

West Midlands Fire and Rescue Authority

Audit and Risk Committee

You are summoned to attend the meeting of Audit and Risk Committee to be held on Monday, 07 December 2020 at 12:00

to be held digitally via Microsoft Teams

for the purpose of transacting the following business:

Agenda – Public Session

- | | | |
|----|--|----------------|
| 1 | To receive apologies for absence (if any) | |
| 2 | Declarations of interests | |
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Distribution:

David Barrie - Member, Manjit Gill - Vice Chair, Catherine Miks - Chair, Peter Miller - Member, Sybil Spence - Member

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This meeting of the West Midlands Fire and Rescue Authority will be held digitally via Microsoft Teams. To access the meeting, please contact a member of the Strategic Hub, West Midlands Fire Service, who will be able to provide login details (please note that Microsoft Teams is not required to join a meeting).

Agenda prepared by Stephen Timmington

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This agenda and supporting documents are also available electronically on the West Midlands Fire Service website at www.wmfs.net

Minutes of the Audit and Risk Committee
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26 October 2020 at 10.30hrs

Conducted as an online virtual meeting

Present: Councillor Catherine Miks (Chair), Councillor Gill (Vice Chair) Councillors Barrie, Miller, Spence, Mr Ager, Richard Percival (Grant Thornton) and John Matthews (Sandwell MBC)

Apologies: Mike Griffiths (WMFS) Neil Chamberlain (West Midlands Police and Chair of WMFS Pension Board)

Officers in attendance: Karen Gowreesunker, Paul Gwynn, Kal Shoker, Gary Taylor

27/20 **Declarations of Interest**

There were no declarations of interest registered.

28/20 **Minutes of the Audit and Risk Committee held on 27 July 2020**

Resolved that the minutes of the Audit and Risk Committee held on 27 July 2020 be approved as a correct record of proceedings.

29/20 **Audit and Risk Committee Terms of Reference**

Karen Gowreesunker presented the report detailing the Terms of Reference for the Audit and Risk Committee. The confirmation of Terms of Reference for each West Midlands Fire and Rescue Authority (WMFRA) Committee are presented at the first meeting of each municipal year. It was confirmed that neither Committee membership nor its Terms had changed for 2020-21.

The Committee **noted** the content of the report and appendix.

30/20 **Treasury Management Mid-Year Review 2020-21**

Kal Shoker presented the report, confirming WMFRA approved the Treasury Management Strategy within the Budget Setting Report at its meeting of 17 February 2020. WMFRA is required to produce a mid-year review report of its Treasury Management activities. The Committee was advised and updated on the three principal Treasury indicators.

1. Capital Expenditure - the WMFRA approved £6.6m capital programme for the current financial year, has been updated to reflect the subsequent outturn position and financing decisions for 2019/20. The Capital Programme has been increased to £8.1m, primarily due to activity slippage from the previous financial year and was reported to the 06 October 2020 meeting of WMFRA. The forecast outturn as at 30 September 2020 for 2020/21 is £5.9m, a variance of £2.2m.

The context of the variance within the capital programme for the current year relates to the Vehicle Replacement Programme (£1.6m) with the delayed purchase of a number of vehicles, most notably six Pump Rescue Ladders (PRL) slipping into 2021/22. Also, the replacement of windows and doors (£0.5m) at seven Fire Stations has been re-phased to 2021/22 due to supplier lockdown during the Covid-19 pandemic.

It was confirmed no borrowing has been undertaken to finance any capital expenditure during the first half of the current financial year.

A Member enquired if the delay in PRL purchase would impact upon service delivery and financial performance. It was confirmed that vehicle maintenance and fleet availability were assured, whilst vehicle depreciation was factored into the Statement of Accounts.

2. Debt – WMFRA total external debt as at 30 September 2020 was £34.9m of which £32.3m is in respect of borrowing undertaken with the Public Works Loans Board and the balance of £2.6m is in respect of WMFRA share of the ex-West Midlands County Council debt. The estimated average rate of interest payable on this debt in the current financial year is 5.25%.

