

APPENDIX A

The Governance and Transformation Committee Outcomes Report

1. Introduction

This report sets out the proposals for the advisory role and scope of the Mayoral Fire Committee (MFC) within the proposed West Midlands Combined Authority (WMCA) governance arrangements for West Midlands Fire Service (the Service) and how they were developed. In forming these proposals, the West Midlands Fire Authority's (the Authority) Governance and Transformation Committee (G&T Committee) and the Service engaged with WMCA officers and the Chairs of both the WMCA's and Authority's Audit and Scrutiny committees.

The MFC (originally referred to as the Mayoral Fire Advisory Committee) was proposed during the early development stage of the future Mayoral governance arrangements for the Service. The role of the MFC has been refined as the governance documents progressed through consultation and approval stages with all seven local authorities and the WMCA Board.

2. Executive Summary

A Future Governance Working Group was commissioned by the Authority in 2016 to identify possible future governance options for the Service in response to the Government's vision for blue light services. The working group identified a Mayoral WMCA structure as providing one of the most efficient and effective governance options and as providing the most benefits and opportunities for the Service.

A governance review and scheme were developed, proposing a Mayoral Fire Committee (MFC) within the governance structure. The scope, remit and composition for the MFC was refined following consultation with the local authorities and emerged as a key ask locally.

The Authority established the G&T Committee in June 2018, with the purpose of developing proposals for the role of the MFC in line with the draft statutory Order.

Proposals for the role of the Mayoral Fire Committee:

The following elements guided the G&T Committee in identifying the role and remit of the MFC aligned to the Order and to develop the recommendations:

- MFC will be an advisory body and will not be an executive decision-making Committee. Any voting undertaken by MFC will relate to MFC business only.

- Existing WMCA governance arrangements and the responsibilities of existing committees
- Where 'gaps' were identified, that is where provision currently does not exist within WMCA governance arrangements, a recommendation has been provided
- The position of the Chairs of the following committees:
 - the Authority's O&S committee,
 - the Authority's Audit & Risk committee,
 - WMCA Overview & Scrutiny (WMCA O&S), and
 - the WMCA Audit Risk and Assurance Committee (WMCA ARAC).

The following proposals for the role of MFC were agreed by the G&T committee:

2.1 Section 41 Leadership Principle

MFC will maintain the 'leadership principle' for local authorities, aligned to the principle of the section 41 member role as set out in the *Local Government Act 1985*.

2.2 Local, Regional and National Representation for the Service

To provide local, regional and national representation for the Service on behalf of the Mayor. This would be a role delegated by the Mayor to MFC members, who would represent the Mayor's position. Voting on outside bodies such as the LGA and NJC will be on behalf of the Mayor.

2.3 A Briefing Planning Forum

An MFC Briefing to be included as a standard agenda item which provides:

- Review of fire performance aligned to authority leadership role
- Feedback from members aligned to local authority 'leadership' role
- Areas of consultation with Mayor, subject to roles delegated by the Mayor.

2.4 Audit and Risk - to be provided by the WMCA ARAC

Members of MFC to be co-opted onto a WMCA ARAC Sub Committee for Fire:

- To provide fire related advice and knowledge.
- Will not have voting rights (Voting rights cannot be provided to co-opted members of a committee - *Local and Government and Housing Act 1989, section 13.*)

The composition of the committee is to be determined.

2.5 Scrutiny – to be provided by the WMCA O&S committee.

Members of MFC to be co-opted onto a WMCA O&S Sub Committee for Fire:

- To provide fire related advice and knowledge.
- Will not have voting rights.

The composition of the committee is to be determined.

2.6 Fire Fighter Pension Appeals

As this role is not provided for within current WMCA arrangements, it was proposed that a standalone Fire Fighter Pensions Appeals Panel is established, to convene when required. It is proposed the panel is composed of the membership from within the WMCA ARAC sub-committee. The Panel must not include members from the Scheme manager role.

2.7 Appointment and dismissal of CFO

Should the Mayor elect to compose a panel to support this activity, it was proposed that MFC would be represented on the panel and / or provide some input to the Mayor.

2.8 Joint Consultative Panel (JCP)

The role of the JCP be undertaken by the MFC with JCP as a standard agenda item for MFC meetings. This proposal is subject to further review of the Employee Relations Framework (ERF) aligned to the transfer and agreement of the representative bodies.

