

# **Review of Governance and Functions of the West Midlands Combined Authority**

## **Transfer of Police and Crime Commissioner Functions**

The Cities and Local Government Devolution Act 2016 includes provisions which enable the transfer of Police and Crime Commissioner (PCC) functions to elected mayors.

This Review deals with the transfer of the Police and Crime Commissioner (PCC) functions to the Mayor of the West Midlands Combined Authority (WMCA) as a directly elected individual and the implications of this transfer

It is the next phase of the West Midlands Combined Authority WMCA review of governance which builds on the latest (second) Devolution Deal, agreed at the WMCA Board meeting of the 9<sup>th</sup> February 2018, and previous Governance Reviews.

### **1.0 BACKGROUND**

There are 40 police and crime commissioners across England and Wales. The City of London Corporation governs the City of London Police and the directly-elected mayors in London and Greater Manchester hold PCC functions for their areas. The Mayor of London occupies the Mayor's Office for Policing and Crime (MOPAC), which is a corporation sole defined in primary legislation and is statutorily distinct from other PCCs.

On 22<sup>nd</sup> November 2017, a second devolution deal for the West Midlands was announced as part of HM Treasury's Autumn budget. In relation to policing, the deal conveys a commitment that 'the government, the CA and the PCC will work together to agree a detailed governance model and a legislative timetable for transferring the role and power of the Police and Crime Commissioner into the mayoralty, with a view to electing the first Mayor with these powers in 2020'.

When considering the Devolution Agreement on 9th February 2018 the WMCA board agreed that 'The Government, West Midlands Combined Authority and the West Midlands Police & Crime Commissioner will enter into discussions with the Mayor regarding a governance model for incorporating the role and powers of the Police & Crime Commissioner into the Mayor's role and powers, informed by guidance from the Home Office and the Ministry of Housing, Communities & Local Government.' This was reaffirmed at the CA Board Meeting of the 20<sup>th</sup> July when the 'development of a Governance Review and Scheme to enable the proposed transfer of the functions of the West Midlands Police & Crime Commissioner into the Mayoralty for the elections to be held in 2020' was agreed.

The necessary legislation to enable this can be found in the Cities and Local Government Devolution Act 2016, Section 4, Functions – 107F Functions of Mayors – Policing.

The geographical boundaries of the WMCA and the West Midlands PCC police area are coterminous.

## **2.0 EXISTING ARRANGEMENTS**

### **2.1. Existing PCC/ Policing Arrangements**

Police and Crime Commissioners were created by the Police Reform and Social Responsibility Act 2011, and the first elections were in November 2012. Each PCC term is 4 years in duration, the next elections are scheduled for May 2020.

Under the Police Reform and Social Responsibility Act 2011, Police and Crime Commissioners must:

1. Secure an efficient and effective police force in their area.
2. Appoint the Chief Constable (CC), hold them to account and if necessary dismiss them.
3. Set the police and crime objectives for their area through a Police and Crime Plan.
4. Set the force budget and determine the precept.
5. Contribute to the national and international policing capabilities set out by the Home Secretary.
6. Bring together community safety and criminal justice partners to make sure local priorities are aligned.

The primary function of the Office of Chief Constable of West Midlands Police is the exercise of operational policing duties under the Police Act 1996 and other relevant enactments. The role of the Police and Crime Commissioner, is to hold the Chief Constable to account for the exercise of these duties thereby securing the maintenance of an efficient and effective police force in the West Midlands.

The PCC is responsible for ensuring their business is conducted in accordance with the law and proper standards, and public money is safeguarded and properly accounted for, and used economically, efficiently and effectively. The PCC also has a duty under the Police Reform and Social Responsibility Act 2011 section 1(6) to secure that the police force is efficient and effective.

In discharging this overall responsibility, the PCC is also responsible for putting in place proper arrangements for the governance of their affairs and facilitating the exercise of functions, which includes ensuring a sound system of internal control is maintained through the year and arrangements are in place for the management of risk.

Although the Chief Constable is responsible for operational policing matters, the direction and control of police personnel, and for putting in place proper arrangements for the governance of the Force, the PCC is required to hold them to account for the exercise of those functions and those of the persons under their direction and control. The relationship between the PCC, the Chief Constable, the Police and Crime Panel and the Home Secretary is guided by the Policing Protocol Order 2011.

The Police and Crime Commissioner and the Chief Constable are separate "Corporations Sole". The PCC and Chief Constable have separate legal identities and can be considered as separate organisations - for example both can employ staff, hold funds and can enter into contracts, though the Chief Constable requires the consent of the PCC to do so.

## 2.2 Police and Crime Commissioner, PCC

The PCC has an over-arching duty to secure an effective and efficient police force. The PCC has a number of statutory roles, which include:

- representing all those who live and work in the communities in their force area and identifying their policing needs;
- setting the priorities for policing;
- deciding the budget for West Midlands Police;
- holding the Chief Constable of West Midlands Police to account for achieving the Commissioner's priorities as efficiently and effectively as possible;
- hiring and, if necessary, dismissing the Chief Constable.

In order to fulfil these roles, the PCC has a range of powers and responsibilities. The PCC:

- must produce a Police and Crime Plan that sets out:
  - Their policing objectives
  - The policing that is to be provided
  - The financial resources that are to be available for policing
  - How policing performance will be measured
- must set the policing "precept", which is the part of local council tax that goes to policing;
- can make Crime and Disorder Reduction Grants;
- has an oversight role in how complaints against the police are managed;
- must keep under review opportunities for collaboration;
- has duties relating to national criminal threats, safeguarding of children, and consulting the public;
- has a role in ensuring the effectiveness of the wider criminal justice system.

In addition to the statutory roles the West Midlands PCC has roles in national policing governance structures, such as chairing the Counter Terrorism Strategic Board, being host for the National Ballistics Intelligence Service, participation in the Specialist Capabilities Programme, direct service design, commissioning and contract management of victim services, restorative justice schemes and large projects supporting the most vulnerable such as novel domestic violence programmes, lead for the National Analytics Service and board member for the Road Safety Trust. In relation to local, regional and national police collaboration other governance functions include areas such as counter-terrorism (West Midlands Counter Terrorism Unit), organised crime (West Midlands Regional Organised Crime Unit), motorway policing (Central Motorway Police Group), firearms licensing and aerial surveillance (National Police Air Service).