The Chair enquired if debt re-scheduling opportunities had been impacted due to the Covid-19 pandemic. It was confirmed that

liaison with Sandwell MBC was a pre-requisite for monitoring financial performance of the wider economy and significant forecasted changes that would impact on WMFRA treasury management would be advised as a matter of urgent notification.

3. Investment - as at 30 September 2020, WMFRA investments totalled £61m invested with Sandwell MBC. Interest received on investments is based on the average return achieved by Sandwell MBC plus 10 basis points, which for the first six months of 2020/21 was 0.327%. This compares favourably to the average three-month LIBID rate of 0.11%.

It was advised that interest to be received this financial year will be considerably less than the £0.3m budget following the reduction in the Bank of England Base Rate to 0.1%, which occurred to help control the economic impact of Covid-19. The loss of income has been reflecting in the WMFRA return to the Home Office (sent via the National Fire Chiefs Council) against the additional government grant allocation of £2.8m received by WMFRA.

A Member commented it was pleasing that WMFRA was able to continue investing during these challenging times.

The Committee **noted** the report and appendices and **approved** the prudential and treasury indicators.

31/20 **Request from Dependant for the Reinstatement of a Widows Pension**

The Chair summarised the context of the previous report on this item presented to the Committee on 27 July 2020. The Committee had deferred decision pending further clarity and detail on the request. Paul Gwynn was invited to update Members on progress, the content of this report and options placed for their decision.

Members engaged in discussion upon the entitlement for reinstatement, consideration of potential hardship and precedence of such a request either past or into the future. The four options available to the Committee were considered regarding these subject areas. Paul Gwynn confirmed to the

Committee of this being the third request during an approximate ten-year period, for which in this case, the rules of the Firefighters' Pension Scheme 1992 provide no specific guidance to advise discussion on the items being considered.

The conclusion of the Committee was the request to reinstate the pension could not be upheld. The Widow was in receipt of pension from a second marriage, which superseded the receipt of that from the Firefighters Pension Scheme upon re-marriage; the case for hardship was insufficient to the request and; the precedent for such a request was not set but may do so if upheld in this instance. The Chair and Paul Gwynn confirmed to the Committee the appeals process as referenced in the Legal Implications section of the report.

The Committee **decision** was to reject the application.

32/20 **The Remedy Report**

Paul Gwynn advised the Committee of a proposed withdrawal of the report. There had been further legal guidance received by the Home Office upon the progression of immediate detriment cases arising from the McCloud/Sargeant ruling. Upon notification on 23 October 2020, the Service had referred details to the WMFRA legal advisors for their subsequent review. Until receipt of an updated legal opinion, the Committee cannot be advised of a final or fully informed recommendation.

The Chair acknowledged this development and the Committee **agreed** to the withdrawal of the report.

33/20 **Audit Progress and Sector Update**

In advance of presenting the report, Richard Percival provided an update on progress of the West Midlands Fire Service (WMFS) audit for 2019/20. He confirmed that assurance of the West Midlands Pension Fund audit remained incomplete, however was anticipated imminently. Upon that receipt, the WMFS audit could be finalised, for which additional peer review would be completed given the recent consultation announcements regarding the McCloud/Sargeant judgement on Fire Fighter pension remedy.

A contextual overview of the Redmond Review on Public Audit and its outcome was provided. The purpose of the review was to assess the effectiveness of audit in local authorities and the transparency of financial reporting. The background was of an external audit market requiring a system of audit that guaranteed coherence and public accountability, a current local audit market that is very fragile, together with a current fee structure that does not enable auditors to fulfil the role in an entirely satisfactory way. These factors combined to a significant risk that the firms currently holding local audit contracts will withdraw from the market.