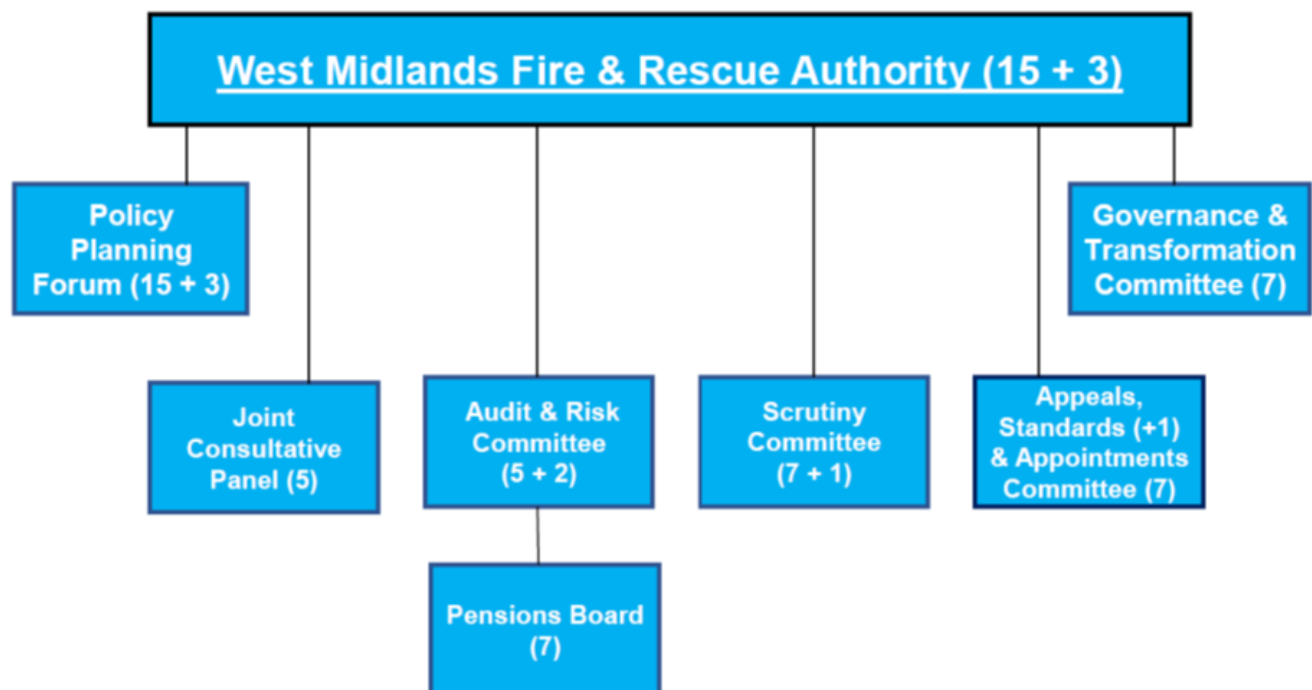
2.9 Constitution of MFC

It was proposed that current members of the Authority carry out the role of the MFC for an interim period from transfer up until the MFC is constituted to ensure smooth transfer and implementation of governance. This would be viable as the current composition of the Authority reflects requirements in the Order for the MFC, that is: 15 elected members, the West Midlands Police and Crime Commissioner (PCC) and 2 co-opted members.

3. West Midlands Fire Authority governance structure and committees

The Authority was reformed in June 2018, where membership was reduced from 27 members to 18 members. The current composition of the Authority is 15 elected members representing the seven West Midlands local authorities, the PCC and two co-opted members; a member from Health and a member from a West Midlands Local Enterprise Partnership.

The following diagram illustrates the Authority's current governance structure and size of each committee:



In accordance with the draft Order all functions of the Authority will be transferred to the WMCA and will be exercised by the Mayor, in the new governance arrangements. Sections 8 and 9 below demonstrate how these functions will be provided for in the new arrangements.

