

**JOINT INDEPENDENT AUDIT AND ETHICS COMMITTEE**

**19 March 2021**

**REPORT OF CHIEF OF STAFF**

**WEST YORKSHIRE DEVOLUTION UPDATE**

**PURPOSE OF REPORT**

1. To provide an update to the Committee of work towards the planned transfer of PCC duties to an elected mayor on 10 May 2021 and on the future arrangements for the Independent Audit Committee.

**KEY INFORMATION**

**Background**

2. On 11 March 2020 West Yorkshire Leaders and the Government signed a devolution deal for West Yorkshire which was considered by Parliament and approved on 29 January 2021. Part of the deal will see the election of a Mayor on 6 May 2021 and transfer of the Police and Crime Commissioner (PCC) duties to the Mayor with effect from 10 May 2021.
3. The Mayor may appoint a Deputy Mayor for Policing and Crime and staff in the Office of Police and Crime Commissioner (OPCC) will transfer under a TUPE arrangement to the employment of West Yorkshire Mayoral Combined Authority on 10 May 2021.
4. The Mayor will become the Chair of the Mayoral Combined Authority but the PCC functions will be the sole responsibility of the Mayor, including decision making in respect of:
  - Properties, rights and liabilities
  - Appointments
  - Borrowing
  - Contracts

although the Mayoral Combined Authority will be the legal entity for the transfer of the above.

**Work towards the transfer of PCC functions**

6. A programme of collaborative work between the Combined Authority, the OPCC and West Yorkshire Police was established in July 2020 which includes the following workstreams:

- Communications
  - Staffing
  - Finance
  - ICT and Information Governance
  - Governance, Decision-Making and Land/Assets/Rights
  - Procurement and Contract Management
  - NPAS
  - Business Continuity
7. The work programme is managed by a Programme Board with a dedicated Programme Manager and strategic oversight is maintained by a Transition Working Group attended by senior officers from the Combined Authority, West Yorkshire Police, the OPCC, the Home Office and the Association of Police and Crime Commissioners.

### **Independent Audit Committee Arrangements**

8. The Joint Independent Audit and Ethics Committee (JIAEC) was established in accordance with the Financial Management Code of Practice (FMCP), guidance issued by the Home Office, which specifies that the PCC and Chief Constable should establish an independent audit committee and it is recommended that this is a combined body which will consider the internal and external audit reports of both the PCC and Chief Constable. In November 2012, the West Yorkshire PCC approved the establishment of the Independent Joint Committee with membership appointed from the then Police Authority & Standards Committee. The Statement of Purpose of the Committee provides that it will, “ Provide independent assurance on the adequacy of the risk management framework and the associated control environment, independent scrutiny of processes in order to get reassurances regarding the organisations financial and non-financial performance to the extent that it affects exposure to risk and weakens the control environment, and to oversee the financial reporting process”.
9. Following a review of the operation of the Committee in April 2016, the PCC approved the establishment of a Joint Independent Audit and Ethics Committee. The Ethics element of the Committee was put in place to assist the Monitoring Officer to discharge their statutory responsibilities under s5 of the Local Government and Housing Act 1989, as amended by the Police Reform and Social Responsibility Act 2011. The Statement of Purpose of this element of the Committee is, “to provide independent assurance to the PCC and Chief Constable that ethics and integrity are embedded within West Yorkshire Police and the Office of the Police and Crime Commissioner and to scrutinise the ethical governance and complaints arrangements in order to ensure that issues are being handled expeditiously and following due process”.

10. There is synergy with the role performed by the Joint Independent Audit Committee and the Governance and Audit Committee of the Combined Authority so it is proposed that the Terms of Reference of both Committees are revised to enable an annual report to be considered and approved in terms of the accounts and audit function undertaken on behalf of the PCC element of the Mayor's accounts and the Chief Constable and that consideration is also given to the ethical issues that need to be raised of relevance to the Combined Authority. Otherwise, it is proposed that the status quo of each Committee is maintained until the operational implications of the Order are fully understood, at that point it is proposed that a joint review is undertaken to assess the most efficient and effective arrangements for the statutory performance of each Committee going forward.