The recommendations of the review are; to establish a new regulator; revise the audit fee structure (i.e. increase) to ensure that adequate resources are deployed to meet the full extent of local audit requirements; return to a 30 September deadline (from 31 July) for publishing audited local authority accounts each year; simplify the presentation of statutory accounts; recognise the role of authorities in improving governance and reporting and; development of audited and reconciled accounts summaries.

Richard Percival confirmed Grant Thornton are supportive of the review and its recommendations, aspects of which have been discussed with the Committee during previous meetings, by example market capacity and skills therein, fee structures, reporting deadlines and account formats.

A Member enquired why the publication deadline should be set back to September. Richard Percival explained the complexity and scope of an audit was challenging for completion by 31 July, which was a short period of four months since closure of accounts on 31 March each year. The extension would enable the provision of resources and skills to cover all aspects of an audit.

The Chair stated an appreciation of the work undertaken by Officers of WMFS and Grant Thornton to meet the required deadlines and quality of audit. Richard Percival confirmed the

audit for 2020/21 would be completed within the existing audit system and that remote email sign off for the current audit year was permissible given the Covid-19 situation.

A contextual overview of the Revised Value for Money Audit Arrangements was provided to the Committee. The National Audit Office (NAO) will adopt from 2021 a new Code of Audit Practice comprising three main changes; a new set of key criteria, covering governance, financial sustainability and improvements in economy, efficiency and effectiveness; more extensive reporting, with a requirement on the auditor to produce a commentary on arrangements across all of the key criteria, rather than the current 'reporting by exception' approach and; the replacement of the binary (qualified / unqualified) approach to value for money conclusions, with more sophisticated judgements on performance and key recommendations on any significant weaknesses in arrangements identified during the audit. Attention of Members was drawn to the detail of these broad areas being contained within the report, concluding with reference to the Auditor's Annual Report being replaced with an Annual Audit Letter to be published at the same time as the Auditor's Report on the Financial Statements.

Richard Percival confirmed that Grant Thornton intend to work closely with the NAO and other audit firms to ensure consistency of application of the new guidance. He stated the new approach will potentially be more challenging, as well as rewarding, for audited bodies involving discussions at a wider and more strategic level. The reporting, planning and risk assessment which underpins the approach will require more audit time, requiring delivery through a wider skill mix than in previous years. Grant Thornton estimate an increased fee of £6,500 for the WMFS audit in 2021/22, an increase that is line with those proposed for their other public sector audits.

A Member enquired if the revised approach enabled the Committee to be sighted of draft reports in advance as is current practice. Richard Percival confirmed affirmatively and draft reports would not be withheld.

The Committee **noted** the content of the report and appendices.

34/20 **Internal Audit – Progress Report**

John Matthews of Sandwell MBC presented the report. The definitions, context and activities for completion within the Internal Audit Plan and how they advise overall Audit Opinion were summarised for the Committee. He explained the purpose of Internal Audit is to give an opinion on the adequacy of the Service system control measures and risk management processes.

The Committee were advised of Covid-19 related staff re-deployments delaying progress of the annual plan for this municipal year. There were six audits in progress and six to be commenced, however it was assured that historically most audit activity with WMFS was completed during the second half of a year. The Chair expressed reassurance on progress of the audit plan.

A Member sought clarification on what constituted ad-hoc training, that being confirmed by John Matthews as mainly Counter Fraud and the roles and responsibilities of Members in fulfilling their duties on the Committee. In follow up the Member enquired should training be a continuous cycle for Members. The Chair commented to Members that Internal Audit were also reliant on being advised of their training needs. John Matthews affirmed the Committee receives Chartered Institute of Public Finance and Accountancy (CIPFA) Audit updates for general issues awareness, which can advise potential training requirements.

The Committee **noted** the content of the report.

35/20 **Update on Topical, Legal and Regulatory Issues**

The Committee **noted** there were no further updates arising.

