



## WEST YORKSHIRE POLICE AND CRIME PANEL

13 November 2020

### West Yorkshire Devolution – PCC Functions Transfer

#### 1. Purpose

- 1.1 To provide Panel members with an update regarding the PCC Functions Transfer element of the West Yorkshire Devolution Programme, highlighting progress to date and next steps.

#### 2. Background

- 2.1 As part of the agreement of a “minded to” devolution deal in West Yorkshire, it was proposed by West Yorkshire Combined Authority (WYCA) that policing governance in West Yorkshire transfers to a mayoral model in 2024. As the May 2020 PCC elections and Local Government Elections, were postponed to May 2021, WYCA requested that the “PCC Functions” transition takes place in May 2021 to align with first West Yorkshire Mayoral election.
- 2.2 Representations were made to the Home Office regarding the complexity of the transfer and the short time to undertake it. In response it was requested that a feasibility assessment was undertaken based on whether or not there were any “insurmountable barriers” and a clear preference of the Minister for Crime, Policing and Fire was expressed in a letter to the PCC dated June 2020 that the transfer takes place in May 2021.
- 2.3 Representation was made to the Home Office for the transition to be to a ‘Corporation Sole’ governance model in the form of a Mayor’s Office for Policing and Crime in West Yorkshire, however, this was not supported by Senior Home Office officials due to the time required to put in place the required primary legislation to do so and their clear policy preference for the Mayoral Combined Authority Model. See **Appendix A** for the note produced for senior Home Office Officials by WYOPCC and the Association of Police and Crime Commissioners (APCC) showing an assessment of each against key objectives.
- 2.4 In response senior Home Office officials stated “Greater Manchester is the existing precedent for the transfer of PCC functions to Mayors, outside of London. The legislation in Greater Manchester is clear that the Mayor’s role as PCC is “carved out” and the Combined Authority does not have a role in relation to policing. Decisions around police property, rights and liabilities are the

responsibility of the Mayor and there remains a distinct police precept. In practice, this means that the Mayoral PCC model operates in the same way as the existing PCC model and we are therefore confident that this retains the operational independence of policing and ensures there is a single directly accountable individual responsible for these functions.”

- 2.5 As part of the wider PCC Review that is being undertaken by the Home Office, the Association of Police and Crime Commissioners are pushing for the corporation sole model notwithstanding this current transition process in West Yorkshire

### 3. Feasibility Assessment

- 3.1 In the June 2020 letter received from the Policing Minister, the Minister requested that work was undertaken to assess if there are any “insurmountable barriers to transition in May 2021”
- 3.2 Work commenced internally within the OPCC to map out ten work streams required for transition and an overall plan for responding to the public consultation on devolution in West Yorkshire.
- 3.3 Detailed work was then undertaken with WYCA, OPCC and West Yorkshire Police (WYP) to ascertain if there are any insurmountable barriers to transition in May 2021 using our ten work streams. The conclusion was that there are no insurmountable barriers, however, a significant amount of work would be required, with additional resources and a preference for an alternative governance model. An initial response was sent to the Policing Minister in July accompanying the consultation response see **Appendix B**.
- 3.3 Following confirmation from senior Home Office Officials that they would not consider a Corporation Sole governance model due to the requirement for a change in primary legislation, and with the clear policy preference of the Home Office being the Combined Authority model, a joint response was sent to the Policing Minister by the PCC and the leaders of the five constituent Councils of West Yorkshire Combined Authority see **Appendix Bii**.
- 3.4 WYCA commissioned a Due Diligence review for which OPCC and West Yorkshire Police provided a substantial amount of information and attended many hours of interview over August. Feedback has been provided on the draft report and we anticipate that we will receive the next draft imminently. We do know however that there were no “showstopper” issues raised although the report did recognise the legal complexity of the undertaking and the significant resource requirements.
- 3.5 It should be noted that the feasibility assessment by the OPCC was made in July 2020 and stated that it would be a significant undertaking in a short space of time and therefore significant additional resource would be required. To date no additional resource has been provided and the Home Office maintain that the

costs should be met by the gain-share funding that West Yorkshire Combined Authority will receive as part of the devolution deal.

