



## Report to the West Midlands Police and Crime Panel

<b>Date</b>	4 February 2019
<b>Report title</b>	Update on consultation for the proposed Transfer of West Midlands Police & Crime Commissioner Functions
<b>Accountable Chief Executive</b>	Deborah Cadman, West Midlands Combined Authority email: deborah.cadman@wmca.org.uk tel: (0121) 214 7200
<b>Accountable Employee</b>	Henry Kippin, Director of Public Service Reform email: henry.kippin@wmca.org.uk tel: (0121) 214 7880

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

#### The Police and Crime Panel is recommended to:

1. Note the report to the Police and Crime Panel and put any relevant questions to WMCA representatives.
- 1. Purpose**
  - 1.1 To provide an update on the consultation process for the proposed transfer of West Midlands Police & Crime Commissioner Functions.
- 2. Background**
  - 2.1 The legislative and policy background to this proposed governance transfer are outlined in some detail within the reports considered at the September and November WMCA Board meetings – with the overall mandate of proceeding with the process to transfer governance to enable the election of a Mayor with PCC responsibilities for the West Midlands in 2020 in line with the region's second Devolution Deal. Both of these reports and the associated appendices are available on the WMCA website.
  - 2.2 At the September Board meeting, WMCA members and the PCC agreed to take the Governance Review and Scheme back for consideration within their authorities – and to send feedback to WMCA officers for consideration. The Governance Review outlined the current and proposed PCC model, with specific reference to areas where clarity on governance, accountabilities and operational detail were required. The Scheme provided for the underlying legislative basis for the transfer. The WMCA Board also requested that more work be carried out on an appropriate consultation design

- 2.3 At the November Board meeting, WMCA Members noted the feedback received to date on the Governance Review and Scheme, agreed to a 2 stage consultation process and timetable, agreed on a revised Governance Review and Scheme to be consulted upon and agreed to receive a further report in March 2019 detailing the outcome of the consultation.
- 2.4 A verbal update and presentation on the proposals and consultation exercise was provided to the Police and Crime Panel on the 26 November 2018, which was attended by the Chief Executive, Executive Director for Public Service Reform and the Monitoring Officer from WMCA together with the Mayor.

### **3. Public Consultation Process**

- 3.1 As you are aware West Midlands Combined Authority (WMCA) is consulting across the seven West Midlands Council areas (constituent councils) on the proposals to transfer the powers and responsibilities of the West Midlands Police and Crime Commissioner to the Mayor of the West Midlands in May 2020.
- 3.2 The consultation across the seven WMCA constituent council areas is taking place in two-stages. The first stage took place between Friday 16 November 2018 and Friday 11 January 2019 and focused on the principle of the transfer of responsibilities. The survey could be accessed online at [www.wmca.org.uk/policeconsultation](http://www.wmca.org.uk/policeconsultation) or paper copies were available at WMCA's exhibition events and in public buildings such as libraries in the constituent council areas.
- 3.3 The second stage of the consultation focuses on the proposed detail of how elements of the strategic leadership and direction of policing could operate within the WMCA, and who would be responsible for making decisions if the proposals were to go ahead. This stage commenced on Monday 14 January 2019 and will close on Monday 11 March 2019.
- 3.4 Following the close of the first stage of the consultation on Friday 11 January 2019, BECG have been provided with the responses to undertake analysis in the form of a consultation report. This will be completed once the results of the second stage of consultation has taken place and presented to WMCA's Board for consideration on 22 March 2019.

#### Stage 1 Consultation

- 3.5 The consultation has attracted great interest across the region with a total of 6,033 people completing stage 1 of the consultation. WMCA is not publicly releasing the results of stage 1 of the consultation until stage 2 has been completed and analysed, in line with the Board decision taken in November 2018.
- 3.6 In addition to the 6,033 responses there were a number of stakeholder responses to stage 1 of the consultation, including a response provided by the Police and Crime Panel. All stakeholder responses have been forwarded to BECG for them to consider in the analysis work they are undertaking.
- 3.7 Whilst the response from the Police and Crime Panel has been forwarded to BECG for the analysis process, we have sought to answer some of the queries raised by the Panel, where further information was requested or required, in the following section of this report.

