

REPORT TO CABINET

19 September 2018

Subject:	West Midlands Combined Authority Governance Scheme for the West Midlands Fire Service
Presenting Cabinet Member:	Councillor Steve Eling - Leader of the Council
Director:	Chief Executive – Jan Britton
Contribution towards Vision 2030:	
Key Decision:	Yes
Forward Plan (28 day notice) Reference:	SMBC11/09/2018
Cabinet Member Approval and Date:	Leader of the Council – 4 September 2018
Director Approval:	Chief Executive – 4 September 2018
Reason for Urgency:	Urgency provisions do not apply
Exempt Information Ref:	Exemption provisions do not apply
Ward Councillor(s) Consulted (if applicable):	No ward-level consultation is required.
Scrutiny Consultation Considered?	None undertaken, however the matter has been considered by the West Midlands Combined Authority Overview and Scrutiny Committee, which includes councillor representatives from Sandwell.
Contact Officer(s):	Paul Haden, Strategic Lead paul_haden@sandwell.gov.uk Rebecca Jenkins, Senior Lead – Service Improvement rebecca_jenkins@sandwell.gov.uk Alex Goddard, Democratic Services alexander_goddard@sandwell.gov.uk

DECISION RECOMMENDATIONS

That Cabinet:

1. Approve the proposals for the fulfilment of the conditions from the seven constituent councils.
2. Note the detail of the proposed amendments to the West Midlands Combined Authority constitution that reflect the conditions agreed by the constituent councils.
3. Authorise the Chief Executive, in consultation with the Leader of the Council, to approve the draft order received from Government to be laid before parliament, to enable the changes for West Midlands Combined Authority to assume governance of West Midlands Fire Service (in accordance with Cabinet Minute 52/18).

1 PURPOSE OF THE REPORT

- 1.1 To outline the proposals for addressing the conditions that were raised by the seven constituent councils in relation to West Midlands Combined Authority (WMCA) assuming governance of the West Midlands Fire Service (WMFS).
- 1.2 To receive the proposed amendments to the WMCA constitution.
- 1.3 To seek Cabinet's approval for the proposals.

2 IMPLICATIONS FOR THE COUNCIL'S AMBITION

- 2.1 The work of the West Midlands Fire Service directly contributes to the ambition that by 2030 our communities are built on mutual respect and taking care of each other, supported by all the agencies that ensure we feel safe and protected in our homes and local neighbourhoods.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 In response to the Policing and Crime Bill (2016) consultation, the West Midlands Fire and Rescue Authority (WMFRA) set out a direction seeking the future sustainability of services under a Mayoral WMCA model of governance.
- 3.2 The Mayoral WMCA governance model provides opportunities for the joint transformation of public services to West Midlands communities, providing value for money in the delivery of public safety. These opportunities have been detailed in the Governance Review.

- 3.3 In adherence to section 112 of Local Democracy, Economic Development and Construction Act 2009, which states that a combined authority must seek the approval of its constituent councils on the governance review and scheme, all seven constituent councils were consulted between October and November 2017. Sandwell Council considered the matter at its meeting of 17 October 2017 (Minute 87/17 refers).
- 3.4 Support for the proposed scheme was received from all seven constituent councils, along with approval to proceed to a public consultation, subject to the following conditions being contained within the Statutory Order:
- (i) The fire budget and fire reserves must be ring-fenced,
 - (ii) The Mayor appoints the Chair of the Mayoral Fire Advisory Committee (MFAC) in consultation with constituent council Leaders and will be composed of no fewer than 15 members to ensure sufficient representation from all Constituent Councils,
 - (iii) The direction and accountabilities of the Chief Fire Officer (CFO) as Head of Paid Service to include operational independence.
- 3.5 As part of the public consultation exercise the Scheme was revised to reflect these concerns.
- 3.6 Following the conclusion of public consultation, all seven constituent councils approved the revised Scheme for the transfer of the WMFRA to the WMCA during March-May 2018.
- 3.7 Sandwell Cabinet included an additional condition that the function of reviewing decisions made by the Mayor of the WMCA in relation to the West Midlands Fire Service should not sit within the proposed Mayoral Fire Advisory Committee but with the WMCA Overview and Scrutiny Committee (see Minute No. 54/18).

4 THE CURRENT POSITION

- 4.1 As part of the drafting process of the Statutory Order, which allows for the WMCA assuming governance of the WMFS, the Home Office has considered the conditions made by the West Midlands Constituent Councils.
- 4.2 In response to the Home Office's comments, WMFS and WMCA have made the following proposals for the fulfilment of the conditions listed in 3.4 above:
- 4.2.1 That the fire budget and fire reserves are subject to a local ring-fencing arrangement adopted by the WMCA and be contained within the WMCA constitution.
 - 4.2.2 That the Statutory Order contains that numbers of the Committee be set to a maximum of 18 members, with 15 elected members, and that the PCC be classed as an additional voting member.