### **Approval of Accounts**

11. The Combined Authority has an established Governance and Audit Committee appointed in accordance with Schedule 5A of the Local Democracy, Economic Development and Construction Act 2009. The Committee is responsible for overseeing the effective operation of the systems of governance, risk management, internal control (including internal audit) and treasury management and has the responsibility for approving the annual accounts of the Combined Authority.
12. The West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021 specifies that after the transfer made by the Order the Combined Authority, in respect of the Police and Crime Commissioner's accounts, and the Chief Constable are required to prepare a statement of accounts for the period 1st April 2020 to 9th May 2021. It should be noted that the Chief Constable is a 'corporation sole' and produces annual accounts therefore in their own right, and these are then consolidated into group accounts with those of the PCC
13. Under the current delegated authority arrangements as set out in the Constitution, the Combined Authority has delegated approval of the statement of accounts to the Governance and Audit Committee. It is proposed that this arrangement will continue and that the Governance and Audit Committee will approve the accounts of the Mayoral Combined Authority (separating the accounts of the Mayor in relation to the PCC functions) and the Chief Constable. This recognises that the Chief Constable is a 'corporate sole' in their own right.
14. The effect of this is that the accounts for West Yorkshire Police, for which the Chief Constable is a separate legal entity, will be approved and audited separately and will, from 2021/22, then be incorporated into the Mayoral Combined Authority accounts to produce a Consolidated Group account which is approved through the usual delegated route in the Combined Authority. The Mayoral Combined Authority accounts must show the Police Fund (the PCC and the Police) separately.

15. Presently, the Joint Independent Audit and Ethics Committee makes a recommendation to the PCC and Chief Constable after considering the draft statements of account. JIAEC will continue to consider the draft accounts for West Yorkshire Police and make a recommendation to the Chief Constable who will sign off the accounts for the Police. JIAEC will also provide an annual report to the Combined Authority's Governance and Audit Committee for them to consider as part of their process of considering and approving the consolidated Combined Authority accounts (para 10 above).

### **Internal Audit Arrangements**

16. In terms of internal audit arrangements, all relevant authorities must have regard to regulation 6 of the Accounts and Audit Regulations 2015. This regulation states that, "A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards and guidance." The standard referred to is the Public Sector Internal Audit Standards (PSIAS) issued by the Chartered Institute of Public finance and Accountancy (CIPFA). The guidance is contained in the Financial Management Code of Practice (FMCP) issued by the Home Office, this recommends that the Police and Crime Commissioner and Chief Constable should look to minimise duplication and bureaucracy and to maximise value for money when designing their internal audit arrangements so are recommended to have a shared internal audit service covering both bodies.
17. The Local Audit and Accountability Act 2014, Schedule 2, provides a list of relevant authorities which does include a Combined Authority, Police and Crime Commissioner and Chief Constable but modifications to the Act made by the Order excludes the Police and Crime Commissioner. The implication of this modification is that the Mayor with Policing and Crime functions does not come within the remit of a relevant authority therefore is not a decision maker in relation to the audit (internal and external) function arrangements.
18. A recent review of the internal audit arrangements provided to the Police and Crime Commissioner (PCC) and West Yorkshire Police (WYP), which was instigated as part of the workforce workstream associated with the Mayoral Combined Authority (MCA) Ready Programme, considered whether the Internal Audit Team which was employed at that time by the PCC but providing a shared service arrangement to both bodies should transfer to the Combined Authority. It was noted that significantly more internal audit work was carried out for WYP than the PCC so on this basis it would not be appropriate at this stage for the Internal Audit Team to come within scope to transfer. Recognising the balance of work that was provided by the Internal Audit Team, the staff transferred to WYP on 1st January 2021. It is

envisaged that a Service Level Agreement will be entered into with WYP for the internal audit work to be undertaken in relation to the Mayor's PCC functions.

### **External Audit Arrangements**

19. In terms of external audit, the FMCP provides guidance on the appointment of external auditors. Under the Local Audit and Accountability Act 2014, a relevant authority may appoint their own auditor taking advice from an auditor panel or may opt into the national auditor appointment arrangements managed by the Public Sector Audit Appointments (PSAA). Schedule 3, section 2(2) of the 2014 Act states that, "the chief constable must not appoint a local auditor to audit the accounts", section 2(3) further states that, "the accounts (of the chief constable) must be audited by the local auditor appointed by the police and crime commissioner for the area to audit the commissioners accounts for the financial year". Whilst the position is not as clear as it could be at the point the Mayor takes office, the legislation which is also supported by the FMCP indicates that the Chief Constable's accounts must be audited by the Combined Authority's external auditors. Agreement has been reached to appoint the same external auditor for both WYP and the Combined Authority.
20. The proposed revisions to the Joint Independent Audit Committee's terms of reference are attached as appendix A.

### **RECOMMENDATIONS**

**That members note the content of the report and approve the revised terms of reference for the Independent Audit Committee.**

Julie Reid  
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Office of the Police and Crime Commissioner