4. **The Governance and Transformation Committee**

The G&T committee was constituted on 25 June 2018 at the Authority's annual general meeting. The committee consists of the following seven members:

Cllr Adam Aston (Chair)

Cllr David Barrie

Cllr Greg Brackenridge

Cllr John Edwards

Cllr Peter Hogarth

Cllr Seamus Walsh

Cllr Ann Young

There have been three meetings held to date:

8 October

12 November

10 December

The role of the G&T committee is to develop and define proposals for the role of the future MFC within the WMCA governance framework, in line with the statutory Order approved by the WMCA Board in September 2018. The proposals of the G&T committee are also aligned to the scope and remit of the MFC as approved by all seven local authorities, as detailed in the governance review and Scheme. Section 8 and 9 detail the work carried out by the G&T committee and the proposals that were developed.

5. **Development of the role of the Mayoral Fire Committee**

The MFC as set out in the governance review and Scheme

A governance review (see appendix A) conducted early in this governance journey detailed the proposed scope of the MFC within the Mayoral WMCA governance framework.

The governance review detailed the current role of the Authority and the proposed role of the future MFC. Originally it was proposed the role would include advising the Mayor as well as providing a review function, however, the latter was removed following consultation with the seven local authorities and the WMCA Board (see section 6).

The Authority identified the need to maintain the role of representation within the MFC to support the contribution of the Service on external bodies and in doing so would support the Mayor's new role. Aligned to this is the legislated Section 41 leadership principle, where members would provide a crucial link with all seven local authorities for Fire.

Other roles of the MFC included engaging with and influencing government policy on behalf of the Mayor and enabling the development of collaboration, partnerships and services to the community through engagement with local authorities, emergency services and others.

The committee would not be a decision making committee, therefore all decision making functions of the Authority would transfer to and be provided through WMCA governance arrangements.

A scheme was then developed in collaboration with the legal departments of all seven local authorities and the WMCA.

The governance review and the Scheme were presented to all seven local authorities for consultation and agreement from October to November 2017. The outcomes of the consultation with regards to the role of the MFC is provided below in section 6. Both documents were then approved by the WMCA Board in December 2017 and consent was provided to conduct a formal public consultation of the Scheme.

6. Refinement of the Scheme Following Consultation with Local Authorities

It is a statutory requirement of this transfer of governance to the WMCA to consult with and secure the approval of all seven West Midlands local authorities. The governance review and scheme were presented at all seven local authority Cabinet and/or Council meetings between October and December 2017. The following outcomes were agreed in relation to the MFC:

- that text should be inserted to ensure 'a minimum of 15 members' would compose the MFC, to provide satisfactory representation of all seven local authorities.
- that the Chair of the MFC should be appointed by the Mayor in consultation with the seven all seven local authority Leaders.

Following discussions in relation to the functions of the MFC it was agreed by WMCA Board in December 2017 and the 25 May 2018 that the function of reviewing decisions made by the Mayor of the WMCA in relation to Fire, should sit with the WMCA O&S Committee. The Chair of the WMCA O&S committee brought to the attention of the Board that the function of advice and review should not be carried out by the same body and would present a conflict of interest. This was subsequently made clear in the letter of submission to the Home Office and was reflected in the report to the Authority on 17th September 2018.

The revised Scheme can be found in Appendix B.

7. **Home Office Response to the Submission**

Following submission of the papers to the Home Secretary, the Home Office responded to the key asks of the local authorities and WMCA Board. Their response with regards to the MFC was as follows:

- The MFC should be composed of no more than 18 members (originally submitted as a 'minimum' of 18); comprising of 15 elected members, the PCC of the West Midlands and two co-opted members.

The response and suggested revisions to the scheme made by the Home Office were agreed by all seven local authorities in September 2018.

The changes were subsequently reflected in the prepared draft Order, the sections applying to the MFC in the draft Order can be found in appendix C.

8. **Gap Analysis**

A review of both the WMCA's and the Authority's constitutions was undertaken to identify where the current roles of the Authority could be provided within existing WMCA arrangements. The following governance 'gaps' were identified in the WMCA structure, for these, new mechanisms would be needed to provide these governance requirements for the Service:

- Appeals Panel for firefighter pensions
- Concluding the Governance and Transformation remit where required
- Joint Consultative Panel (JCP) as part of the Service's ERF
- Pensions Scheme Manager role
- Policy Planning Forum (All member communication and consultation forum)

- Performance Reporting – CFO

The provision for these roles is detailed in section 9 below.