The OPCC's budget has absorbed cost pressures since its formation in 2012, including the requirement to undertake additional functions that have been transferred from other organisations and the impact of inflation. For example, the statutory requirement to have legally qualified chairs at police gross misconduct hearings from April 2016. The office now supports the Active Citizen Fund initiative distributing funding to Neighbourhood Policing Units to support local projects and commissions victims' services across the region. In addition, the OPCC manages a significant number of external funded projects totalling £11m supporting crime prevention and tackling gangs and violence across the area. Also, the OPCC from April 2018 is administering the new West Midlands Community Safety Partnership which local authorities previously undertook. The office has also recently taken the responsibility officially for the

Appropriate Adults scheme which supports vulnerable adults in custody. The 2018/19 budget includes provision for supporting revised arrangements relating to the handling of complaints as a result of the Police and Crime Act 2017.

As a 'corporation sole' the PCC can employ staff, hold assets, borrow and enter into contracts in the discharge of their functions.

The PCC is also supported by a Strategic Policing and Crime Board.

The Strategic Policing and Crime Board, SPCB, ensures effective engagement, strategic direction and holding to account of West Midlands Police. The SPCB usually meets monthly and its reports include performance information for West Midlands Police. Its meetings are public, and anyone is welcome to attend and observe. The SPCB comprises the PCC, two Assistant Police and Crime Commissioners and seven Board Members. Appointments are based on their skills and experience. Their role is:

- to maintain an overview of the implementation of the PCC's manifesto in order to ensure consistency in approach but having regards to the differing needs in the West Midlands;
- to monitor the implementation and achievement of the Police and Crime Plan and support the PCC in any work required to vary the Plan during his term of office;
- to scrutinise, support and challenge the overall performance of West Midlands Police including against the priorities agreed within the Plan;
- to advise the PCC when exercising his functions in setting the budget and precept;
- to ensure the effective working of arrangements for consulting with and engaging local residents, communities and victims of crime;
- to ensure effective working with the local policing and crime boards and advise the PCC on their effectiveness in achieving the outcomes from his award of crime and disorder reduction grants;
- to advise and support the PCC in his decision-making role and in holding the Chief Constable to account;
- to support the PCC more generally in the fulfilment of his statutory duties, to include equalities and human rights obligations.

Information on the work of the PCC can be found at [www.westmidlands-pcc.gov.uk](http://www.westmidlands-pcc.gov.uk).

The PCC is supported in their work by an executive team, the Office of the Police and Crime Commissioner, (OPCC), headed up by the Chief Executive and Monitoring Officer. The team also has the Commissioner's Chief Finance Officer who is also the PCC's S151 Officer, a Legal Adviser, together with a Policy and Commissioning team, Business Support and an Internal Audit team. The cost of the OPCC in 17/18 was £1.948million with a budget of £2.357million set for 18/19

### **2.3 Police and Crime Panel**

The West Midlands PCC, like other PCCs, is scrutinised and supported by a Police and Crime Panel.

The West Midlands Police and Crime Panel comprises 14 members and is made up of 12 councillors from across the West Midlands, 1 each from Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton with a further 2 nominated by Birmingham, 2 by

the Association of Black Country Authorities and 1 nominated by Coventry and Solihull, and two independent members.

The Panel is set up under the provisions of the Police Reform and Social Responsibility Act 2011 and is therefore a statutory requirement as part of any arrangements to discharge the role of a PCC.

The Panel provides checks and balances in relation to the performance of the PCC. The Panel does not scrutinise the Chief Constable – it scrutinises the PCC’s exercise of their statutory functions. While the Panel is there to challenge the PCC, it must also exercise its functions with a view to supporting the effective exercise of the PCC’s functions. This includes—

- the power of review and initial veto (outside the Metropolitan Police District), by a two-thirds majority of the total Panel membership, over the level of the PCC’s proposed precept;
- the power of review and initial veto (outside the Metropolitan Police District), by a two-thirds majority of the total Panel membership, over the PCC’s proposed candidate for Chief Constable;
- the power to ask Her Majesty’s Inspectors of Constabulary (HMIC) for a professional view when the PCC intends to dismiss a Chief Constable;
- the power to review the draft Police and Crime Plan and make recommendations to the PCC who must have regard to them;
- the power to review the PCC’s Annual Report and make reports and recommendations at a public meeting, which the PCC must attend;
- the power to require relevant reports and information in the PCC’s possession (except those which are operationally sensitive) to enable them to fulfil their statutory obligations;
- the power to require the PCC to attend the Panel to answer questions;
- the power (outside the Metropolitan Police District) to appoint an acting Police and Crime Commissioner where the incumbent PCC is incapacitated, resigns or is disqualified; and
- responsibility for complaints about a PCC, although serious complaints and recordable conduct matters must be passed to the IOPC in line with legislation.
- The Panel is administratively supported by Birmingham City Council

Further information on the West Midlands Police and Crime Panel can be found at [www.westmidlandspcp.co.uk](http://www.westmidlandspcp.co.uk)

## **2.4 Role of Chief Constable**

The West Midlands Chief Constable has overall responsibility for the exercise of direction and control over police officers and police staff of West Midlands Police Force, WMP, ‘the force’. The Chief Constable and all officers must exercise their common law and statutory powers in accordance with the law. The Chief Constable will be held to account by the Police and Crime Commissioner for the exercise of these duties thereby securing the maintenance of an efficient and effective police force in the West Midlands and the way resources and spending are managed. The Chief Constable must, in exercising the functions of Chief Constable, have regard to the PCC’s police and crime plan and will help the PCC plan the WMPF budget and give them access to information, officers and staff whenever this is needed.

The Chief Constable is responsible for ensuring the WMP business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for and used economically, efficiently and effectively.

In discharging this overall responsibility, the Chief Constable is also responsible for putting in place proper arrangements for the governance of the WMP affairs and facilitating the exercise of its functions, which includes ensuring a sound system of internal control is maintained through the year and that arrangements are in place for the management of risk.

The Chief Constable is accountable in law for the exercise of police powers, and to the PCC for the delivery of efficient and effective policing, management of resources and expenditure by the police force. At all times the Chief Constable, their constables and staff, remain operationally independent in the service of the communities that they serve.

