

## **GMCA AUDIT COMMITTEE**

**DATE:** 19 October 2022

**SUBJECT:** Joint Audit Panel – Police and Crime

**REPORT OF:** Gillian Duckworth, GMCA Monitoring Officer and Steve Wilson,  
GMCA Treasurer

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### **PURPOSE OF REPORT**

To set out the legislative and constitutional framework in relation to the Audit Committee and the Joint Audit Panel – Police and Crime.

### **RECOMMENDATIONS:**

Members are requested to:

1. Note the report.
2. Recommend that the GMCA adopt an amendment to the Audit Committee's Terms of Reference as follows:

Receive the annual report of the Chair of the Joint Audit Panel – Police and Crime and the minutes of meetings of the Panel as, amongst other things, a means of providing assurance with regard to GMP's internal control environment and risk management framework for the management of operational risk.

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## BACKGROUND DOCUMENTS

GMCA Constitution

Equalities Implications – none arising directly out of this report

Climate Change Impact Assessment and Mitigation Measures - none arising directly out of this report

Risk Management – none arising directly out of this report

Legal Considerations – the report sets out the legal implications for the Audit Committee in relation to the work of the Joint Audit Panel

Financial Consequences – none arising directly out of this report

Financial Consequences – none arising directly out of this report

Number of attachments included in the report: none

<b>TRACKING/PROCESS</b>		
Does this report relate to a major strategic decision, as set out in the GMCA Constitution		<del>Yes</del> / No
<b>EXEMPTION FROM CALL IN</b>		
Are there any aspects in this report which means it should be considered to be exempt from call in by the relevant Scrutiny Committee on the grounds of urgency?		No
TfGMC	Overview & Scrutiny Committee	
N/A	N/A	

## **1. INTRODUCTION**

- 1.1. This report sets out the legislative and constitutional framework in respect of GMCA audit governance, with particular reference to police and crime functions (PCC functions).

## **2. COMBINED AUTHORITY LEGISLATION**

- 2.1. It is a requirement of the Local Democracy Economic Development and Construction Act 2009 (LDEDC Act 2009) that GMCA establishes an Audit Committee.

- 2.2. Schedule 5A to LDEDC Act 2009 provides that the functions of the audit committee are to include—

- a) reviewing and scrutinising the authority's financial affairs,
- b) reviewing and assessing the authority's risk management, internal control and corporate governance arrangements,
- c) reviewing and assessing the economy, efficiency and effectiveness with which resources have been used in discharging the authority's functions, and
- d) making reports and recommendations to the combined authority in relation to reviews conducted under paragraphs (a), (b) and (c).

- 2.3. Greater Manchester finds itself in a relatively unique situation. Police and Crime Commissioners are legal entities known as a corporation sole, however, in mayoral combined authorities the mayor is not a separate legal entity. Although police and crime commissioner functions are exercisable solely by the mayor, and not the GMCA, the legal rights and liabilities of police and crime commissioner are statutorily vested in the GMCA.

- 2.4. This is confirmed by section 107F(8) of the LDEDC Act 2009 which provides that any PCC function exercisable by the mayor for the area of a combined authority by virtue of the Act is to be taken to be a function of the combined authority exercisable –

- (a) by the mayor acting individually, or
- (b) by a person acting under arrangements with the mayor made in accordance with provision made under Schedule 5C

- 2.5. It follows therefore that PCC functions are functions of the GMCA and within the scope of this committee's audit role.

## **3. POLICING LEGISLATION**

- 3.1. Chief Constables are also established in law as corporations sole within the Police Reform and Social Responsibility Act 2011. Chief Constables are enabled by law to employ staff and hold funds. Chief Constables are charged with the impartial direction and control of all constables and staff within the police force that they lead and are referred to as operationally independent.

- 3.2. The Chief Constable is accountable to the PCC for the delivery of efficient and effective policing, management of resources and expenditure by the police force.
- 3.3. The 2011 Act established PCCs within each force area in England and Wales with the exception of the City of London. The 2011 Act gives PCCs responsibility for the totality of policing within their force area. It further requires them to hold the force Chief Constable to account for the operational delivery of policing. The position is modified in relation to Greater Manchester as set out at paragraph 2.3 above, and it is the Mayor who is responsible for holding the Chief Constable to account.
- 3.4. The 2011 Act also requires the appointment of Police and Crime Panels. The Police and Crime Panel provides checks and balances in relation to the performance of the PCC. The Police and Crime Panel does not scrutinise the Chief Constable, rather it scrutinises the PCC's exercise of their statutory functions.
- 3.5. Section 79 of the Police Reform and Social Responsibility Act 2011 requires the Secretary of State to issue a Policing Protocol (2011), which sets out the ways in which Chief Constables, PCC's and Police and Crime Panels should exercise their functions and prevent the overlapping or conflicting exercise of functions.
- 3.6. The Protocol sets out a section on Financial Responsibilities including a statement that the PCC is ultimately accountable to the public for the management of the police fund. The PCC and Chief Constable share a responsibility to provide effective management of the policing budget and to secure value for money on behalf of the public that they both serve.
- 3.7. The Chief Constable has day to day responsibility for managing their allocated budgets after they have been approved by the PCC. The Chief Constable must ensure that the financial management of their allocated budget remains consistent with the objectives and conditions set by the PCC. The working financial relationship between the PCC and their Chief Constable is set out in the Financial Management Code of Practice issued from time to time by the Home Secretary under statute.
- 3.8. Joint audit committees appear to be established indirectly by way of section 17(4) of the Police Reform and Social Responsibility Act 2011 which states:
- "In carrying out functions, an elected local policing body must have regard to any financial code of practice issued by the Secretary of State"*
- 3.9. An 'elected local policing body' is a police and crime commissioner. For Greater Manchester, the Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 provides that the mayor is to be treated, in relation to the mayor's PCC functions, as a police and crime commissioner for the purposes of all police and crime commissioner enactments.