#### Responding to Police and Crime Panel Submission: Involving the Police and Crime Panel

- 3.8 WMCA notes the concerns raised by the Police and Crime Panel regarding the engagement of the Panel in the process to date and has always recognised that it plays a key role in police governance and has a statutory duty to support and scrutinise the Police and Crime Commissioner. Recognising this key role WMCA requested that BECG be provided with comments from the Chair of the Panel in the development process for content for stage 2 of the consultation.
- 3.9 The Panel expressed concern as to the likely extent of any changes there would be to the current functions of the Police and Crime Panel under a Mayor with Police and Crime Commissioner Powers. WMCA can confirm that the Panel will retain its existing powers, the exception to this being confirmation hearings for senior staff. The Home Office have confirmed that the Panel's statutory function under the Police Reform and Social Responsibility Act 2011 to hold Confirmation Hearings for a Chief Executive and Chief Finance Officer would no longer apply, they would however continue to apply for Chief Constable and for a Deputy Mayor for Policing and Crime (if appointed). Discussions have also been had with colleagues at Greater Manchester Combined Authority who also confirmed this to be the case under their arrangements.
- 3.10 Stage 2 of the consultation exercise also asks questions regarding the potential membership of the Police and Crime Panel if the proposal was to go ahead. The consultation seeks views as to whether sitting WMCA Board Members and their substitutes should be excluded from membership of the Panel.
- 3.11 With the exception of these potential membership changes and that outlined in 3.9 regarding confirmation hearings, minor terminology modifications for the Police and Crime Panel would be needed to reflect the change in terminology from PCC to Mayor. WMCA will ensure further engagement with the Police and Crime Panel regarding any proposed changes in the preparation of the Statutory Order once the consultation is complete and has been considered by the WMCA Board. This is subject of course to the Board determining to proceed further with the proposals. The underlying message of the proposals is however that the Panel will have an important and continuing role under any Mayoral PCC arrangements.
- 3.12 WMCA notes the concerns raised by the Police and Crime Panel regarding the understanding of its role. WMCA recognises the statutory role and responsibility of the Panel, however we also recognise that as with the election of a new PCC there would be a period of settling in. To ensure as smooth a transition as possible if the proposals were to go ahead then we are proposing to TUPE transfer the OPCC Office and propose to continue to operate the current working practices of the OPCC/ PCC on the initial transfer of the Powers and the election of the new Mayor.

#### Responding to Police and Crime Panel Submission: Governance Process

- 3.13 WMCA acknowledges the request for clarification surrounding the final decision making process. This matter will be considered and resolved by the WMCA Board at its 22 March 2019 meeting. Full details in respect of the timeline and necessary consents can be found in the section of the report outlining 'Next Steps'. From a Statutory point of view it should be noted that Consent is required by the WMCA, the Mayor and each of the Constituent Councils before any Order can be laid in Parliament.
- 3.14 The question was asked if the same qualifications and disqualifications from standing for election as a Police and Crime Commissioner apply to a candidate standing for Mayor with PCC functions and whether they apply to the Deputy Mayor for Policing and Crime. WMCA can confirm that it is proposed that the same qualifications and disqualifications would apply. The Scheme also currently proposes that a further

disqualification would apply in respect of the DMPC that sitting members of the WMCA Board and their substitutes be restricted from being the DMPC. This is being consulted on as part of stage 2 of the consultation.

#### Responding to Police and Crime Panel Submission: Opportunities and Benefits of Transferring the PCC Functions

- 3.15 The Governance Review sets out the potential benefits of a transfer of powers. It should though be noted that in approving the legislation that enables the transfer of powers from the PCC to the Mayor, Parliament determined that there was no requirement to demonstrate any benefits when considering such a transfer.
- 3.16 The Panel raised concern that no evidence existed to demonstrate any public support for the proposed change. Stage 1 of the consultation exercise sought the public's view on whether or not they supported the proposals in principle. This will be a substantive part of the Consultation Report and will as such provide the Board with the necessary information on public opinion to enable them to decide on the appropriate way forward.

#### Responding to Police and Crime Panel Submission: Borrowing Cap and other budget Issues

- 3.17 At the November PCP meeting it was explained that the WMCA had received written assurance from the Treasury giving a clear intention that the borrowing cap issue would be addressed, citing Greater Manchester as an example. A copy of this letter was shared with the Panel's supporting officers following that meeting.
- 3.18 If the proposals were to go ahead then WMCA can also confirm that the Statutory Order would provide for the proceeds of the sale from any police assets to be ring fenced to policing. WMCA also shares the view expressed by the Panel that the financial plan, including borrowing, for West Midlands Police should not be put at risk.