36/20 **Verbal Update on Audit and Risk Work Programme 2020-21**

The Committee **noted** the progress to develop its work programme for 2020-21 and proposed presentation at its meeting scheduled for 07 December 2020.

The meeting closed at 11.50 hours.

Phil Fellows

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WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND RISK COMMITTEE

7 DECEMBER 2020

1. **REQUEST FOR A DECISION ON ACTION TO BE TAKEN IN RESPECT OF IMMEDIATE DETRIMENT CASES UNDER THE MCCLOUD/SERGEANT RULING**

Report of the Chief Fire Officer.

2. **PURPOSE OF REPORT**

This report is submitted to request that the Committee in their role as Scheme Manager confirm to the Scheme Administrator what action they wish to be taken in respect of immediate detriment cases following informal guidance issued by the Home Office.

3. **RECOMMENDATION**

In line with the legal advice received and in the interests of supporting members of the scheme, it is recommended that the Scheme Administrator apply the guidance issued by the Home Office to cases where a Firefighter retires on or after 1st February 2021 and to any eligible cases of ill health retirement.

4. **BACKGROUND**

4.1 In 2015 most public service pension schemes, including the Firefighters' Pension Scheme, were reformed. These reforms included 'transitional protection' for people closest to retirement.

4.2 In 2018, the Court of Appeal ruled that the transitional protection element of the 2015 public service pension reforms constituted unlawful age discrimination in the Firefighters' Pension Schemes. The Government respects the Court's

decision and has confirmed that it will remove the difference in treatment across all main public service pension schemes.

- 4.3 The Government is currently in a consultation process regarding proposals to remove this discrimination. Detail on the current proposals can be accessed here: <https://www.gov.uk/government/consultations/public-service-pension-schemesconsultation-changes-to-the-transitional-arrangements-to-the-2015-schemes>. The changes proposed in the consultation to remove the discrimination would apply across all the main public service pension schemes and provide members with a choice of which scheme they would like to be in for the remedy period. The remedy period is defined as between 1 April 2015 and 31 March 2022 in the consultation paper.

The remedy only applies to members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years.

- 4.4 The Consultation ended on 11th October 2020 but it is likely that the required changes to regulations will not be in place before 1st April 2022. In advance of reaching this date the Fire Brigades' Union requested that the Home Office issue guidance to employers on dealing with "immediate detriment" cases.
- 4.5 The requested guidance was issued on 21st August 2020 and is attached at Appendix 1.
- 4.6 Discussions have taken place at a national level between scheme administrators and the LGA Firefighters' Pension Team. These discussions have highlighted some concerns regarding the use of the attached guidance primarily around whether it should be applied to all scheme members or only those who lodged a claim with the Employment Tribunal and who therefore have the benefit of the Court ruling in this case.

- 4.7 In FPS Bulletin 37 – September 2020 the LGA included the following statement.

Home Office immediate detriment note update

We commented in FPS Bulletin 36 – August 2020 on the immediate detriment note issued by the Home Office. We understand that the department will not be able to provide a response to the queries we have raised until October.

However, in the meantime, we appreciate that FRAs are being encouraged to progress cases under the terms of the note. We are working on providing further clarity to FRAs in three areas.

1. Legal status of the note.

We are seeking legal advice on behalf of FRAs, including application to claimants and non-claimants, any consequences arising from incorrect payment of benefits and any resulting unintended discriminatory treatment. We understand that the Home Office and HMT are relying on Section 61 of the Equality Act to provide legal underpinning to the note for non-claimants. That power is currently being contested in the FRA's appeal under Schedule 22 of the same act, in which they argue that they were required by law to follow the pension regulations and so had no choice but to implement the transitional protections for older firefighters.

2. A general information note on the key issues.

We have drafted a note to provide additional information to FRAs on the key considerations of implementing the Home Office informal guidance. This includes the legal considerations detailed above, the position of employer contributions, which we believe Home Office to be discussing with HMT, technical queries raised and areas where we believe a policy steer would be helpful to enable more accurate payments to be made.