- 4.2.3 That the Statutory Order designate accountabilities for the CFO to exercise, and that the revised WMCA Constitution dealing with Fire Governance, would make it clear that all relevant organisational and operational matters were designated to the CFO.
- 4.3 The proposals to amend the WMCA constitution are due to be considered by WMCA Board on 14 September 2018, and the draft wording is as follows:
- A. The Combined Authority will maintain a separate budget known as the Fire Service budget “the budget”. All receipts due to the Combined Authority in relation to the discharge of Fire Service operations and functions as set out in the Statutory Order West Midlands Combined Authority (Fire and Rescue Functions Order 2019), must be paid into “the budget” and all expenditure related to the same matters, must be paid out of “the budget”.
 - B. All assets relating to the discharge of Fire Service operations and functions will be owned by the WMCA as set out in the Order, but ring fenced for use in relation to Fire Service Operations. Any receipts, income or proceeds of sale in relation to Fire Service Assets will be retained within “the budget”.
 - C. Any reserves associated with the Fire Service at the point of transfer should be purely for the use of the Fire Service. Future movement in the Fire Service reserves need to be directly linked to the budgetary arrangements set out in A and B above.
 - D. The CFO together with the officer responsible for the proper administration of financial affairs of the WMCA under section 151 Local Government Act 1972, will propose and be accountable for an annual budget for the fire and rescue service which will ensure the most effective and efficient delivery of services to local communities as set out in the Fire Service Strategy.
 - E. Nothing in these provisions shall be taken as precluding any shared services, shared use of assets or other forms of joint working involving assets, personnel or services maintained by “the budget” with the consent of the Mayor and the Chief Fire Officer.
- 4.4 Following discussions in relation to the functions of the Mayoral Fire Advisory Committee it was confirmed at WMCA Board on the 25 May 2018 that the function of reviewing decisions made by the Mayor of the WMCA in relation to WMFS should sit with the WMCA Overview and Scrutiny Committee. This was subsequently made clear in the letter of submission to the Home Office and is reflected in the draft Order.

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 Public consultation on the revised Governance Review and Scheme took place from 11 January to 8 March 2018. The consultation sought views on the detail of the proposed scheme, including the roles of the Mayor and the WMCA, the proposed Fire Advisory Committee and the Chief Fire Officer. The consultation also sought the views of the communities of the combined authority's area on the stated benefits of the proposed governance change and the transfer of powers to the Combined Authority. Further details of the outcomes of this consultation were included in the report to Cabinet on 21 March 2018.
- 5.2 The proposals from WMCA and WMFS outlined in 4.3 above have been shared with the Leaders of all constituent councils.

6 ALTERNATIVE OPTIONS

- 6.1 Alternative models of governance have been appraised and are contained within the governance review.
- 6.2 The proposals are considered by WMFS and WMCA to be the best way to address the conditions of the constituent councils.

7 STRATEGIC RESOURCE IMPLICATIONS

- 7.1 The financial implications and process for transfer of functions to the Mayoral WMCA are currently being considered by WMFRA and WMCA to enable effective planning of implementation of the order. On transfer, the WMCA will assume ownership of all properties, rights and liabilities of the current WMFRA.
- 7.2 Sandwell MBC currently provides support services to the WMFRA including Treasury Management. Officers within the council will need to consider and prepare for the potential impact on these services when the fire authority transfers to WMCA.

8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 The legal implications and process for devolving powers to the WMCA were detailed in the report considered by Council on 17 October 2017.

9 EQUALITY IMPACT ASSESSMENT

- 9.1 Public Consultation was undertaken from 11 January to 8 March 2018. Details of which were included in the report to Cabinet on 21 March 2018.

9.2 An initial equalities analysis was carried out on the initial Mayoral West Midlands Combined Authority Scheme, having due regard to the equalities implications of the Scheme, on which the original draft Order was based. At this time it was concluded that further detailed analysis was not required as any detailed project/programmes, to result from the incorporation of this and any future Schemes and Orders, would be subject to individual equalities analysis.

10 DATA PROTECTION IMPACT ASSESSMENT

10.1 No data protection impact assessment is required for the proposals set out in this report as they do not involve the processing of personal data.

11 CRIME AND DISORDER AND RISK ASSESSMENT

11.1 Full details on risk matters relating to the proposals and the unique nature of WMFS as a risk-based service are set out in the governance review.

12 SUSTAINABILITY OF PROPOSALS

12.1 The proposals to transfer the governance of WMFS to WMCA will ensure sustainability of services while contributing to the joint transformation of public services within the region, providing value for money in the delivery of public safety.

13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

13.1 There are no specific implications for health and wellbeing arising from the proposals, which relate to the governance matters.

14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

14.1 The proposals have no impact on property or land managed or owned by the Council.

15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

15.1 In order to progress the changes for West Midlands Combined Authority to assume governance of West Midlands Fire Service Cabinet is asked to consider the recommendations set out in paragraph 1 above.

16 BACKGROUND PAPERS

16.1 Report to Council 17 October 2017 – West Midlands Fire Service Governance and associated minutes.

16.2 Report to Cabinet 21 March 2018 – Consultation Outcomes and Submission of Mayoral West Midlands Combined Authority WMCA Governance Scheme for the West Midlands Fire Service and associated minutes.

17 **APPENDICES:**

None

Jan Britton
Chief Executive