9. **Developing the Proposals**

Workshop sessions were held on 12 November 2018 and on 10 December 2018 to develop the proposals for the role of the MFC. During the 12 November workshop, the key roles and responsibilities including scope and remit of the MFC were determined from the draft Order to understand the implications of these within the new governance structure. The governance gaps highlighted in section 8 were also presented to members and discussed, with agreement to further explore and develop proposals for the MFC based on discussions with the WMCA and legal advice. Agreement of a timeline for this work was also provided. During the workshop held on 10 December, the outcomes of the November workshop were developed as requested by members and tabled for further discussion and scrutiny. Officers from the WMCA were also in attendance at the workshop sessions.

The following recommendations for the MFC were agreed by the G&T committee, these require the approval of the WMCA Board, subject to the laying of the Order:

The **section 41 leadership principle** for local authorities as set out in the *Local Government Act 1985*, was considered valuable in providing the seven local authorities and communities with a link to ongoing fire performance and would also be aligned to supporting WMCA O&S in understanding the community impact of the services provided. It was agreed that this role should be performed by the MFC.

The current Authority structure includes a **policy planning forum**, at which members are provided with updates of Service performance and upcoming areas for discussion. It was agreed that a briefing forum should be provided in some form to ensure members are kept informed of Fire developments. This would support members to perform this role aligned to the section 41 principle. It was agreed that this briefing forum would feature as a standard agenda briefing item at MFC meetings to provide:

- Review of fire performance aligned to authority leadership role
- Feedback from members aligned to local authority 'leadership' role
- Areas of consultation with the Mayor, subject to the roles delegated to the MFC by the Mayor.

It was agreed that the MFC should carry out **local, regional and national representation for the Service** on behalf of the Mayor, this is aligned to the proposals in the governance review referenced in section 4 above. External bodies at which representation would be possible would include: the Local Government Association – Fire Services Management Committee, the Fire Commission, National Joint Council and others. Members of the MFC would work with the Mayor to represent and support the Mayor's position on these platforms. Bodies such as these exercise voting rights and though the MFC is not a decision making committee, in this representation role members would be able to cast a vote on behalf of the Mayor.

As a non-decision making committee, it was agreed that members of the MFC could support WMCA ARAC as co-optees on a sub-committee for Fire. The role of MFC members will be to share political experience with regards to the exercise of audit and risk of the Mayor's decisions for Fire. This option was supported by the Chair of the WMCA ARAC following discussions held with the Chair of the Authority's Audit committee, and following discussions at the WMCA ARAC committee's meeting held 12 November 2018. MFC members will not exercise voting rights on this sub-committee, as the *Local Government and Housing Act 1989, section 13* does not provide for co-opted members of a committee to have voting rights.

Though the MFC have not been provided the role of review functions in the statutory Order, it was agreed that the MFC could support the exercise of overview and scrutiny for Fire within the WMCA. Similar to Audit and risk, it was agreed that members of the MFC would support the exercise of O&S functions as co-opted members of a Fire sub-committee of the WMCA O&S, by providing fire related advice and knowledge. As with the WMCA ARAC sub-committee, MFC co-opted members will not be able to exercise voting rights on the WMCA O&S sub-committee.

Consideration was also given to utilising a WMCA O&S work stream or Task and Finish Group for Fire for an interim period until a sub-committee for Fire is constituted.

The role of the **Fire Fighter Pensions' Appeals Panel**, cannot be performed by the MFC as this role requires decision making powers. It was therefore agreed that a stand alone Fire Fighter Pensions Appeals Panel should be established to convene as and when required. The panel would be composed of membership from within the WMCA ARAC sub-committee. This would provide the most effective and efficient hearing of appeals, with minimal governance layers. The current panel conducted a total of three hearings in the last three years.

It was agreed that the role of **standards** currently carried out by the Authority's Appeals, Standards & Appointments committee, falls within the remit of and will therefore be provided by the WMCA ARAC.

In the draft Order, the **appointment and dismissal of the CFO** is an excluded function of the Mayor and would require alignment to Gold Book terms and conditions for CFOs. Should the Mayor elect to compose a panel to support this activity it was proposed that MFC would be represented on the panel.