#### Responding to Police and Crime Panel Submission: Deputy Mayor for Policing and Crime

- 3.19 In response to queries regarding the role of DMPC, the ability to delegate to a Deputy is clearly laid out in the Police Reform and Social Responsibility Act 2011. These delegations would not change with any transfer of powers. As with the current legislation for the PCC the ultimate responsibility and accountability will lie with the Mayor, as is currently the case for the PCC, and as such will be reflected at the ballot box.
- 3.20 WMCA has met with Greater Manchester Combined Authority as part of its due diligence on these proposals and raised the Panel's request to meet counterparts of the Greater Manchester PCP to see how they discharge their responsibilities. Greater Manchester support officers would welcome such a meeting and would be happy to make arrangements. WMCA would support the Panel in this process if required.
- 3.21 The Panel gave the view that it does not believe that there is any evidence that this proposal will improve accountability and that it may confuse matters for the public. The Stage 1 consultation specifically seeks the public's views on whether they feel it will improve their ability to hold individuals to account.

#### Responding to Police and Crime Panel Submission: The Consultation Process

- 3.22 WMCA notes the concerns of the Panel over the two stage consultation process and the timeframe for the consultation. The two stage process was a requirement agreed upon by the WMCA Board. Furthermore the timeframe was agreed in order to deliver the required two stage process unanimously by the WMCA Board.

- 3.23 WMCA notes the Panel's view that it was disappointed that stage 1 consultation content did not include a statement by the PCC. The Consultation is being carried out by the WMCA, as such it would be inappropriate for statements by either the Mayor or the PCC to be included. The OPCC Office was and is being fully consulted by our independent consultation consultant BECG, who also undertook the Fire Service Consultation, as to the content of the Consultation for both stages.
- 3.24 WMCA welcomes the Panel's request to further input into this process. WMCA Officers have been and continue to liaise with Panel Support Officers and invited the Chair of the Panel to engage in the development of the content for stage 2 of the consultation. A response was provided which was given to BECG and considered in developing the stage 2 consultation content.

### Stage 2 Consultation Process

- 3.25 The second stage of the consultation focuses on the proposed detail of how elements of the strategic leadership and direction of policing could operate within the WMCA and who would be responsible for making decisions if the proposals were to go ahead. This stage commenced on Monday 14 January 2019 and will close on Monday 11 March 2019.
- 3.26 As with the development of stage 1 content, BECG have undertaken a process of seeking to engage the WMCA, OPCC and Mayor's Office in developing a content that they believe will meet the requirements of the decision taken by the WMCA Board. The stage 2 development led by BECG sought to engage with WMCA Officers, the Mayor's Office and the OPCC to discuss what should be included. Additionally the Chair of the PCP was contacted and invited to provide feedback on draft content which was considered by BECG at meetings with both WMCA and OPCC Officers.
- 3.27 The final stage 2 content developed by BECG was signed off and agreed with by both WMCA and OPCC Officers. The Police and Crime Panel are asked to respond to stage 2 of the consultation as a key stakeholder before the close of the consultation on 11 March 2019.
- 3.28 Questions 1 to 5 of the stage 2 consultation (see stage 2 booklet or go to [www.wmca.org.uk/policeconsultation](http://www.wmca.org.uk/policeconsultation) ) were advised by BECG following consultation with WMCA and the OPCC.
- 3.29 Question 6 was recommended for inclusion by the OPCC with the agreement of WMCA. In addition the consultation asks a final open question inviting responders to provide any further comments or observations they may have about the proposals to transfer the powers and responsibilities of the Police and Crime Commissioner to the Mayor of the West Midlands and the consultation exercise that has been undertaken.
- 3.30 As with stage 1 of the consultation WMCA will be undertaking further consultation events to provide an opportunity for people to come and ask questions about the consultation and what will happen next. These will be held on the WMCA's exhibition bus except for the event inside New Street Station. The events are:
- Saturday 2nd February - 9am - 3pm Wolverhampton City Centre,
  - Wednesday 6th February - 3pm - 7pm West Bromwich Bus Station,
  - Saturday 9th February - 9am - 3pm Dudley Market,
  - Monday 11th February - 12pm - 6pm Birmingham New Street Station,
  - Tuesday 12th February - 12pm - 6pm Walsall Park Street,
  - Thursday 28th February 2pm - 6pm Solihull Mel Square,
  - Saturday 2nd March 9am-3pm Coventry City Centre, Ironmonger Row

## Next Steps

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

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

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

## **4. Financial Implications**

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

4.2 Wider costs of transition are being developed with a view to resources for transition planning being earmarked with the WMCA's annual budgeting and Medium-Term Financial Planning processes.

## **5. Legal Implications**

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

## **6. Equalities Implications**

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

## **7. Inclusive Growth Implications**

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

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

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

## **9. Other Implications**

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

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

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

## **11. Appendices**

- 11.1 Stage 2 Consultation Booklet **(these will be handed out at the Police and Crime Panel meeting on the 4 February 2019, the content of the booklet can be viewed at [www.wmca.org.uk/policeconsultation](http://www.wmca.org.uk/policeconsultation) )**