The Chief Constable is responsible to the public and accountable to the PCC for:

- leading the force in a way that is consistent with the attestation made by all constables on;
- appointment and ensuring that it acts with impartiality;
- appointing the force's officers and staff (after consultation with the PCC, in the case of officers above the rank of Chief Superintendent and police staff equivalents);
- supporting the PCC in the delivery of the strategy and objectives set out in the Police and Crime Plan;
- assisting the PCC in planning the force's budget;
- providing the PCC with access to information, officers and staff as required;
- having regard to the Strategic Policing Requirement when exercising and planning their policing functions in respect of their force's national and international policing responsibilities;
- notifying and briefing the PCC of any matter or investigation on which the PCC may need to provide public assurance either alone or in company with the Chief Constable (all PCCs will be designated as Crown Servants under the Official Secrets Act 1989(a), making them subject to the same duties in relation to sensitive material as Government Ministers);
- being the operational voice of policing in the force area and regularly explaining to the public the operational actions of officers and staff under their direction and control;
- entering into collaboration agreements with other Chief Constables, other policing bodies and partners that improve the efficiency or effectiveness of policing, and with the agreement of their respective Policing Bodies;
- remaining politically independent of their PCC;
- managing all complaints against the force, its officers and staff, except in relation to the Chief Constable, and ensuring that the PCC is kept informed in such a way as to enable the PCC to discharge their statutory obligations in relation to complaints in a regular, meaningful and timely fashion. Serious complaints and recordable conduct matters may need to be referred to the Independent Office for Police Conduct in line with legislation;
- exercising direction and control in such a way as is reasonable to enable their PCC to have access to all necessary information and staff within the force;
- having day to day responsibility for financial management of the force within the framework of the agreed budget allocation and levels of authorisation issued by the PCC.

- The Chief Constable of the West Midlands is supported by a Deputy Chief Constable, six Assistant Chief Constables (one is seconded to the National Crime Agency, with salary and other costs met by the NCA and another ACC is seconded to the National Police Chiefs Council, with salary costs met by the WMP and other costs to be met nationally), a Director of Commercial Services who is also the WMP section 151 Officer and a Director of People and Organisational Development.

Further information on West Midlands Police can be found at [www.west-midlands.police.uk](http://www.west-midlands.police.uk)

## **2.5 Existing WMCA Arrangement**

The WMCA, which came into being 1 June 2016, comprises 7 constituent councils that are coterminous with the area of the CA, 11 non-constituent councils and 4 Local Enterprise Partnerships (LEPs). Through the CA, chaired by the Mayor, they work together to improve the quality of life for everyone living in the West Midlands.

The powers of the WMCA are set out in two Powers and Functions Orders in 2016 and 2017 respectively. Principally they relate to public and passenger transport, Economic Development and Regeneration, contain Highways Functions, contain powers regarding congestion and road safety, powers regarding housing land and infrastructure including CPO, the power to establish a Mayoral Development Corporation, powers relating to skills and learning and the Adult Education Budget, powers to borrow and to propose a Business Rates Supplement.

The Strategy to achieve this is called the Strategic Economic Plan (SEP), which sets out the vision for improving the quality of life for everyone in the West Midlands.

By working with people, organisations and businesses across the region the Mayoral WMCA is focused on delivering the benefits of devolution to the residents of the West Midlands.

The plan shows how we will use devolved powers and resources to deliver a stronger West Midlands with a focus on skills, innovation, transport and inward investment.

To achieve this there are eight priority actions:

1. New manufacturing economy: harnessing the biggest concentrations of high value manufacturing businesses in Europe and their supply chains.
2. Creative and digital: further developing the areas vibrant and flourishing sector.
3. Environmental technologies: securing transformational environmental improvements.
4. Medical and life sciences: enabling the further growth of the medical and life sciences sector and supporting other businesses to diversify and become part of the sector's supply chain.
5. HS2 growth: maximising the benefits of the largest infrastructure project in Europe.
6. Skills for growth and employment for all: ensuring the skills needs of businesses are met and everybody can benefit from economic growth.
7. Housing: accelerating the delivery of current housing plans to increase the level of house building to support increased level of growth.

8. Exploiting the economic geography: making the most of the scale and diversity of the West Midlands' geography to enable economic growth and community wellbeing throughout the urban core and rural areas.

The WMCA governance oversight of this consists of an elected mayor, a WMCA Board and a number of Committees and Boards:

Audit, Risk and Assurance Committee

Housing and Land Delivery Board

Investment Board

Overview and Scrutiny Committee

Public Services Reform Board

Transport Delivery Committee

Wellbeing Board

WMCA Board

The Authority also employs a Leadership Team of Directors who are responsible for a range of policy areas and service delivery, together with a Finance Director (s151 Officer) and Monitoring Officer/ Clerk to the Authority.

## **2.6 Mayor**

In the West Midlands the first Mayor was elected in May 2017.

The Mayor is chair of the West Midlands Combined Authority (WMCA), elected by the electorate of the WM on a four-year cycle (first cycle was 3 years to bring in line with the PCC election cycle), the next election will take place in 2020. Specific powers include:

- Economic growth
- Transport
- Housing
- Skills and jobs
- Wellbeing

However, there are a number of other areas that the Mayor focuses on and plays a part in:

- Homelessness and rough sleeping
- Youth unemployment
- Community cohesion
- Air quality
- Public Service reform

Another key role of the Mayor is to serve as an advocate and global ambassador for the West Midlands region, helping to build trade links and attract inward investment.

## 2.7 WMCA Board

The Board membership consists of the Mayor and two elected councillors, including the leader, from each of the seven constituent councils, which cover the West Midlands conurbation (Birmingham City Council, Coventry City Council, Dudley Metropolitan Borough Council, Sandwell Metropolitan Borough Council, Solihull Metropolitan Borough Council, Walsall Metropolitan Borough Council, and City of Wolverhampton Council). Representatives from ten non-constituent members also form part of the Board and have limited voting rights – Cannock Chase District, North Warwickshire Borough, Warwickshire County, Nuneaton and Bedworth Borough, Redditch Borough, Rugby Borough, Shropshire, Stratford on Avon District, Tamworth Borough and Telford and Wrekin Councils together with the 3 LEPs covered by the WMCA Area, Black Country, Coventry and Warwickshire and Greater Birmingham and Solihull. The PCC and the Fire Authority currently also sit on the Board as Observer members, whilst they do not possess voting rights, they are able to add value by contributing to strategic discussions.