It was agreed that the **Pensions Scheme Manager** role should be carried out by WMCA ARAC on behalf of WMCA, as this role must be undertaken by the employer. Members of the Pension Scheme Manager, must not undertake a role on the Fire Fighter Pensions Appeals Panel.

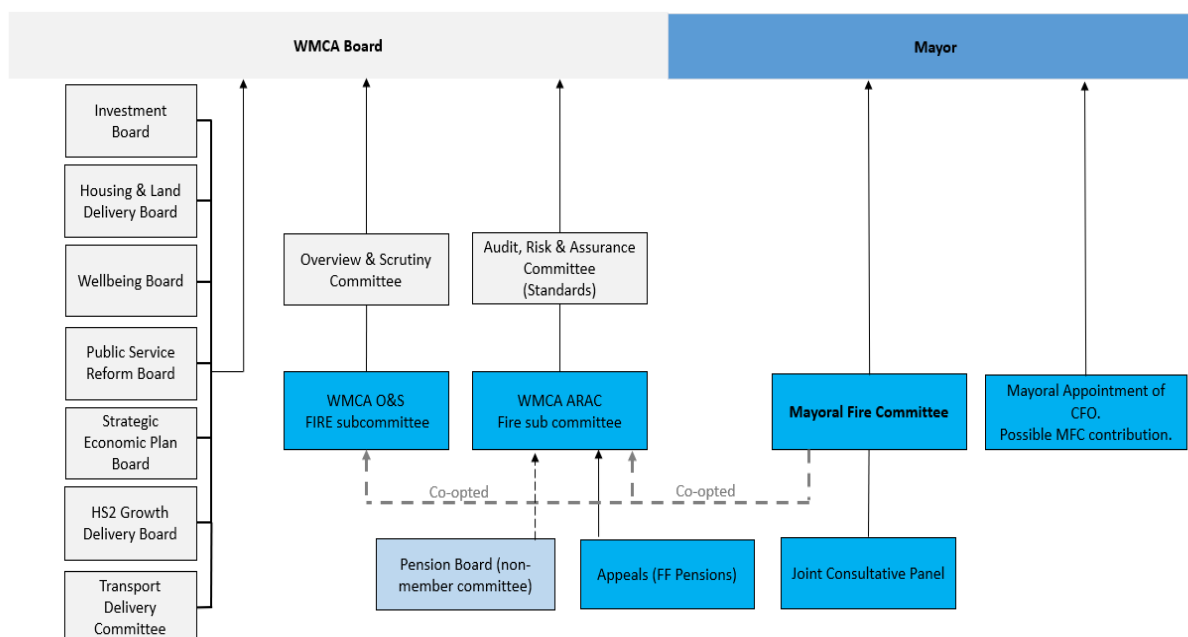
The terms of reference currently for the **Joint Consultative Panel (JCP)** states that the 'employer' forms membership of the panel, under new arrangements the employer of all Service's staff will be the WMCA. The JCP comprises of elected members of the Authority and recognised elected officials of the trade unions, and is not a decision making committee. The panel establishes regular methods of consultation between the Authority, management and its employees as part of the Service's ERF to consider and make recommendations to the Authority or the CFO as appropriate on:

- any problems which may arise,
- any relevant matter referred to it by the Service or by the relevant employee organisation,
- the application of the terms and conditions of service for employees,
- matters referred to it by the JCP (comprised of the Service's officers and Union representatives), including failure to consult and failure to agree as defined in the constitution of the Joint Consultative Committee.

The G&T committee propose that the role of the JCP is undertaken by the MFC, with JCP featuring as a standard agenda item for MFC meetings. This proposal is subject to further review of the ERF aligned to the transfer or governance and agreement of trade unions. This proposal will therefore be subject to agreement of all locally recognised trade unions, as the JCP is a construct within the Service's locally agreed ERF.

To ensure smooth transfer of the service and the new governance arrangements, it was proposed that current members of the Authority carry out the role of the MFC for an interim period from transfer up until the MFC is constituted. This would be viable as the composition of the current Authority satisfies the requirements of the draft Order for the composition of the MFC. Members also proposed the G&T Committee is maintained for an interim period as an agenda item on MFC to embed the role of MFC.

