consultation.
19. Furthermore, the approach to consultation is at variance with that adopted for the transfer of West Midlands Fire Authority functions to the Mayorality and WMCA, where there were two full, separate consultations, with time between them to consider the findings.

### ***The effective delivery of statutory policing governance functions***

20. The policing governance function includes dozens of statutory duties and requirements, some of which the Commissioner set out in his letter to the Minister of State for Policing, copied to the Mayor, in March 2018. The Commissioner's final decision on whether to agree to allow transfer to proceed will consider a fuller range of functions. For the purposes of this consultation, initial consideration is given to what are arguably the core policing governance functions.

### **21. Will transfer improve strategic direction setting and the quality of the Police and Crime Plan?**

The Police and Crime Plan ("the Plan") is required by law to set out:

- The PCC's police and crime objectives
- The policing the Chief Constable is to provide
- The financial and other resources the PCC will make available to the Chief Constable to provide policing
- How the Chief Constable will report to the PCC about policing
- How the Chief Constable's performance will be measured
- Information about any crime and disorder reduction grants to be made by the PCC, any conditions made

The Plan must be agreed within the financial year following an election and, while it can remain for a whole term of office, it can be varied as often as required. In the proposed scheme, setting the Plan would be a Mayoral function that cannot be delegated.

It is currently the case that the Plan is the sole local mechanism for setting the strategic direction of West Midlands Police. The Force's "Ambition Plan" is the manifestation of the Chief Constable's duty to "have regard" to the Police and Crime Plan. In the proposed scheme, this clarity may be eroded. Instead, the Plan would become one among a number of strategic plans for WMCA, including already an overarching annual plan, a local industrial strategy, a skills plan, an environmental strategy, and various transport related plans and strategies. Others will follow. At one level, this could be an opportunity for the strategic direction of policing to be more embedded in wider public service landscape. However, this is not the statutory function of a Police and Crime

Plan, which is required to focus on police and crime objectives, police resources, the performance of a Force and its Chief Constable, and crime and disorder grants.

The risk therefore, is that instead of clear strategic direction for the Force, there is created a complex patchwork of plans and strategies, with varying objectives and methodologies, and a lack of clarity concerning the hierarchy of priorities, accountability and reporting. The Chief Constable may not be clear which plan or strategy he or she is working to. There is similarly a risk that the Police and Crime Plan, instead of setting the strategic objectives for the Force, becomes a statement on partnership working, seeking to accommodate all the various commitments and priorities that appear in other plans and strategies across WMCA. Thus instead of a Plan written in the singular first person as is currently the case (“I will”), with objectives for WMP set by a PCC for which WMP can be held to account, it becomes more nebulous, written in the plural (“we commit to”, for example), setting out objectives that a diffuse partnership of stakeholders are expected to work towards. This not only diminishes clarity of purpose and outcome measurement, but undermines the notion of a single point of accountability.

Overall, there is a risk that transfer will degrade strategic direction setting and the quality of the Police and Crime Plan.

## **22. Will transfer improve the extent to which the Mayor and the Force "have regard" to the Strategic Policing Requirement, and collaborate with other police forces?**

The Strategic Policing Requirement (SPR) relates to the national threats to which policing must “have regard”. These are set by the Home Secretary and are terrorism, serious and organised crime, cybercrime threats, public order, civil emergencies and child sexual abuse. Accompanying the SPR is a duty to keep under review opportunities for police collaboration.

It is not specified how PCCs or Mayors are expected to “have regard” to the SPR; this is for local determination. However, many of the capabilities required to address the threats set out in the SPR are addressed via collaborative arrangements such as the Counter-Terrorism Policing Network, Regional Organised Crime Units, and the National Police Co-ordination Centre. The oversight of these collaborations rests with PCCs, each of whom has a democratic mandate to exercise their statutory functions.