The Board:

- has overall responsibility for developing and delivering the Strategic Economic Plan (SEP);
- has overall responsibility for developing the strategy and delivering Public Service Reform (PSR);
- ensures delivery of the agreed devolution deals;
- negotiates and delivers further devolution deals;
- approves future devolution deal development;
- determines strategy on investment decision;
- allocates resources through the Combined Authority budget & income streams such as devolution deals;
- determines Transport strategy and spending priorities;
- operates a Cabinet model with Constituent Member Leaders 'sponsoring' a portfolio;
- considers and determines applications for Constituent, Non-Constituent and Observer status;
- works with partners to develop the Midlands Engine;
- works with Government to develop and influence national policy;
- sets the fees for membership

It operates through a number of Committees.

### Audit, Risk & Assurance Committee

The Audit, Risk and Assurance Committee is a key component of the WMCA's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards. The purpose of the Audit, Risk and Assurance Committee is to provide independent assurance to the Authority of the adequacy of the risk management framework and the internal control environment. It provides independent review of the governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It

oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

#### Overview & Scrutiny Committee

To ensure that decisions made by the WMCA, help make the West Midlands region a better place to live, work, study and do business.

To undertake call-in arrangements for the Combined Authority. To make recommendations for consideration by the WMCA Board.

#### Transport Delivery Committee

The Transport Delivery Committee is a sub-committee of the WMCA Board and is part of the Transport for West Midlands (TFWM) activities. The committee provides oversight of the operational delivery of transport across the West Midlands, and as requested by the WMCA Board or Leader with Transport responsibilities, advise on transport policy matters.

The committee is responsible for the discharge of specified transport functions delegated by the WMCA Board.

The WMCA has a number of priorities which are vested in the Mayor and WMCA portfolio lead members:

Wellbeing – mental health, mental health commission and health devolution;

Economic growth – delivery of Strategic Economic Plan (SEP), access to finance for business, Collective Investment Fund (CIF), WMCA growth company, international trade and exports, digital strategy and the arts and cultural activity;

Housing and Land – land commission, Land Remediation Fund (LRF) housing delivery, one public estate;

Skills and Productivity– skills and productivity commission (including employability), learning for the future and further education (FE) area reviews;

Cohesion & Integration and Public service reform – public service reform agenda, troubled families, criminal justice, welfare reform, shared services and social inclusion;

Transport – delivery of Strategic Transport Plan, Midlands Connect, West Midlands Rail, HS2 delivery transport and Transport Delivery Committee;

Finance and Investment, HS2 – delivery of the WMCA investment agenda.

Environment

### **3. REVIEW OF THE EXISTING POLICE AND CRIME COMMISSIONER ARRANGEMENTS**

Public Services locally across the West Midlands are changing significantly and will continue to do so with the inception of the WMCA as an example. Central Government's expectations around increased efficiencies and reform place an additional expectation on this continued change and transformation.

Police services are not exempt from these expectations and have made significant efficiencies to offset the average 21.2% real terms reductions to total funding since the CSR of 2010 to 2018. The impact on West Midlands Police has been even greater with a 25.1% reduction (equating to £157m) over that period and has resulted in a reduction of police officer numbers of over 2,000. Council tax precept for policing in the West Midlands is the second lowest in the country and to reflect that the HO granted additional flexibility to those Forces in the lower quartile to increase their precept by a maximum of £5 from 2016. For 2018/19 and 2019/20 precept flexibility for all Forces has been raised to £12 per annum and grant levels maintained at 2017/18 levels.

In order to maintain the delivery of efficiencies to meet the funding reductions, the PCC and Chief Constable have implemented and continued to progress 'an ambitious and leading-edge transformational programme' in partnership with Accenture, which is planned to improve services within reducing resource levels. By 2020 the Transformation Programme hopes to deliver:

- increased citizen confidence, participation and satisfaction;
- improved productivity, efficiency, agility and service levels;
- reduced demand using opportunities to prevent crime;
- improved workforce experience
- increase in professional standards;
- improvements in evidence handling;
- a more mobile workforce able to respond at pace.

WMP2020 is a broad programme of organisational, technology and process change. Underpinned by a comprehensive "Target Operating Model", WMP2020 includes a number of projects that will significantly increase WMP's capability to use of new technology in support of offering an efficient and effective service:

- Mobile technology to allow officers to undertake more of their work away from police stations, thereby increasing efficiency and making their work with the public more accessible. This includes, for example, digital witness statements and two-way remote access to Force systems.
- Organisational structures and training that preserves, enhances and clarifies the role of neighbourhood policing, ensuring that resources are concentrated and deployed appropriately
- A "hubbed" Response function that offers increased productivity
- Reconfigured Public Protection, CID and Regional Organised Crime functions to improve service and respond to increased demand
- New engagement tools such as WMNow (a digital messaging service that supports contact with the public and promotes active citizenship) and WMP Cadets (improved engagement with Young People)
- New approaches to recruitment and retention that support more making WMP more reflective of the wider population
- A new online portal allowing the public to obtain information and advice, report crimes and track investigations, including webchat
- New tools for measuring satisfaction with service and confidence in policing
- Much improved information management and visualisation tools that will give WMP the ability to understand and respond to the needs of callers and victims, including a revised

call grading methodology, a new command and control system, and a move to greater use of secure online storage.

- Predictive analytics capabilities that will improve the design, delivery and implementation of preventative activity
- Engagement with national programmes that support local service improvement, such as the National Automatic Number Plate Recognition Service, the Home Office Biometrics Programme, the Single Online Home for Policing, among others.
- Wider use of new technologies that support public confidence in policing and the safety of officers, such as Body Worn Video and Taser

Two examples of the programmes being undertaken are the active citizens and digital revolution initiatives:

Active citizens – research shows that harnessing the power of our people can transform neighbourhoods and transform lives. Active citizenship means getting people involved in their local communities at all levels from street, to ward to borough activity.