10. WMCA Governance structure with the addition of the Fire Function



Appendix A: Governance Review – sections relating to MFC only

10.1 To enable leadership for the WMFS and Mayoral priorities across each of the seven local councils of the WMCA. It is proposed that through the Committee arrangements the philosophy of collective representation across all seven constituent councils remain and that the Committee reflects the membership and balance derived from the approved arrangements for the WMFRA. This will enable proportionality across each of the constituent councils, as well as enabling continuity and equitable spread in roles and responsibilities. It is proposed that lead members will represent the priorities and strategy of the Mayor and the WMFS in their respective constituent authority and will report on performance in relation to fire functions. Committee members will also support their local community fire stations in engaging with the community through providing a link into respective constituent councils.

10.2 Composition - It is proposed the committee appointed should consist of a minimum of 15 elected members [amended to a maximum of 15 elected members in the draft Oder by the Home Office] from the WMCA constituent councils, the PCC (in accordance with the Policing and Crime Act 2017 - PACA 2017) and three further co-opted members from health, WMAS and the WMCA to promote greater challenge, transparency and further collaboration.

Existing political balance will be applied to the Committee.

The Chair of the committee will be appointed by the Mayor in consultation with constituent authority leaders. It is recognised within this proposed model that the Mayor will gain greater accountabilities and this will need to be balanced effectively with both existing and future roles and responsibilities. It is proposed that the Committee members will support the Mayor in providing advice around fire related issues and exercising fire functions to ensure the right level of detail and understanding is provided to inform the Mayor's role as the Authority.

- 10.3 Keep under review decisions made by the Mayor It is proposed that the role of reviewing decisions made by the Mayor is delegated to the Committee. Such reviews will be aligned to the National Framework for the Fire and Rescue Service and through prepared reports, will inform the WMCA about decisions made in relation to the exercising of fire and rescue functions. This will enable a retention and continuation of knowledge and expertise in relation to fire at the outset of transferring the role of fire into the WMCA. The Committee will review decisions made by the Mayor. The proposed role of the Committee would be to report back to the WMCA on decisions made. The Committee will not be a decision-making committee this responsibility will remain with the Mayor and Chief Fire Officer (CFO), as appropriate.
- 10.4 Act as the 'voice' of the fire service within the seven constituent councils, regionally with other FRSs, and nationally through the National Joint Council and Local Government Association. The Committee will support the Mayor by continuing with the strategic engagements cited in paragraph 1 [of the governance review see appendix B] thereby adding value to and influencing local, regional and national engagements through its sector expertise.
- 10.5 Engage with and influence government policy on behalf of the Mayor in matters such as the impact of CSR on the ability to provide continuity of services to the West Midlands communities. Working regionally and nationally with the Fire Sector to engage with and influence issues such as flooding, funding, and so on. The Committee will continue to be a key resource in enabling a wider awareness of the challenges faced locally both from a fire-fighting and community perspective. It will continue to represent the Service through bodies such as those listed in paragraph 1.
- 10.6 Enable the development of collaboration, partnerships and services to the community through engagement with constituent councils, emergency services and beyond, thereby fulfilling the requirements of the duty to collaborate. The Committee will provide the support required to fulfil the legislative obligations prescribed by the PACA 2017.

The full document can be found here:

<https://www.wmca.org.uk/media/1989/governance-review-final-1.pdf>

APPENDIX B

The Scheme - sections relating to MFC only

Full revised scheme document can be found at the end of this report:
<https://governance.wmca.org.uk/documents/s2072/Report.pdf>

- 1.11 It is proposed that the Order should contain provision for the Mayor to arrange for a committee of the WMCA (the Mayoral Fire Advisory Committee), consisting of members appointed by the constituent councils, to advise and support the Mayor in relation to West Midlands Fire Service (WMFS).
- 1.12 It is proposed the committee appointed should consist of 15 Elected members from across the constituent councils, proportionally balanced, the Police and Crime Commissioner (in accordance with the Policing and Crime Act 2017) and two further co-opted members from Health and Ambulance to promote greater challenge, transparency and further collaboration.
- 1.13 The following additional provisions are proposed to apply to the Mayoral Fire Advisory Committee (the Committee): (section 107D(6))

Governance:

- Appointment of elected members from each of the constituent councils will be made so that the members of the committee taken as a whole, reflect as far as reasonably practicable, the overall balance of political parties prevailing amongst the constituent councils.
- The majority of members of the committee must be members of the constituent councils, all of those members have one vote.
- Where a member is not from a constituent council (a co-opted member) they don't have a vote.
- Two-thirds of members must be present for a meeting to be quorate.
- The Chair of the Committee will be appointed by the Mayor

Functions:

- The Committee will not be a decision-making committee this responsibility will remain with the Mayor and Chief Fire Officer, as appropriate.
- The Committee will advise the Mayor, support the Mayor and review decisions made by the Mayor.