In the proposed model post-transfer, it seems likely that the day-to-day oversight of the SPR “have regard” duty will fall to the proposed Deputy Mayor for Policing. This raises two concerns. First, Mayors are responsible for a range of place-based issues as they manifest *in their area*. Thus the impulse to engage in policing collaboration at the regional and national levels is potentially weaker for Mayors than it is for PCCs. From this, it might be suggested that Deputy Mayors are equally more likely to focus on local place-based issues than regional and national policing collaboration. Secondly, Deputy Mayors face a democratic deficit compared to the PCCs in other areas with whom they will work. While a PCC engages in the oversight of policing collaboration imbued with the legitimacy of a democratic mandate, a Deputy Mayor is an appointee, therefore in some senses subordinate to both a PCC and their Mayor. A Deputy Mayor risks not entering into police collaboration as an equal.

Concerns relating to both the appetite of Mayors to participate in police collaboration, and the relative legitimacy of Deputy Mayors, raise concerns relating to whether transfer will improve the extent to which the Mayor and the Force "have regard" to the SPR, and are able to fulfil the duty to keep police collaboration under review.

### 23. Will transfer improve “holding to account”, and the scrutiny, support and challenge for the Force's performance?

Mechanisms by which PCCs should “hold to account”, scrutinise, support and challenge Force performance are not set out in legislation or guidance, and are hence for local determination. There are significant variations across PCCs and, as the Governance Review acknowledges, here in the West Midlands the PCC has established “strong and visible accountability [sic] and governance arrangements”. Conversely, there are large differences in approach between Greater Manchester and London, where Mayors hold the function. In London, the Mayor’s Office for Policing and Crime (MOPAC) maintains robust and highly visible accountability mechanisms, notably public thematic “Policing Matters” and “Justice Matters” sessions supported by extensive documentation and transcription. Minutes of regular meetings between the Deputy Mayor and Metropolitan Police Commissioner are published. Greater Manchester Combined Authority (GMCA) does not appear to hold any public accountability sessions specifically relating to policing or publish any documentation concerning the performance of Greater Manchester Police (GMP). While using two case studies as the basis for an evaluation should be approached with caution, the key difference is that while MOPAC has its own statutory identity as a corporation sole, the policing governance function in GMCA does not – it is a merged part of a larger organisation. It is suggested then that the proposed governance model, which does not afford the policing governance role the statutory autonomy of a corporation sole, creates that risk that the performance management function could wither.

It is presumed in the Governance Review that day-to-day exercise of the holding to account function will fall to the Deputy. Analysis of such an approach raises further considerations. First, while a PCC is directly elected, and therefore carries a legitimate personal mandate, the Deputy Mayor is an appointee whose legitimacy extends no further than the Mayor’s personal support. Thus there is always an ambiguity in the extent to which the Deputy has the authority to challenge and hold a Chief Constable to account. A Chief Constable might quite rightly regard the Deputy as merely the messenger or intermediary of the Mayor, and thus be uncertain as to whether the Mayor’s position has been accurately communicated, and whether the Deputy Mayor has the Mayor’s authority when offering scrutiny and challenge.

This plays out in the second consideration, which is where there are disagreements between a Deputy Mayor and a Chief Constable. It seems likely that in these circumstances, both Deputy Mayor and Chief Constable will reach the conclusion that resolution will only come when there is direct negotiation between Mayor and Chief Constable – indeed the latter may insist on it. This could further undermine the legitimacy of the Deputy Mayor whose authority will be bounded not just by that granted by the Mayor, but actually that negotiated by the Mayor and Chief Constable. A possible by-product of the proposed governance model therefore is that the Mayor, unlike a PCC, does not offer sustained and consistent strategic direction and holding to account, but instead takes on a detached mediator role, intervening and arbitrating on an *ad hoc*, reactive and spontaneous basis, in effect only becoming involved when something has gone wrong in the working relationship between the Chief Constable and Deputy Mayor.

Finally, the law and the Governance Review are clear that there are some Mayoral functions that cannot be delegated. While sensible, the consequence is a hierarchy of responsibilities: there are primary duties, which remain with the Mayor, and the secondary matters, that are handed to the Deputy Mayor. In addition to the obvious dilution of the “single point of accountability”, it is possible that the Deputy Mayor will, in practice, be a less powerful and legitimate mechanism for the

delivery of policing governance than a PCC with the full range of responsibilities and a direct democratic mandate.