Digital revolution – modernising how we engage with people to match their expectations. This project will develop more ways to connect digitally through a variety of online channels. Information sharing leads to better understanding about what is happening in local areas and how the public can prevent crime. Part of the project will look to how best the public can be effectively signposted to the best service to meet their needs.

Devolution provides the opportunity for public service transformation to improve how services are aligned around individuals, to remove the barriers to collaborative working and to bring together social and economic ambitions to support inclusive growth.

The Policing and Crime Act 2017, also places a statutory duty on emergency services to collaborate in the interests of the economy, efficiency, effectiveness and public safety. An Order for the transfer of Fire Authority functions to the Mayor is currently being prepared for submission later this year to Parliament. Once enacted and with both functions the responsibilities of the Mayor will have the benefit of better meeting the duty and identifying opportunity to collaborate and drive innovative reform. The duty to collaborate remains regardless of any transfer of power from the PCC to the Mayor.

#### **4. OPPORTUNITIES AND BENEFITS**

The Mayor and the WMCA want to fully grasp the full potential of the devolution opportunity and are already working with local stakeholders to put their aims into action. Government supports these objectives. The government also sees the second devolution agreement as an opportunity to create a step change in the public services agenda, by establishing the building blocks to further public service transformation in the West Midlands in the future and ensuring continued close collaboration between the WMCA and government.

In turn the government, in the second devolution agreement, recognises the ambition of the Combined Authority to improve outcomes for offenders in the West Midlands area and will work with the WMCA and local Police and Crime Commissioner to develop and strengthen the local role in commissioning joined up local criminal justice services whilst recognising and retaining

the strong and visible accountability and governance arrangements put into place by the current PCC.

Opportunities include the contribution that can be made to the achievement of both the PCC and WMCA's strategic ambitions and priorities by supporting growth and reducing the total cost of delivering public services through a coordinated, integrated, intelligence led and collaborative delivery of services. Examples of this are provided below.

The transfer presents the ability to join up the leadership of local public services and unlock a range of opportunities for deeper and more meaningful collaboration. The Mayor, the West Midlands Combined Authority and the Police and Crime Commissioner have a number of shared policy areas where positive progress is already being made, examples include Thrive, Mental Health and Justice, and criminal justice reform. The opportunities presented through the transfer of functions broadens these opportunities further to include gains in joining up public services and systems further focusing on key areas of prevention, early intervention and crisis management – including within several policy areas identified within both the WMCA strategic objectives and the current PCC's Police and Crime Plan.

All changes in democratic governance or public service organisation have costs and benefits. A transfer of this size will need to be managed well, and with the right supporting expertise in place. Through the transfer of PCC functions to the Mayoralty we believe the benefits to the public, to business and to public services are clear:

1. Clearer accountability for citizens, business and government – shifting to a Mayoral PCC model means that one person is accountable within the region for the range of functions that currently sit across the Mayor and PCC. This could well be simpler for the public to understand; means people are asked to vote in one election rather than two; and creates a much stronger link between the governance of policing, the factors that influence it, and the social and economic determinants that contribute to crime. The model provides simplicity to other stakeholders too. The various departments of government have a single interface into the region; and the business community know who is accountable for the things that create the right environment for them to thrive.

In effect, the transfer gives us one single figure in the West Midlands who can work across a range of services, who can influence business and government, and who can make sure that policing and crime in the West Midlands is not only as well governed as today, but is integral to the strategic direction of the region overall.

One example of how this works in practice is in Greater Manchester where the role of the Police and Crime Commissioner was amalgamated into the Mayoralty in 2017. Greater Manchester published their Standing Together Plan for Greater Manchester (their Police and Crime Plan) which, as the title suggests is a plan which encompasses the collaboration across public services and communities which the Mayor acting as PCC is in a unique position to provide. It draws on the links between community safety and local authorities, the local health economy, the voluntary and third sector and communities in tackling the complex problems which they are trying to solve, such as modern slavery and domestic abuse.

2. Much better collaboration between services to the public – the transfer gives the West Midlands the opportunity to build much stronger links between different types of public service, and make sure those services are as bespoke to the needs of the public as

possible. More specifically a single agency approach means reducing confusion and fragmentation for citizens (particularly those with more complex needs who often end up within the policing and justice systems); reducing the cost of ‘failure demand’ (the leaking of resources as a result of this fragmentation); and being much more proactive about joining up the things that keep people away from crime.

We know, for example, that access to housing, skills, jobs and poor transport can be contributing factors in people offending, and why it is so hard for people to stop offending once they are in the criminal justice system. A Mayor with powers across these areas (as will be the case in the West Midlands) has a unique opportunity to see, support collaborate and innovate across public services to help prevent crime and to work much more closely with the Local Authorities who make up the WMCA’s membership.

In London for example, the Mayor’s Office for Policing and Crime was able to identify and respond to an increase in crime on the underground by making changes to the way the transport network responds to reports of offences, the use of CCTV and how evidence is gathered and presented to secure convictions.

3. Reducing demand on Policing through addressing the Causes of Crime – a Mayor with the powers described above can play a key role supporting a more sustainable police force in future. We know that demand for policing is rising, and that recent spikes in violent crime mean that forces around the country have struggled to keep a focus on neighbourhood policing and prevention. With a Mayor as PCC, we would look to create innovative new models of neighbourhood working that align police, fire and other local public services in a way that specifically targets the causes of crime and reduces these spikes in demand.

There are numerous great projects already being commissioned by the PCC in this space – including on crime and economic opportunity, perpetrator management, and prevention for young people at risk. A Mayor as PCC could continue this work but with the opportunity to embed this more obviously within the WMCA’s programme of reform – and therefore leverage the resources available through our skills, housing and economic growth functions, homelessness, mental health, employment support and mentoring programmes, and join up data and intelligence with the region’s emerging Office of Data Analytics.