3. Support for practitioners, to include:
 - 3.1. Supporting FRAs to evidence robust decision making on whether a case can proceed under the current guidance, and if not, why not;
 - 3.2. Working with the Fire Communications Working Group to provide a consistent template on how a member may be provided with a choice and what this should include, using documentation provided to support choice in 2006 as a guide;
 - 3.3. Working with administrators to provide example calculations to assist with bringing benefits into payment where the guidance is not explicit.

The information note is currently being reviewed and will be issued as soon as possible.

- 4.8 The information note referenced at point 2 of the LGA statement was not expected before the end of October (see 4.10 below).
- 4.9 The Payroll and Pensions Manager requested advice from the Authority's Monitoring Officer, and in an email dated 21st September 2020 copied to the Strategic Enablers for People and Finance and Resources, he stated "Having reviewed the relevant caselaw and the LGA guidance, I confirm: the steps set out at paragraph 5 of the Guidance provided by the LGA to address the 'immediate detriment' for Firefighters within the relevant Pension Scheme is appropriate for the Brigade to implement."
- 4.10 Further legal advice was received from the LGA on 23rd October 2020 and the Payroll and Pensions Manager requested that the Authority's legal advisor review this guidance and provide a more detailed response. The response to this request was received on 2nd November and is reproduced at Appendix 1.

5. **DECISION REQUIRED**

- 5.1 The Committee are asked to approve the recommendation of the scheme administrator.

6. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment is not required and has not been carried out.

7. **LEGAL IMPLICATIONS**

The decision of the Scheme Manager in this case may be challenged by the member requesting the decision. The challenge would be made through the Firefighters' Pension Scheme Internal Dispute Resolution Procedure. If this process does not resolve the matter the issue can be taken to The Pension Regulator and finally to the Supreme Court.

8. **FINANCIAL IMPLICATIONS**

It is not possible at this stage to identify the specific costs associated with the recommendations although using the guidance note now will not increase any direct amounts payable it will simply bring some of those costs forward. However, if interest is applied as part of the final solution it may actually result in lower overall costs on the basis that using the guidance now would close the period that interest is calculated over, instead of extending it to 2022

BACKGROUND PAPERS

FPS Bulletin 37 – September 2020
Public service pension schemes: changes to the transitional arrangements to the 2015 schemes Consultation
Statement UIN HCWS380

The contact name for this report is Mike Griffiths, Treasurer and Strategic Enabler of Finance and Resources, telephone number 0121 380 6919.

PHIL LOACH
CHIEF FIRE OFFICER

Ref. AU/2020/Dec/91911203

APPENDIX 1

Advice received via email from the Authority's Monitoring Officer – Dated 2nd November 2020

Thank you for your below email and documents sent through in relation to your query following receipt of an advice note from Bevan Britten (BB).

In relation to the points/issues raised by BB within its advice note, I comment as follows:

1. My opening observation is that BB's advice note is perhaps at times overly complex and offers few if any solutions compared to the technical legal issues it seeks to highlight;
2. Taking into account the BB advice note, I think it important to ask the following question – who are we talking about in relation to the 'immediate detriment' issue? The answer is two categories of WMFRA employees relative to the immediate detriment 'remedy window' following the outcome of the McCloud and Sargeant litigation ie. those who will retire in the normal way and those who will retire on the grounds of ill health during the remedy window;
3. Flowing from the above Court decisions there exist, logically, two ways of addressing the age-related discrimination found by the Courts:
 1. transitional protection offered to everyone ie using the 'legacy schemes'; or
 2. not offering the transitional protection to anyone.

Put another way, 'level up' or 'level down' the discriminatory impact on scheme members. Unfortunately, the Court of Appeal did not address use of the above options in its Judgment, simply that scheme members suffered age discrimination.

