



West Midlands Police and Crime Commissioner's Response to the Consultation on
Proposals for the Mayoral West Midlands Combined Authority

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As the recently re-elected Police and Crime Commissioner (PCC) for the West Midlands, I have a number of concerns I wish to raise during the consultation process regarding the prospective mayoral role within the West Midlands Combined Authority (WMCA). I have indicated consistently for at least 18 months that I am in favour of both a combined authority and a mayoral role in the West Midlands. If the new mayoral role was attributed sufficient scope and powers as to be an effective and efficient regional leader, then I would welcome the chance to explore opportunities for the PCC role to be amalgamated into this new office (and if in the best interest of the region, the Fire and Rescue Service too). Unfortunately, I was not integrated early on into the process and discussions surrounding the WMCA, and as such fear the WMCA risks missing key opportunities to provide the West Midlands with a strong mayoral role.

In short, the current proposals for the new mayor are wholly inadequate to achieve the high ambition held locally and nationally for this role.

Given my responsibility for the strategic direction of policing, I am keenly aware that the combined authority creates opportunities for public sector reform. We should all welcome the government's willingness to devolve power across traditional organisational boundaries, looking for opportunities in our approaches to mental health, vulnerability, offender management and, crucially, information sharing and data driven insight. My Chief Constable has set out his new offer to local partners, and the WMCA must seize this opportunity. The scope for better preventative work, more tailored services, more efficient allocation of resources and more effective interventions is becoming increasingly self-evident. We have to get better at producing legitimate, credible business cases for change, and acting on these. The legitimacy of the WMCA, and particularly the Mayor, must give this agenda momentum and drive.

A new mayor, as outlined in the Scheme for a Mayoral West Midlands Combined Authority (Mayoral WMCA), is intended to build on the existing West Midlands Combined Authority "by providing the necessary powers and decision making necessary to deliver the devolution agreement". I strongly question whether

the necessary powers and decision-making capacity are being transferred to this mayoral role. Indeed, major constraints are placed on those powers where the scheme outlines that 'the cabinet' (comprised of the seven local council leaders) "will make decisions on the relevant matters to the WMCA Area, particularly applicable in relation to the mayoral functions, such as the examination of the mayoral draft budget."

It would appear the proposed mayor has been given as few powers as possible, with any prospect of an executive function being hampered by the overriding authority of the cabinet. This raises the question of whether an impotent or 'smothered' mayor will demonstrate value for money and deliver the high ambitions for economic development and civic leadership. Furthermore, it should be considered whether lodging powers for strategic continuity and relationship-building is best served by a cabinet of ever-changing council leaders rather than a mayor with a four-year democratic mandate.

Inevitably, questions will arise relating to the prospect of a new mayor taking responsibility for policing and crime in the region. At the moment, a great strength of the PCC role is the ability to take effective action on issues to deliver on manifesto promises and other areas of public need. The cabinet governance arrangements appear to favour local government bureaucracy over the empowerment of individual decision-makers. For this reason, the proposed mayoral role could offer little to the governance of policing in the West Midlands, as it would seem to remove all the 'teeth' that the PCC has to get things done. Further to that, the democratic mandate gained by a PCC complements the formal levers that they exercise over policing and criminal justice. In contrast, an elected mayor under the current WMCA model would have limited formal levers of power, making any election promises undeliverable. This limitation in executive power is exacerbated by the constitutional empowerment of the cabinet to reject the mayor's "budget, plans and strategies" (as outlined on the WMCA website FAQs). Any disagreement, which has an increased likelihood since cabinet members may represent a different political party to the mayor, therefore favours the cabinet's ability to obstruct over the Mayor's ability to deliver on their manifesto commitments.

Further to this, there are elements of the PCC role that would demand close working with a mayor, or would even benefit from the amalgamation of the two roles. Unfortunately under the current mayoral proposals, this potential is not realised. The Mayoral WMCA documents have not recognised the significance of PCC functions to their limited set of priorities: economic, skills, transport and housing. Indeed, the 58-page 'Strategic Economic Plan' makes no mention of "police", "policing", or the "PCC". Policing plays a major role in creating environments in which people will want to invest, both as businesses and as residents. There are no signs that the significance of safe areas, tackling gangs and organised crime has been understood. Issues such as modern slavery present another way in which the PCC engages with the economic environment.

To date, no link has been made between the WMCA's priorities and the PCC's powers.

It is clear to me that if the West Midlands is to become "the best region in the UK to do business", as stated in the title of the 'Strategic Economic Plan', then the Mayoral WMCA and the PCC cannot operate in silos. As a further consideration, the PCC's oversight of roads policing plays an integral part in keeping the traffic of the West Midlands flowing, as well as denying criminals access to our roads network. This is crucial to economic development and has clear implications for the WMCA's transport priority. When the system faces a crisis, as occurred on the M6 motorway on 4th February 2016, the police play an integral part in restoring the roads system. The PCC's subsequent role ensuring improvements are made for the future has been overlooked by the WMCA. I fulfilled this function by calling for a hearing into the incident to establish the effectiveness of multi-agency work to get the motorway open in a safe and timely manner and manage traffic in the vicinity of the incident site. It is plausible for the mayor or Mayoral WMCA to organise such a hearing. What remains unclear however is why responsibility for and prioritisation of 'transport' in the West Midlands is being considered in isolation from both operational and strategic policing capacity – not to mention the lack of allusion to the crucial role of the fire and rescue service.