**24. Will transfer improve the processes for deciding the Force's budget, setting the precept, and allocating resources to the Chief Constable?**

A PCC sets the budget for their police force, including the share of local taxation that goes to policing, known as the precept. Precept increases are subject to a referendum threshold set by the Secretary of State for Housing, Communities and Local Government (HCLG). A statutory process allows the Police and Crime Panel (PCP) to review budget proposals and impose a partial veto on a precept proposal. It is proposed that these powers would transfer to the Mayor, and cannot be delegated.

It is therefore the case that statutorily the process is unchanged. However, this would be to ignore the reality of Combined Authority (CA) budget setting process. Whereas a PCC sets the budget autonomously, subject only to HCLG referendum thresholds and PCP scrutiny and challenge, a Mayor seeks to set not only the police budget and precept, but also that for the wider CA, including the Mayoral precept. For example, a Mayor requires the support of the constituent authorities in order to set a mayoral precept – which the Mayor failed to secure earlier this year. Therefore it is possible that in order to set a CA budget and precept, the Mayor will find it necessary to include in the negotiations his or her proposals for policing budget and precept. This creates the risk that the policing budget and precept will be subject to considerations unrelated to policing, and in practice subject to Cabinet approval.

It is recognised that the statutory provisions of the proposed Scheme, and its general intent, seek to replicate the protections afforded by corporation sole status to the fullest extent possible. However, it remains the case that the assets and resources currently held by West Midlands PCC transfer to WMCA, not a new or rebadged corporation sole. The protections for police assets and resources are therefore novel and, to an extent, untested. There remains a real concern that, by means not yet identified, police assets and resources could be applied to purposes outside policing. Issues relating to borrowing against police resources and control of the police estate and other assets are pertinent here.

More specifically, the Commissioner is aware that WMCA is subject to a borrowing regime that requires positive consent from HM Treasury regarding acceptable borrowing levels. While it is assumed that a revised borrowing limit will be agreed, this is not certain. It is likely that in coming years there will be proposals for significant additional borrowing to fund refurbishment of the police estate. Inability to borrow will impede this programme, and again policing's "share" of the total eligible borrowing cap will be the product of negotiations that may have little to do with policing.

It is concluded that the proposed scheme poses significant risk to the processes for deciding the Force's budget, setting the precept, and allocating resources to the Chief Constable.

**25. Will transfer improve the processes for the appointment of the Chief Constable?**

The appointment of a Chief Constable is a PCC statutory function that would transfer to the Mayor. It cannot be delegated. The selection process includes an oversight role for the Police and Crime Panel.

A PCC can exercise this power largely autonomously, though it is sensible for a PCC to avail themselves of support from the College of Policing and take other steps to enhance the legitimacy of the process.

As set out in Para 24, the risk is that the selection process becomes subject to pressures arising from the wider range of stakeholders on whom the Mayor is dependent to deliver their objectives.

It is also worth noting that the person appointing the Chief Constable (the Mayor) would not be the person with whom the Chief Constable would be working most closely, and being routinely held to account by (the Deputy Mayor).

## **26. Will transfer improve utilisation of the powers for the suspension and dismissal of a Chief Constable?**

PCCs have powers to suspend their Chief Constable and require their resignation or retirement. The law places a duty on a PCC to seek advice from HM Chief Inspector of Constabulary in the exercise of these powers. These powers would transfer to the Mayor and cannot be delegated.

This power is among the most onerous that PCCs hold, given that Chief Constables are office holders who, in accordance with the Policing Protocol, must be able to exercise operational independence unfettered by “improper political interference”. Developing case law is helping PCCs and Chief Constables to understand the appropriate use of this power.

As set out in Para 24, while a Mayor would ostensibly have statutory autonomy and individual accountability in the exercise of this power, in practice the Mayor is embedded in a governance model that has dependencies to various actors, notably the Leaders of constituent local authorities. It is thus straightforward to imagine realistic scenarios in which these stakeholders are able to apply very real pressure to the Mayor to either exercise, or not exercise, these powers. In such circumstances, while strict accountability for the exercise of the power might continue to rest with the Mayor, the operational decision-making for their use may be more widely spread.

Placing the power to suspend or dismiss the Chief Constable into the hands of a Mayor who is *more susceptible* to pressure from a range of stakeholders than a PCC, stakeholders who are not ultimately accountable for the exercise of that power, poses a potential risk to the operational independence of a Chief Constable. There is further discussion concerning operational independence below.