4. As a result of the McCloud and Sargeant litigation, the Government proposed that those employees who are 'Claimants' in the litigation are entitled to a remedy and hence the 'two-year remedy window' to address the discrimination in the form of the above option. However, this left a significant cohort of 'affected' scheme members who are not actual Claimants within the McCloud and Sargeant litigation, but who are in the same circumstances as the McCloud and Sargeant litigation Claimants. The Government guidance was also intended to offer protection to this category of scheme member. The remedy window allows the Government time to then consider its position on what it will do regarding the discriminatory effect of the 2015 Scheme;
5. The question then returns to the who is affected by 'immediate detriment' – those scheme members who retire or those who retire on the grounds of ill health within the remedy window are the relevant cohort. The next question is then, does an FRA provide the option for this cohort of the 2015 scheme; or – not provide an option of returning to the old scheme at all (before March 2022). If the Government decides the latter, this addresses the issue of discrimination using the option of 'levelling down'.
6. The FBU has favoured the approach of offering its affected members the option of re-joining the former or 'legacy' scheme and it is fair to assume that most affected FBU members will do so. The effect of the Government guidance is essentially that they do not know how they will resolve/remedy the discriminatory effect of the 2015 Scheme, but has proposed affected scheme members are provided a choice as to how the discriminatory impact is mitigated;
7. As mentioned, BB's note raises a number of technical legal concerns. One such concern is that if an FRA provide an affected scheme member (ie a non-Claimant) the choice of returning to the former scheme, this may not provide the comfort of a 'defence' against future claims of discrimination from this cohort of non-Claimant's as the Government Guidance is simply guidance. I agree, the 'Guidance' from the Government is exactly that and does not, in and of itself, provide a defence or protection against future claims of age

discrimination. However, if the option of keeping or forcing affected scheme members to remain in the new scheme is used, this I, logically, more likely to result in litigation. The option of 'levelling up' is less likely to lead to new claims in my view. It is important to bear in mind, the proposal of levelling up is advocated by the FBU and therefore there is merit in the argument that they are unlikely to advise their affected scheme members to initiate claims based the option of returning to legacy schemes (I return to this point below). Also, BB raise the issue of any agreement by an affected scheme member may not be legally enforceable or 'binding'. I disagree with this analysis. Any such agreement by an FRA to move an affected scheme member to the former scheme by way of an option goes beyond that individuals' legal rights – a prime and day-to-day example of this is use of compromise or settlement agreements by an employer and employee where actual or contemplated or potential claims are settled – this is the 'agreement in writing point' and (as BB accept) whilst not a panacea certainly very helpful to an FRA and an issue a Court will take into account in any attempt at future legal proceedings;

8. I consider that BB are correct to ask the question of whether an FRA has the legal power or *vires* to offer the proposed options to affected scheme members who are not part of the McCloud/Sargent litigation ie non-Claimants. However, BB state that only those Claimants as part of the McCloud/Sargeant litigation are entitled to be offered the choice of the two 'options' (not those outside the litigation/who are not yet Claimant's). Whilst BB is correct to ask the *vires* question, I disagree with their position and analysis for the following reasons:
 1. the Claimant's in the McCloud/Sargent litigation have been found by the Courts to have been discriminated against;
 2. those scheme members who are in the exact same circumstances as the McCloud and Sargeant Claimant's will, logically, also have been discriminated against – the only difference between these two cohorts is the second cohort have not initiated legal proceedings claiming age discrimination;