The 'Scheme for the Mayoral WMCA' sets out what the mayor *cannot* do, with very little detail on any executive powers beyond making a single political staff appointment. I believe an effective mayor must have a mandate for change and a capacity to deliver. The current proposals appear to inhibit rather than facilitate the mayor's ability to deliver on constituents' expectations. It is worth illustrating this by providing brief comment on one of the proposed powers for the Mayor as described in the Scheme for the Mayoral WMCA:

HCA (Homes and Communities Agency) CPO (Compulsory Purchase Order) powers are to fall under the mayor's remit, while at the same time it is stated that all other HCA functions would be non-mayoral functions. Even the CPO powers would be exercised concurrently with the HCA, and could only be used "with the consent of the appropriate authority(ies)." Even this discrete power is therefore highly dependent on local authorities. This demonstrates a lack of ambition for the mayoral role in housing, which is a key priority for the Mayoral WMCA. With such limited powers it is difficult to envisage how a prospective mayor could guarantee delivery on manifesto commitments relating to housing. Any new mayor would therefore be denied the ability to make credible promises on *at least* one of the four key priorities of the Mayoral WMCA. This is a clear flaw in the current proposals, where the public expectation raised by the priorities and objectives of the Mayoral WMCA is totally at odds with the limited capacity for change found in the proposed mayoral powers. This incapacity appears to extend across the set of priorities and is by no means limited to the mayor's housing powers.

There are a number of simple but fundamental questions that remain unaddressed regarding the proposed mayor. Firstly, the salary of the mayor, or indeed that of a deputy, is not yet decided and has not been included in the consultation. The proposed level of salary would give consultees the ability to gauge the level of importance being afforded to the new role. The 'Scheme for the Mayoral WMCA' stipulates that "If the Mayoral WMCA agrees, the mayor may be paid an allowance subject to an independent review of the appropriateness and amount of such an allowance..." If the new mayor is to be elected in May 2017, then time is running short for this salary-setting process to be completed. Avoiding any indication of salary will doubtless suppress interest from potential high calibre mayoral candidates. Of equal concern is the ambiguity surrounding whether a new mayor would have sufficient staff to discharge their duties. Aside from the aforementioned single political appointee, the capacity or nature of the mayoral office remains unclear. Without understanding the supporting structure around the mayor, it is difficult to predict how the mayor would function effectively.

The proposed mayoral powers fall a long way short of both locally stated ambitions for economic growth and also the Government's ambitions for a West Midlands engine for economic growth.

While the mayor's powers appear remarkably constrained by 'the cabinet', the very nature of this cabinet raises further troubling questions. The cabinet proposed is not a cabinet as I understand the expression, and would in fact be better described as a committee. Cabinets in both national and local government are executive decision-making bodies made up of portfolio holders appointed by the leader. In the Mayoral WMCA proposals, the leader (mayor) has a cabinet provided for them (made up of the seven West Midlands local authority leaders), who not only restrict his powers but even have responsibility for dividing their portfolios amongst themselves via a vote. An unelected cabinet self-ascribing responsibility with no input from the elected mayor is a unique proposal in British politics – as is a cabinet composed of members with different political allegiances to the democratically-elected mayor, with no 'coalition agreement' or statement of intent to deliver the mayor's manifesto. Ironically, it is a cabinet set up that no local authority leader would even consider accepting in their own governance structure.

There is the added issue that all cabinet members, as leaders of local authorities, would be in part-time posts. It is worth noting in relation to workload that this group of part-time public servants includes the leader of Birmingham City Council, who is responsible for the largest local authority in Europe. The time commitment to be offered by such a cabinet would be more in keeping with a scrutiny role than with executive functions, an example of which being the Police and Crime Panel. This is where the governance structure is further blurred, as the cabinet is expected to both hold the mayor to account while simultaneously developing strategic portfolios in support of the mayor. Although the cabinet is heralded as a key mechanism for making the mayor accountable, even this use of

language is confusing – the cabinet has many ways to prevent the mayor from exercising their powers, but has absolutely no means for holding the mayor to account after decisions are made. The nature and extent of the cabinet's scrutiny functions are in serious need of reconsideration, and must be separated from decision-making responsibilities to create a workable framework of governance.

People elect a mayor to deliver on their promises, not to play second fiddle to an unelected cabinet.

This leads me on to one of the most unworkable elements of the mayoral WMCA proposals. The cabinet itself, with its powers and portfolios, is not only unaccountable but faces serious conflicts of interest. Proposals for an 'Overview and Scrutiny Committee' made up of one councillor from each WMCA member do not specify the powers this Committee would possess. This raises questions as to how the local authority leaders can be held to account for their performance in cabinet portfolio roles. This is perhaps where the Mayor is most impotent, with no ability to choose their cabinet members, assign their portfolios or even dismiss them for underperforming.