## **27. Will transfer enhance partnership working associated with community safety, the criminal justice system and other public sector partners?**

There are three main duties associated with partnership working that apply to PCCs: community safety, the criminal justice system, and specific public sector partners (fire and ambulance services). The assertion that transfer would enhance these partnerships is central to the governance review, almost to the exclusion of the other policing governance responsibilities.

While it is accepted that transfer would not damage partnership working, the assertion that it will be enhanced is more difficult to evidence. For example, there is a common sense argument that collaboration between police and fire services will be enhanced by their governance coming into the responsibility of a common statutory body. However, the specific proposals for the governance of the fire service in WMCA do not appear to have been designed to facilitate joint working. First, there is no Deputy Mayor for Fire to initially act as a single point of contact or later, one assumes, become a joint Deputy Mayor for Policing and Fire. Second, the proposal instead creates a “Fire Advisory Committee” with arguably uncertain and contradictory terms of reference.

Similarly, it is recognised that there is an intent to enhance partnership working across the public sector as part of the “public service reform” agenda. The Mental Health Commission is a positive case study, but it is worth noting that its Director, a police officer, was seconded into role with PCC

approval and part-funding, and the OPCC is financially supporting two of its projects. It cannot therefore be argued that an opportunity has been missed that transfer would somehow fix. The Office for Data Analytics offers some promise, but there is also a recognition that it is police investment in Data Driven Insight that offers the most exciting prospects for public service collaboration, rather than the police benefitting from WMCA's capabilities. Co-operation between WMCA and the OPCC on development of the secure estate for children is well developed, and it is not obvious that governance transfer would offer any particular advantage. Across the rest of the wider public service reform agenda, the Mayor's convening powers are still developing.

Conversely, the development of structures to deliver the PCC's partnership duties is making good progress. A WM Community Safety Partnership has been established, and in 2019-20 it will assume its full role in advising on the expenditure of £3.8m of police grant for community safety activity across the area, as well as supporting novel joint approaches to service delivery. WMCA is a participant member. We anticipate significant efficiency gains and new services via this approach. The West Midlands Local Criminal Justice Board has been re-established, and is actively developing its approach to performance management and service improvement.

The PCC's broader convening and leadership role also shows good progress. The community-led Gangs and Violence Commission has led to a comprehensive work programme that makes real the mantra of a "public health" approach to reducing violence, along with the multi-agency Violence Prevention Alliance. The Commissioner's work on drugs policy, unauthorised encampments and network resilience has prompted activity across a diverse range of organisations. The Victims Commission has been a notable success in both bringing together provider organisations, as well as delivering efficiency gains and new services from a static budget.

Overall, while the commitment to seeing governance transfer as a means to further partnership working is welcome, it is reasonable to suggest that the existing structure is delivering good progress. While WMCA may be attracted to the policing governance function because it offers access to the work the Commissioner has already undertaken, it is not necessarily clear what other gains will emerge.

### *The efficiency and effectiveness of West Midlands Police*

#### **28. Will transfer impact on crime and disorder, community safety, and the prevention of crime?**

The causal relationships between governance models and the performance of public services is both contested and not well understood. The theoretical and practical consequences of devolution versus centralised governance are hotly debated, and the assumptions that underpin the adoption of directly elected individuals as "single points of accountability" are also open to debate. It is reasonable to assert that the effectiveness of a directly elected individual in role is in significant part of product of the characteristics and attributes of the person holding that role. It is not therefore possible to say with any confidence whether a transfer will, or not, automatically have an effect on crime and disorder, community safety and the prevention of crime, and therefore it cannot be evidenced that the effort of transfer will yield any return in this regard.

The Police Reform and Social Responsibility Act 2011 – which established PCCs – is based on the fundamental principle that efficient, effective policing is responsive and accountable to public preferences. It views policing as contextual, which is to mean policing should, or even "must", reflect the priorities and concerns of the public, if it is to be regarded as efficient, effective and legitimate. It therefore introduces PCCs with the mandate to offer strategic direction to policing,

that is, capture, consider and reflect the views of the public in the setting of police priorities and the allocation of resources. This view of policing governance reflects a recognition that policing is not just the provision of a service or transaction, but part of the relationship between public and state that defines what sort of society people collectively wish to live in. Both the PCC model, and the Mayoral model, rest on the assumptions that underpin this conception of the role of policing governance.