3. case law decides whether an unlawful act has been committed by an employer. In the McCloud and Sargeant litigation, the Courts have decided that such an act has indeed been committed in respect of the 2015 Scheme. The result of the Court's decision is that the Claimants who suffered the discrimination/unlawful act are then entitled to the benefit that flows from that Court finding/decision in their favour. This also applies to those employees/scheme members who are in the exact same circumstances as the (litigation) Claimant's, but are not actual Claimant's (ie potential Claimant's) – however, both cohorts are victims of a discrimination and cannot be said to be otherwise. This position was adopted by the Government within its Guidance issued in August 2020 where it stated that any necessary changes to pension arrangements to remove the discrimination identified by the Court of Appeal (McCloud) will also apply to all members with relevant service, not just those who have lodged legal claims;
4. a useful and practical analogy in relation to the *vires* issue raised by BB can be found in the form of 'class action' Equal Pay claims faced by public sector employers over the last decade or so. In light of a disparity in pay between male and female groups of employees which is gender based, the employer is required to address/remedy that discriminatory treatment for not only those employees/Claimants who registered Equal Pay claims, but all affected female staff in the same circumstances. An employer has the inherent legal right to do so and public sector bodies have done so up and down the UK since the implementation of 'single status';
5. finally, it is plainly arguable that an FRA providing non-Claimants the legacy option is furthering its Public Sector Equality Duty (PSED) ie 'the requirement for public sector bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities'. I note that BB's advice makes no mention of the PSED on FRA's; and

6. for the above reasons set out above, I consider BB's position of seeking to create an artificial distinction between 'Claimant's' and 'non-Claimant's' (and only offering the legacy option to the former) as legally unsound.
9. On the issue of 'time limits', the 2019 Supreme Court decision in the 'Miller' case (as case concerning part-time/fee-paid Judges) unanimously held that the ordinary statutory time limit to bring a claim for pension remedy claims runs from retirement from judicial office when pension is payable.

Conclusion

While BB are right to raise the issues they have raised, I do not consider those issues now mean it is inappropriate for WMFRA to seek to follow the Government Guidance issued in August 2020 in order to address the immediate detriment/discrimination faced by scheme members. The issues raised by BB (whilst arguably technically and legally correct) do not undermine the ability of WMFRA to address the discrimination suffered by its employees by offering the legacy choice set out in the Guidance. There is no material difference between those existing Claimant's and future Claimant's save for the fact the former have initiated legal proceedings and the latter have not. It is considered unlikely a scheme member will sue/litigate against their employer for providing them with a choice to remedy discrimination suffered by that scheme member. To suggest otherwise is, in my view, not taking into account the 'real world' or practical impact of the legacy choice offered to non-Claimant's – this is all the truer given the FBU robustly advocate the provision of such a choice.

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND RISK COMMITTEE

7 DECEMBER 2020

1. CORPORATE RISK UPDATE

Report of the Chief Fire Officer.

RECOMMENDED

THAT Audit and Risk Committee approve the Corporate Risk Assurance Map Summary (Quarter 4, 2019/20, Appendix 1 and Quarter 2, 2020/21, Appendix 2) and note the management of Corporate Risk through the Business Continuity arrangements for Quarter 1 and 2, 2020/21.

2. PURPOSE OF REPORT

This update covers a nine-month period and is provided to ensure Members remain informed about all aspects relating to the management of the Authority's Corporate Risks. It covers Quarter 4, 2019/20 and Quarter 1 and Quarter 2, 2020/21.

3. BACKGROUND

- 3.1 This report includes the Corporate Risk Assurance Map Summary for Quarter 4, 2019/20 and Quarter 2, 2020/21. In addition, it provides an update on the management of Corporate Risk through the Business Continuity arrangements which were put in place in March 2020.

COVID-19 Pandemic

- 3.2 The World Health Organisation declared the COVID-19 outbreak a pandemic on 11 March 2020. Following the announcement, a notification of a major incident was declared across the West Midlands and Warwickshire by West Midlands Police on 19 March 2020.