Alarmingly, if a cabinet member is dismissed (if such a dismissal were possible), there is no indication as to who can be appointed instead. The constitution states that members must be local authority leaders, which would inflexibly bind their position on the Mayoral WMCA to their role as leader. It must be stressed that there is no consideration given to this conundrum thus far by the WMCA documents, placing the mayor in a situation where they have no authority to act on underperforming portfolio holders. Further to this, there is a clear conflict of interest inherent in a *local* authority leader acting as a *regional* cabinet portfolio holder. There is a high expectation for the local authority leaders to set aside their allegiances for their respective locality and work impartially for the best interests of the region. However between elections, the local party groups are the only real mechanisms for removing a local leader (and by extension a cabinet member), which only increases the pressure on such leaders to satisfy their local (rather than regional) colleagues. At elections, these cabinet members are judged only by their local ward electorate, presumably on their local contribution.

It is important to keep in mind that the Mayoral WMCA should be expressing *the* core purpose of devolution by bringing local decisions under the control of local people. While an elected mayor would have this democratic mandate, the cabinet of local authority leaders does not carry the same legitimacy. Local authority leaders are appointed by their local party-political group, often with the backing of as few as 20-30 people. We could expand this measure to consider the democratic mandate for the seats won by the council leaders in their respective wards. Comparable indicators, such as the PCC election, would suggest that a new mayor could receive an estimated 15 times as many votes as *all* the cabinet members' ward votes put together. It is not only the number of votes that are important, but also the fact that

all the people across the whole region have the chance to vote for a mayor, thus avoiding any conflict of interest inherent in the current cabinet proposals. This governance model therefore fails to reflect the democratic legitimacy and primacy of the mayor across the West Midlands region.

These proposals have been framed to protect the control of council leaders rather than empower an elected mayor to tackle the issues that the people of the West Midlands will be voting on in May 2017.

Even if I overcame my doubts about the effectiveness of the mayoral role in its current formulation, there remain potential substantial obstacles to the transfer of PCC functions (it is clear that the purpose of limiting the first term of the mayor to three years is to allow consideration to be given to amalgamation of the two roles in 2020 when both terms of office expire).

- 1) The first of these is the extent of the powers and political mandate afforded to the mayor. The current proposal for the mayor suggests a much weaker role than that of the PCC. Indeed, if the two roles merged then it could be argued that the major area of autonomy for the mayor would be the current PCC role. It is unclear if the mayor acting as PCC could be overruled on strategy and budgetary decisions by the cabinet. If this were the case, it would be a serious dilution of the role of PCC as set out in the Police Reform and Social Responsibility Act 2011.
- 2) While the current local authority constituent members of the Mayoral WMCA neatly align with the boundaries of West Midlands Police (WMP), were the mayoral region to be extended after 2020, the boundaries of WMP and the mayor would cease to be concurrent. For example, there is the risk that a mayor with PCC functions for the current WMP area might have other functions over Warwickshire but not for the police force of that area. Having two PCCs (the mayor and the Warwickshire PCC) setting strategy and holding to account different sections of the police force covering the entire mayoral region would be unsustainable. This consideration has been neither alluded to nor addressed by the WMCA.

It is deeply unfortunate that the opportunity to envelop, or even consider, policing governance powers from the start of the mayor's first term has been missed. I recognise the instinct to resist improper usurpation of local authority roles to a mayoralty. However this instinct should not become an excuse for restraining the mayor to the extent that they cannot exercise the democratic mandate their election will secure. This project will not deliver on its promise if the mayoralty is treated like a threat that is to be managed or constrained. The people of the West Midlands will expect the winner of the mayoral election, to be able to act, to deliver on their manifesto promises, and the people will be far from content if an institution is created that is designed to inhibit a democratically-elected mayor rather than assist.

The voters of the West Midlands will not forgive us if the old organisational and geographic boundaries continue to trump joint working and shared solutions.

In times of austerity, a smothered mayor simply does not represent value for money.

Unless real powers are clearly identified for the mayor in the Parliamentary Order, the current model would embed a seriously deficient governance structure for at least the next three years. I am excited by the prospect, ambition and opportunities of both the combined authority and the introduction of a West Midlands mayor. Unfortunately, under the current proposals I fear the region will be bitterly disappointed. As a PCC with executive powers and a democratic mandate for change, I am expected to consider the transferral of police strategic governance to a deeply flawed and diluted mayoral governance structure. As things stand, this would be like a city authority handing over its powers to a parish council.

Whatever the outcome of the consultation and the final model for the mayor that is decided upon, I have pledged that I will do everything within my power to work with the Combined Authority/mayor to help deliver a stronger West Midlands. After all, the people of the West Midlands are my constituents and I promised in my recent election to work with others for the best interests of the area. To create places where families can flourish, where business and industry can thrive uninhibited by crime and disorder. I will work with enthusiasm to help create new employment and opportunities, particularly for our young people, so that they are not drawn into the dark world of crime and hopelessness.

My concern is that the powers proposed for the new mayor are wholly inadequate to achieve the high ambition held locally and nationally for this role.



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