It is accepted that it is not possible to say with certainty how transfer will impact on crime and disorder, community safety, and the prevention of crime. However, given the breadth and gravity of the duty on the policing governance function, it is possible to offer some comparison. A PCC is tasked with the full-time duty to hold the Chief Constable to account and offer strategic direction based on a democratic mandate derived from securing the support of the largest share of voters. PCCs are directly and solely accountable to the electorate for how they undertake these duties. Conversely, the Mayor's democratic mandate is only partial; a voter has to consider not only policing, but also all the other things the Mayor may have campaigned on, such as housing or transport. When in office their approach to policing governance will inevitably be part-time: they will have to also concern themselves with transport, productivity and skills, economic development, and housing matters. It is proposed that the day-to-day exercise of the policing governance function will be handed off to a Deputy in whose selection the electorate has no role. Finally, the Mayor's personal accountability is dilute too; at election time their performance will not solely be measured against the policing governance function, but will be assessed against a whole range of policy areas.

Overall then, it cannot be evidenced that transfer will, in and of itself, yield an improvement in crime and disorder, community safety, and the prevention of crime, but that the PCC model at least offers the assurance that it is specifically designed to address these issues.

**29. Will transfer more greatly protect the operational independence of the Chief Constable, more effectively preserve and protect the "duty of constables to maintain the Queen's Peace without fear or favour", and reduce the risk of "improper political interference"?**

The operational independence of policing is not defined in legislation, but the Policing Protocol – a statutory instrument published in 2011 – offers guidance to PCCs and Chief Constables on its meaning. In very broad summary, Chief Constables have autonomy in the day-to-day operational direction and control of the Force, in such matters as issuing warrants to attested officers to enable them to exercise police powers, appointment and dismissal of officers and staff, organisational matters, deployment of officers, and, of course, "total discretion to investigate or require an investigation into crimes and individuals as he or she sees fit". A PCC's duty to not interfere in operational independence of police officers is included in the Declaration of Acceptance of Office which PCCs must swear, which, it is assumed, a Mayor would also have to swear before they could take office. The Policing Protocol would apply to the Mayor as it does the PCC and Chief Constable under the current arrangements.

The concept of operational independence has been central to the accepted understanding of policing governance since at least the 1960s. Various case studies raised concerns regarding improper local political influence on police investigations, and prompted a steady shift away from policing governance as an embedded local authority function. In broad summary, this led first to standalone police authorities with a mix of councillor and independent members and, latterly, directly elected PCCs in England and Wales (and Mayor in London) who are corporations sole in their own right. In Scotland there is a police authority made up entirely of independent members, and in

Northern Ireland a policing board with a mix of National Assembly and independent members. These models are very different in some ways, but they have at their centre an assumption that policing governance is a distinct, separate function that should not belong to a local authority, in part because of the risk that this will lead to improper influence on the operational independence of policing. WMCA is, in essence, a new form of local authority.

As discussed in Para 24, there is an easily distinguishable contrast between the context in which a PCC operates, and that which applies to a Mayor. A PCC is a statutorily autonomous corporation sole, personally and directly democratically accountable for their actions, and supported by a monitoring officer concerned solely with the exercise of the policing governance function. A Mayor, conversely, while directly elected, is embedded in a wider statutory construct – WMCA, in this case – that enmeshes him or her in a constitution set by others, processes agreed by others, and making decisions in the context not just of policing and community safety, but a broad range of stakeholders across a range of issues some of which are less related to policing. The dedicated monitoring officer role is lost, and becomes part of responsibilities that range across the whole of the CA's functions. There may be potential risks to operational independence arising from these differences. First, the Mayor is dependent on the support of a range of stakeholders to deliver much of their agenda, and thus there is a risk that a transactional approach will see policing governance, and operational independence, influenced by the desire to achieve non-policing goals. Second, the constitutional arrangements and processes that support the Mayoral CA are more complex than those that support a PCC, creating the risk that the clear accountabilities that currently exist will become blurred. Third, the lack of a dedicated monitoring officer function for policing governance reduces the oversight of operational independence.