- 3.10. For the purposes of the 17(4), “financial code of practice” means a code of practice relating to the proper administration by elected local policing bodies of their financial affairs.
- 3.11. The Home Office issued a revised Financial Management Code of Practice (FMCP) in July 2018. The FMCP states that its purpose is to provide clarity around the financial governance arrangements within the police in England and Wales and reflects the fact that the police have a key statutory duty to secure value for money in the use of public funds. It provides high level guidance to help ensure effective and constructive relationships in all financial matters. The FMCP sets the tone while promoting flexibility and avoiding overt prescription so that the detail of arrangements can be worked out locally.
- 3.12. The FMCP contains a section on Audit committees which states that the PCC and the Chief Constable should establish an independent Audit Committee. It is recommended that this be a combined body which will consider the internal and external audit reports of both the PCC and the Chief Constable.
- 3.13. The committee is to advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements in accordance with proper practices. In setting up the Audit Committee, the PCC and the Chief Constable should have regard to the CIPFA Position Statement and supporting guidance on Audit Committees.

Membership: the Audit Committee should comprise between three and five members who must all be independent of the PCC and the force.

Terms of Reference: the Audit Committee should establish formal terms of reference, covering its core functions, which should be formally adopted and reviewed on an annual basis. Best practice principles should be considered in determining the activities of the Audit Committee.

PCC and Chief Constable representation: the executive of the PCC and the Force Command Team should be represented at meetings of the Audit Committee.

- 3.14. The FMCP provides that the principles set out above also apply in respect of the Combined Authority Mayor for Greater Manchester apart from the fact that duties in respect of the (joint) Audit Committee fall to the Combined Authority as body corporate in relation to all of its functions, rather than separately on the Mayor in respect of their PCC functions.

#### **4. GREATER MANCHESTER ARRANGEMENTS**

- 4.1. Accordingly, in Greater Manchester there is a GMCA Audit Committee (which oversees all aspects of GMCA including Mayoral functions, which includes PCC functions) and a Joint Audit Panel (Police and Crime) as required by the FMCP.

4.2. The GMCA Audit Committee is appointed solely by the GMCA. The Joint Audit Panel is appointed by both the Chief Constable and Mayor as envisaged by the FMCP.

4.3. The Audit Committee's terms of reference include express reference to PCC functions where appropriate when describing the remit of the committee – attached at Appendix (1).

4.4. Similarly, the terms of reference for the Joint Audit Panel include a section of accountability arrangements which requires the Panel to:

*"Report to the Audit Committee of the Combined Authority on an annual basis on the work of the committee and any matters relating to accounts and audit functions".*

The Panel's terms of reference are attached in full at Appendix (2).

4.5. There is also some cross referencing between the Committee and the Panel as well as some signposting as to scope. For example, the Audit Committee is expressly tasked with:

- approving under delegated powers the annual statement of accounts for the for GMCA including consolidated figures for Chief Constable of Greater Manchester Police.
- considering reports and assurances from the Head of Audit and Assurance in relation to assurance over the effectiveness of internal audit functions assuring the internal control environments of the Chief Constable.
- considering the Treasurer's arrangements for the maintenance of the Police Fund.

4.6. The terms of reference are also clear at the outset that the committee oversees all aspects of GMCA including mayoral functions (which include PCC functions).

4.7. For the Joint Audit Panel, the terms of reference include the requirement to:

*"Report to the GMCA Audit Committee on Police Fund activity and assurance".*

4.8. Research has not revealed any additional commentary on the interpretation of the role of the joint audit committee (Panel), particularly in relation to force operational risk. Instead, several sets of terms of reference for joint audit committees in typical PCC areas and also in comparable combined authority structures where the Mayor holds PCC functions have been reviewed. Also, several force risk registers have been considered to try and get a better sense of the extent to which the force reports to joint audit committees.

4.9. The approach does not appear to be particularly consistent. It is also difficult to understand whether the term 'force operational risks' is different to or interchangeable with terms such as 'force corporate risk'. With these factors in mind, a summary below of how other local policing bodies have tackled the ambit of the committee in relation to 'risk management' is attached at appendix (3).

## **5. CONCLUSION**

- 5.1. The legislation and guidance are adhered to in the terms of reference for GMCA Audit Committee and the Joint Audit Panel.
- 5.2. Reference to the workings of other similar Authorities has not provided any greater clarity as the auditing of operational risks.
- 5.3. The GMCA is the elected body that the legislation considers should be financially accountable to the public and therefore it is important that the Committee satisfies itself as to the financial performance of the police service, whether that be in its functioning as a PCC or the Chief Constable. In order to ensure tasks are not duplicated the terms of reference of the GMCA Audit Committee should refer to receiving assurance from the Joint Audit panel with regard to GMP's internal control environment and risk management framework for the management of operational risk.

## **6. RECOMMENDATIONS**

- 6.1. To propose an amendment to the Terms of Reference of the GMCA Audit Committee to clarify the relationship between it and the Joint Audit Panel