New York City, although different in scale and composition to the West Midlands, has for many decades had a Mayor responsible for governance of a number of public services, including policing. This has demonstrated that through interlocking partnership strategies NYC successfully cut their numbers of murder and non-negligent manslaughter by 57% from 2000 to 2017, and burglaries by 68% over the same period, the key ambition in NYC was to build cohesive, engaged neighbourhoods. Source:

[https://www1.nyc.gov/assets/nypd/downloads/pdf/analysis\\_and\\_planning/historical-crime-data/seven-major-felony-offenses-2000-2017.pdf](https://www1.nyc.gov/assets/nypd/downloads/pdf/analysis_and_planning/historical-crime-data/seven-major-felony-offenses-2000-2017.pdf)

4. Making Sure the Public Pound is Spent as Efficiently as Possible – the transfer to a Mayoral PCC model does not impact on the money spent within the West Midlands on policing – this is mostly set nationally, is ring-fenced, and will not be negatively impacted on under a different model. Similarly, there are many things that the Office of the PCC does now which would continue – both its statutory functions and discretionary activity.

The point of this transfer is not to consolidate and make a large cost-saving on office costs either – because we will set up a Mayors Office of Policing and Crime which will need a similar level of expertise and resource as the OPCC has currently.

There are, however, areas where we can make a potential saving for the public. Two elections will be replaced by one, with a marginal saving and whilst the saving made will be to Government in relation to the PCC election, there is a case to argue this is reinvested in the West Midlands. The closer integration of staff and governance can help remove costly duplication and speed up collaborative processes. The opportunity for joining up communication with local partners on police and crime, fire, housing, skills and other areas within the WMCA orbit is significant.

In addition to the above there are a number of specific areas where the transfer of responsibilities to the Mayor could open up opportunities. For example;

1. Opportunities to join up the ‘and crime’ aspect of the PCC functions. These are often interpreted as the wider factors which impact on offending and reoffending, reducing social harms and promoting positive, healthy, happy and more prosperous communities. There are particular opportunities with regards to partnerships with key stakeholders including but not limited to Local Authorities, health, housing, probation, employers and the business community. Within the current PCC plan 2016-20 there are 7 key priorities, most of which have a partnership element with local authorities, health, the WMCA or other local stakeholders.
2. The potential to drive down demand on policing through ensuring effective collaboration and partnerships in early intervention and prevention, including through improved data sharing and cross-agency working. This should focus on linking policing strategy to the wider suite of local public services, local authority responsibilities and WMCA priorities. It should also consider the impact on policing within the housing strategy, the skills and productivity deal and wider WMCA activity.
3. Digital - Effective digital leadership and governance is key to implementing successful digital change. Working with GDS and MHCLG, the WMCA are drawing up a Digital Capability Framework which sets out the level of skills required to deliver effective digital programmes, and which can be used to disseminate best practice across local government. The WMCA will be an informed, intelligent, efficient customer for digital innovation in the public sector. This will be supported by best practice digital governance.

The WMCA recognises the potential of data to improve public service delivery. Key to exploiting this successfully is that the WMCA continues to use data and analytics securely and effectively for integrated local decision-making, planning and delivery. GDS and DCLG will work with the WMCA to explore further opportunities for using open data and secure data to improve public service delivery.

WMCA have already recognised that digital is the ‘golden thread’ in the modern economy with the recent launch of their Urban Challenge programme. To further support their ambitions to use technology to solve the complex problems faced by the

public sector, the government has encouraged the WMCA to put forward new challenges to the recently announced GovTech Catalyst, which is supported by the new £20m GovTech Fund. The GovTech Catalyst and Fund will support public bodies to work closely with our world-leading tech sector, taking on the most innovative ideas, to boost productivity in UK public services.

4. 5G Technology – The Government has already recognised innovative proposals from the WMCA in the field of Data Analytics, and the WMCA has recently been awarded national ‘test bed’ status (with substantial funding) for the roll-out of 5G technology through the Urban Connected Communities Fund.
5. Criminal Justice Service - The government has recognised the ambition of the Combined Authority to improve outcomes for offenders in the West Midlands area and is committed to work with the WMCA and local Police and Crime Commissioner and devolving criminal justice responsibilities to the region.
6. Homelessness - The Mayor’s Homelessness Taskforce is working with partners to redesign the services and care offered to homeless people across the West Midlands, with a strong focus on prevention. Government has committed £28m for Housing First pilots in three areas across England, one of which will be in the West Midlands. This will pilot the Housing First approach to ending the homelessness of rough sleepers with the most complex needs. Under this approach individuals will be provided with accommodation alongside intensive key worker support to enable them to recover from issues such as mental health or substance abuse and sustain their tenancies.

## **5. PROPOSED GOVERNANCE MODEL**

The transfer presents the ability to join up the leadership of local public services and unlock a range of opportunities for deeper and more meaningful collaboration, some examples of which are outlined in Section 4 above. The spirit and intent of the proposals are to build on the work initiated by the PCC and as such we will seek to replicate all of the existing local governance arrangements and protocols whilst retaining the operational independence of the CC and WMP. This will include the retention of all existing delegations, particularly those outlined in Sections 5.2, 5.6 and 5.12 as of day 1 following transfer. Following the election in 2020 it should be acknowledged that a new Mayoral PCC or PCC may wish to amend delegations and consents, processes and procedures and governance structures to align with their own approach and intentions.

### 5.1 Mayor with PCC responsibilities

The existing arrangements for a combined authority Mayor exercising PCC functions is consistent with the PCC model; a single, locally elected representative responsible for ensuring local services are accountable to the people they serve. Key to this is the principle that the core characteristics of the PCC model are maintained whether they are discharged by a PCC or by another directly elected individual such as the Mayor. The provisions affecting the operation of the PCC model are set out in primary legislation which would not be changed fundamentally as a result of proposals outlined in this Review. In addition, to ensure a smooth transition and

continuity, we would expect to replicate all the existing local arrangements and protocols as at day 1 of the new arrangements.

In line with the Cities and Local Government Devolution Act 2016, Schedule 2 it is proposed that the Mayor will exercise in the combined authority area all PCC functions. This will provide for a single directly accountable individual responsible for the discharge of core PCC functions which will be consistent with the PCC model and ambition for local people to have a single point direct accountability. This includes securing that the police force is efficient and effective and holding the Chief Constable to account.

Appropriate remuneration will be paid in respect of the post of Mayoral PCC and any subsequent Deputy Mayor Police and Crime, this would be developed following further advice from the Home Office.