- Where decisions are reviewed, the Committee will submit a report to the WMCA Overview and Scrutiny Committee.
- The Committee will support the Mayor in providing advice around exercising fire functions, to ensure the right level of detail and understanding is provided to inform the Mayors role as the Authority.
- The Committee will represent the priorities and strategy of the Mayor and WMFS in their respective local authorities and will report on performance in relation to fire functions.
- The Committee will represent the priorities and strategy of the Mayor and WMFS within the 7 constituent councils, regionally with other Fire and Rescue Services, nationally through the National Joint Council and Local Government Association.
- The Committee will seek to influence the Government on behalf of the Mayor in matters related to the delivery of fire and rescue services locally, regionally and nationally.
- The Committee will enable the development of partnerships and services to the community through constituent council engagement.

A member's allowance scheme for the committee will be payable by the WMCA.

The full document can be found here:

<https://governance.wmca.org.uk/documents/s1029/Report.pdf>

APPENDIX C

The Order - sections relating to MFC only

The Mayoral Fire Committee

- 5(1) The Mayoral Fire Committee (“the Committee”) must consist of no more than 18 members, appointed by the Mayor as follows—
- (a) no more than 15 members on the nomination of the constituent councils, provided that—
 - (i) each member must be nominated by a constituent council from one of that council’s elected members,
 - (ii) at least one member must be appointed on the nomination of each of the constituent councils,
 - (iii) the Mayor and the constituent councils must, when appointing or nominating members, ensure so far as is reasonably practicable that the number of members appointed on the nomination of each constituent council is proportionate to the number of electors of each of the constituent councils, and
 - (iv) where the Mayor decides not to appoint a person who has been nominated by a constituent council—
 - (aa) the Mayor must notify that constituent council, giving reasons, and
 - (bb) that constituent council may nominate a further person from that council’s elected members who must be appointed by the Mayor,
 - (b) the police and crime commissioner in relation to the Area,
 - (c) two co-opted members to be determined by the Mayor in consultation with the chair of the Committee.
 - (2) The Mayor and the constituent councils must, when appointing or nominating members in accordance with paragraph (1)(a), ensure that the members taken as a whole reflect so far as reasonably practicable the balance of the political parties for the time being prevailing among the constituent councils when taken together.
 - (3) The Mayor must ensure that the majority of the members are members appointed in accordance with paragraph (1)(a).

- (4) The Mayor must, after consultation with the leaders of the constituent councils, appoint one of the members of the Committee to serve as chair of the Committee.
- (5) On a vote at a meeting of the Committee, each member appointed under paragraph (1)(a) or (b) has one vote.
- (6) The WMCA may pay allowances to members of the Committee in accordance with its scheme of allowances.
- (7) A member of the Committee appointed in accordance with paragraph (1)(a) ceases to be a member if they cease to be an elected member of the relevant constituent council.
- (8) A member may resign by written notice served on the proper officer of the constituent council of which they were a member of at the time of their appointment to the Committee and the resignation is to take effect on receipt of the notice by the proper officer.
- (9) The Mayor may at any time terminate the appointment of a member where they have not attended scheduled meetings of the Committee throughout a period of six consecutive months from the date of that member's last attendance.
- (10) Where a person appointed in accordance with paragraph (1)(a) ceases to be a member by virtue of paragraph (7), (8) or (9), the constituent council that nominated that member must, as soon as practicable, give written notice to the Mayor and nominate another person from that council's elected members.
- (11) Where a person appointed in accordance with paragraph (1)(b) or (c) ceases to be a member, the Mayor must appoint another person to be a member in accordance with paragraph (1)(b) or (c) (as the case may be).

The full document can be found here:

<https://governance.wmca.org.uk/documents/s2058/Appendix.pdf>