- 3.6 It is not possible to gauge at this stage what impact the COVID19 pandemic will have on the ability of the relevant staff to undertake the work required to enable the transfer.

#### **4. National Police Air Service (NPAS) Lead Local Policing Body Responsibilities**

- 4.1 Significant additional complexity is added to the transfer due to the West Yorkshire PCC holding the Lead Local Policing Body Responsibilities for NPAS and therefore the legal entity for contracts, governance and the owner of the helicopters and fixed wing aircraft, most of which transferred from other PCCs when NPAS was formally created in 2014, as well as the majority of the air base leases. Under the current proposals put forward this would all transfer to the Mayoral Combined Authority (MCA)..
- 4.2 On learning of these proposals Police and Crime Commissioners and NPAS Board members have written to the PCC to express their concern over this matter, and is therefore a key issue that will need further consideration regarding its significant complexity, risks and wider implications.
- 4.3 This was brought to the attention of the Policing Minister in the joint letter provided at **Appendix C** and a response is awaited.
- 4.4 A separate work stream as you would expect is specifically to cover the NPAS transfer and periodic meetings take place with Home Office, WYP, WYOPCC and WYCA officers to specifically discuss the challenges.

#### **5. Next Steps**

- 5.1 A Transition Working Group made up of officers from WYCA, WYOPCC, West Yorkshire Police, Home Office and Association of Police and Crime Commissioners has met periodically since the 2021 transfer was first muted.
- 5.2 A Programme Board is being set up with WYCA, WYOPCC and WYP officers that will provide the programme structure. This has been requested by WYOPCC and WYP along with programme and project resource and backfill for the specialist expertise that will be required for the transfer. To date we have had no confirmation of additional resource despite the need being clearly articulated in written fashion to both the Home Office and WYCA.
- 5.3 In the interim while we await the overall Programme Structure led by WYCA, an internal programme board has been set up to ensure that the resource requirements, risks and interdependencies are clearly understood within West Yorkshire OPCC and West Yorkshire Police due to the shared nature of the current back office provision.

## 6. Decision Points Prior to Transfer

- 6.1 There are a number of decision points on the journey to the transfer that are out of the control of both the West Yorkshire PCC and the West Yorkshire Combined Authority and the key ones are noted below:
- Secretary of State for the Ministry for Housing, Communities and Local Government (MHCLG) approves the governance scheme and agrees to lay a draft parliamentary order
  - Constituent councils approve draft order
  - Order laid in parliament
  - Order passed in parliament
- 6.2 Clearly a West Yorkshire Mayoral election has to take place for this to happen.
- 6.3 A copy of the draft legal order was provided to the OPCC in late October with a short turnaround. It was not possible to give an affirmative response in the timeframe provided so the following questions have been posed to the Home Office and we await a response:
- What learning over the last three years has been reflected from the Greater Manchester experience in the order as it appears to be very similar to their original Statutory Instrument.
  - What has been included from the areas discussed to be reflected in the Order from the Transition Working Group that Home Office Colleagues have attended?
  - What has been reflected in the order to cover some of the key points we have discussed regarding NPAS?
  - Do the current borrowing powers that the PCC has continue?

## 7. Communications

- 7.1 An OPCC focussed communications plan has been drawn up by the Head of Communications with input from engagement and commissioning staff and will officially launch following the next Transition Working Group.
- 7.2 There is a standing agenda item for the fortnightly staff meeting where the Treasurer provides an update in relation to devolution and a standing agenda item on the weekly Executive meetings.
- 7.3 A presentation was given to staff in July and August shown at **Appendix D**
- 7.4 WYCA Directors presented to the OPCC staff on the 6th and 8th of October to give staff background specifically on WYCA. TUPE processes cannot commence until the Order has been laid in parliament and therefore no formal engagement will take place until January.

## **8. Conclusion**

- 8.1 In summary significant work has been undertaken within West Yorkshire OPCC and West Yorkshire Police in relation to the PCC Functions Transfer to a Mayoral Combined Authority, however there are significant resource constraints that need addressing in order for this to happen and these will continue to be raised with both the Home Office and WYCA.
- 8.2 The governance model determined by the Home Office substantially replicates that of Greater Manchester and it's anticipated that further similar transition models will come forward after the 2021 elections.