5.2 Corporation Sole – Under the 2011 Act the PCC is a Corporation Sole with the ability to discharge the core functions provided for in the 2011 Act. These functions, see ‘Functions’ below, will transfer to the Mayor who will have the sole responsibility for deciding upon and discharging them. There are however areas that are currently solely discharged by the PCC as Corporation Sole that, after the transfer, will reside in the WMCA:

- Properties, Rights and Liabilities
- Appointments
- Borrowing
- Contracts

With the Mayoral PCC model allowed for within the Cities and Local Government Act 2016 it will be the WMCA that becomes the Corporate Body. The Home Office have confirmed that there is no alternative model to that which has been proposed that is allowed by legislation and there is no intention to create new primary legislation or seek to amend Combined Authority legislation to allow for the Mayor to become Corporation Sole.

With this in mind and to facilitate the principle of ‘Corporation Sole’ is retained within the proposed governance framework due regard will be given within the Constitution of the CA to ensure that any necessary ‘ring fencing’ and ‘Chinese walls’ are in place.

Details as to how it is proposed that this will operate in the future can be found in the relevant sections below.

### 5.3. Deputy Mayor Police and Crime

In line with the existing provision for PCCs to appoint a Deputy PCC (DPCC) and delegate functions to them, the Mayor will appoint a Deputy Mayor for Policing and Crime (DMPC).

The Deputy Mayor will provide a strong role in supporting the Mayor discharge the PCC functions. The role will be both visible and credible, playing a prominent national role befitting the second largest force in the country and as such having an ability to understand and promote best practice not only internally but nationally as well.

In addition to the restrictions laid out in the Police Reform and Social Responsibility Act 2011 and the Cities and Local Government Devolution Act 2016 the Order will require the

appointment to exclude Members of the Combined Authority and will restrict it to those individuals residing in the CA Area.

#### 5.4. Functions

As per the Police Reform and Social Responsibility Act 2011 the following functions in general will exist. A PCC may delegate any policing function to a DPCC, with the exception of those strategic functions reserved as being exercisable only by the PCC. The functions which may not be delegated by a PCC to a Deputy PCC, and as such by a Mayor acting as PCC to a DMPC are:

- issuing a police and crime plan;
- setting the police budget including the council tax requirement; and,
- Chief Constable dismissals, suspensions and appointments.

Functions that may only be exercised by the PCC or DPCC and, correspondingly, may only be exercised by the Mayor acting as PCC or the DMPC are:

- determining police and crime objectives;
- attendance at a meeting of a Police and Crime Panel in compliance with a requirement by the panel to do so;
- preparing an annual report;
- appointing a local auditor under section 7 of the Local Audit and Accountability Act 2014 (“the 2014 Act”); and
- deciding whether to enter into a liability limitation agreement under section 14 of the 2014 Act.

In addition the Mayor, acting as PCC or the DMPC, may also delegate or sub delegate functions, but not those listed above subject to statutory limitations.

#### 5.5. Existing Local Protocols/ Arrangements

To ensure a smooth transfer, all existing agreed local protocols and arrangements will remain in force at the point of transfer until subsequent review following an election.

#### 5.6 Transfer of properties, rights and liabilities

All property, rights and liabilities which are property, rights and liabilities of the PCC will transfer and vest in the WMCA. However, all decisions relating to PCC functions (and relating to assets and liabilities etc) will be for the Mayor as the directly elected individual.

The use of these assets will however be ring fenced within the Constitution so as to emulate as far as possible the current PCC ‘corporation sole’ arrangement.

All functions and decisions in relation to such property, rights and liabilities are to be exercised solely by the Mayor unless delegated by the Mayor in line with ‘Functions’ above. Any receipts arising from such property, rights and liabilities (whether arising from their use, sale, disposal or otherwise) are to be paid into the police fund kept by the Mayor.

### 5.7 Office of the Police and Crime Commissioner OPCC

The staff within the OPCC will transfer to the WMCA under a statutory transfer order which will replicate the characteristics of a TUPE transfer.

The Mayoral OPC will be an independent function managed by an 'OPCC Executive Director'.

The Mayor would be involved with the appointment.

### 5.8 Monitoring Officer and Chief Finance Officer (Section 151 Officer)

There will be a monitoring officer whose responsibilities include the Mayor's exercise of PCC functions. The person appointed to be the monitoring officer will be able to cover a range of functional areas, not just policing.

In addition, there will be a chief finance officer (Section 151 Officer) whose responsibilities include the Mayor's exercise of PCC functions. The person appointed to be chief finance officer can cover a range of functional areas, not just policing.

The Mayor would be involved with the appointments.

### 5.9. Police and Crime Panel

There will be no change to the role and arrangements in respect of the Police and Crime Panel. Members of the Combined Authority will not be a member of the PCP.

Scrutiny of the discharge of PCC functions will be performed by a Police and Crime Panel who hold the appropriate powers, set out in the Police Reform and Social Responsibility 2011 Act alongside their responsibilities and membership requirements, to effectively scrutinise and support the actions and decisions of the PCC and enable the public to hold them to account.

The Police and Crime Panel (PCP) will exercise broadly the same functions as PCPs under the PCC model, but with some minor modifications such as ensuring the panel only scrutinises the policing element of the precept, which forms a separately identifiable component of a wider combined authority precept, rather than the whole precept.

### 5.10 Police Funds

With the existing arrangements for a combined authority Mayoral PCC, there is a single precept comprising of separate components for the Mayor's general functions and one for policing. The PCC component is required to appear separately on council tax bills. The secondary legislation (see the Greater Manchester PCC functions transfer order) requires that the Mayor calculates the component of the council tax requirement which relates to policing and which forms part of the precept, taking into account the views of the Police and Crime Panel. It makes clear that the determination of the final amount of the PCC component is for the Mayor acting as PCC. This component is subject to its own referendum criteria. This means government has full flexibility to apply a distinct council tax referendum principle for the policing component of the precept in a mayoral area in the same way as it currently does for all other PCCs across England and Wales. The Home Secretary has the power to give directions to the Mayor acting on behalf of the combined authority in relation to the calculation of the component of the council tax

requirement which relates to policing, and which forms part of the precept. This is similar to the current power he has in relation to PCCs under section 41 of the Police Act 1996 to prevent the safety of people in the police area being put at risk by a decision that sets the precept too low.

Police Funds will be kept separate to the discharge of other Mayoral Combined Authority functions and into which all receipts arising, and liabilities incurred in the exercise of PCC functions must be paid.

Money paid into the police fund is reserved for policing, for example receipts from the sale of police assets would have to be spent on matters relating to policing. In line with statutory guidance for PCCs as set out in the Financial Management Code of Practice the Mayor would have to publicly account for how police funds are spent.

The police fund, which will include precept income, will also include reserves maintained for policing and crime reduction. Police reserves should be maintained in accordance with the relevant guidance, agreed accounting principles and locally agreed financial regulations and schemes of governance.

In the case of grants the existing arrangements and protocols will be retained as at day 1.

Current Joint Audit Committee arrangements between PCC and WMP, with an Independent Chair, will be retained on transfer until subsequent review following an election.

Arrangements will also need to be made in the Order to extend the financial year in accounting terms for the WMPCC so that the PCC and CC prepare statement of accounts for the period 1 April 2019 up to the date of transfer. So as to remove the need for having short period within which it would need to open and close accounts before the transfer.

### 5.11 Borrowing

The Mayor will be ultimately responsible for decisions relating to borrowing in relation to PCC functions, as laid out in the 'Revised Financial Management Code of Practice' for Policing, but may delegate them in practice. This does not detract from the legal status of the Combined Authority as the borrowing party. The cost of such borrowing will be met from Police Funds and as above kept separate to the discharge of other Mayoral Combined Authority functions.

The WMCA will have the same borrowing rights for Mayor PCC functions that are currently enjoyed by the PCC.

The current WMCA Borrowing Order does not list what functions WMCA can borrow for. Instead, it says that legislation will be put in place to allow "the West Midlands Combined Authority powers to borrow for its new functions." So it would apply to any functions WMCA add later unless the deal is modified to exclude them.

The WMCA will seek an amendment to its existing debt cap arrangements with HMT to reflect its assumption of new responsibilities relating to the Mayoral PCC which are commensurate with the current borrowing approvals associated with the current PCC for the West Midlands.

## 5.12 Contracts

Decisions on entering into contracts regarding police matters are functions of a PCC under the PCC model (with scope for some delegation to the Chief Constable). They are therefore regarded as PCC functions under the 2009 Act and would therefore be covered by the rules in respect of the delegation of responsibility for exercising PCC functions which are set out at Paragraph 3 of Schedule 5C of the 2009 Act, which makes clear that such decisions can only be taken by the Mayor or anyone to whom they personally delegate responsibility.

As such and in keeping with the PCC model the Mayor will have ultimate responsibility for all contracts relating to police matters, although they may provide consent for contracts to be entered into by the Chief Constable as per existing the existing scheme of delegation and procurement protocols.

Decisions on the issuing of policing related grants are also PCC functions therefore these powers would rest with the Mayor or anyone to whom they delegate responsibility.

## 5.13 Police and Crime Plan

The issue of a police and crime plan by the Mayor which involves consideration of the strategic policing requirement is a key public facing deliverable. The provisions on police and crime plans as set out in the 2011 Act will still apply.

## 5.14 Policing Protocol

As a matter of law, the Policing Protocol will apply to a Mayor acting as PCC as it applies to a PCC. Apart from the changes in governance outlined in this report, all other aspects of existing primary legislation relating to the role and functions of the PCC will remain unchanged.

## 5.15 Inspection, Investigation and Complaints

The powers of HMICFRS, as set out in the Police Act 1996, and the police complaints procedure, as set out in the Police Reform Act 2002 and subsequent amendments, will still apply.

## 5.16 Implications on future WMCA Boundary changes

As with all current Mayoral functions any possible future boundary changes would require the Mayor taking on the functions and powers for the newly incorporated area. Such a change would require the implications to be clearly set out in the Governance Review and subsequent scheme, fully consulted on and appropriate Secretary of State agreement and Parliamentary approval.

In the case of PCC functions where the area to be incorporated was completely coterminous with the affected PCC and Police Force area the mayor would assume the overall PCC functions of the new CA area. Where the incorporated area was only part of a PCC and Force area, for example a District, then those functions would become mayoral functions with the boundary of the affected area being revised to reflect the change in responsibilities. All of which would be subject to further extensive Governance Reviews and subsequent Secretary of State approval.

## 6. THE LEGISLATIVE ROUTE TO ENABLING MAYORAL GOVERNANCE

The main pieces of legislation enabling the governance change to be enacted can be listed as follows:

- The Local Democracy, Economic Development and Construction Act 2009
- The Cities and Local Government Devolution Act 2016

The route to achieve mayoral governance of the police service is through the Cities and Local Government Devolution Act 2016 which amends the Local Democracy, Economic Development and Construction Act 2009. This primary legislation provides for secondary legislation to put in place transfer arrangements to enable the WMCA Mayor to exercise PCC functions. This route will enable, through the devolution deal, powers and functions of the PCC to be transferred and exercised only by the Mayor as detailed in 5 above.

The justification and evidence base to support this route has been provided throughout this review and will be listed in the Scheme. The Scheme will be consulted upon and approved locally prior to being submitted to government. The process is detailed below.

Process and timeline:

Action	Who	Date
Consultation Proposals	Programme Board	26 October 2018
Seek Approval to Consult	CA Board	9 Nov 2018
Public Consultation Stage 1	CA, Constituent Councils and PCC	16 Nov - 11 Jan 2019
Police & Crime Panel	PCP Members, PCC & WMCA Officers	26 November 2018
WMCA Overview & Scrutiny Committee	Ctee membership & WMCA Officers	26 November 2018
Public Consultation Stage 2	CA Constituent Councils and PCC	14 Jan – 11 March 2019
Police & Crime Panel	PCP Members, PCC & WMCA Officers	14 January 2019
WMCA Overview & Scrutiny Committee	Ctee membership & WMCA Officers	25 February 2019
Early consultation outcomes	Programme Board	8 March 2019
Consideration of Consultation Outcomes and Approval to submit	CA Board/PCC	22 March 2019
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

\* The Electoral Commission report has recommended that legislation impacting an election should be clear at least six months before the date of the scheduled poll. Tabling date will depend on Parliamentary approval processes, but will need to be before 7 November at the latest.