Ref. AU/2020/Dec/91911206

- 3.3 In response, West Midlands Fire Service initiated business continuity arrangements. These were identified and managed by establishing a new 3PT project named COVID-19 Business Continuity. The project enabled the resources of the Service to be allocated to meet the challenges that COVID-19 presented. The project contained details of risk and issues and mitigation plans to manage them.
- 3.4 The Home Office initiated a risk rating system, for which each service submitted a regular report via the National Fire Chiefs Council. This system was known as BRAG (Blue, Red, Amber, Green).
- 3.5 The Quarter 4, 2019/20 Assurance Map Summary replicates the Summary provided for Quarter 3, 2019/20 as presented at the Audit and Risk Committee meeting on 27 July 2020. Due to the lockdown being established seven days prior to the end of Quarter 4 and risk management performance within that week being comparable to the rest of the quarter, there was no change to the Corporate Risks or ratings during the first three months of 2020.
- 3.6 A position statement was not produced for Quarter 4, 2019/20 as this was superseded by the BRAG report. In preparing the BRAG report, consideration was given to Corporate Risks that were aligned to the Business Continuity arrangements in place that were being managed through the 3PT project.
- 3.7 In accordance with the Service's risk management strategy, the Corporate Risk Assurance Map Summary is normally submitted for approval by the Audit and Risk Committee, following its submission and discussion at the Corporate Quarterly Performance Review Meeting. During Quarter 1, and Quarter 2, 2020/21 Corporate Risk was reported monthly into the SET meetings. This was through a combination of BRAG and the Business Continuity 3PT project. This procedure was established as the Quarterly Performance Review meetings were postponed. Performance against BRAG was reported to the Fire Authority each week at their COVID-19 briefing meetings which commenced on the 27 March 2020.

- 3.8 Corporate Risks are those risks which if they occurred would seriously affect the Authority’s ability to carry out its core function or deliver its strategic objectives as set out in ‘The Plan’. Currently, the Service maintains 9 Corporate Risks, some of which have more than one element.
- 3.9 Each Corporate Risk is assigned to a Risk Owner, who is a member of the Strategic Enabling Team. The Risk Owner has the overall responsibility for monitoring and reviewing the progress being made in managing the risk.
- 3.10 To enable for effective risk management during the Business Continuity arrangement put in place in March 2020 due to COVID-19, the Risk Owner reviewed and assessed each corporate risk. The frequency of this review is on a monthly basis and although initially reported into the SET meetings on a monthly basis, this has now reverted to a quarterly basis, (as the adopted timescale used by the Corporate Quarterly Performance Review Meetings and due to the confidence embedded in risk management within business continuity arrangements). The review and the estimated risk rating undertaken is based on likelihood x impact. The likelihood is a measure of probability of a given risk occurring using a scale of 1 (low) to 4 (high). The impact is a measure of the severity or loss should the risk occur again, using a scale of 1 (low) to 4 (high).

LIKELIHOOD	4				
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	1				
		1	2	3	4
		IMPACT			

	HIGH RISK - periodic review every 6 weeks
	MEDIUM RISK - periodic review every 3 months
	LOW RISK - periodic review every 6 months
	VERY LOW RISK - periodic review every 12 months

3.11 In order to ensure that Members are kept informed of corporate risk matters a Corporate Risk Assurance Map Summary for Quarter 4, 2019/20 (Appendix 1) and Quarter 2, 2020/21 (Appendix 2) is attached.

3.12 In undertaking a review of corporate risks, the Risk Owner has reviewed the Corporate Risk Assurance Map. The Assurance Map provides details of:-

- The strategic objectives and performance indicators relevant to the risk.
- The current risk scores.
- A description of events that could lead the corporate risk to be realised.
- The control measures in place designed to reduce the likelihood of risk realisation or its impact should the risk be realised.
- Additional control measures currently implemented to further reduce the likelihood or impact.
- Control owners who are responsible for the implementation, maintenance and review of individual control measures.

3.13 As part of the review the Risk Owner has considered the risk score and rating and updated the Assurance Map. The Risk Owner has provided assurance that the control measures identified are still effective in the management of risk and identified whether any new risk events or controls have been implemented or are required.

- 3.14 Where ongoing additional controls are being implemented, Risk Owners have confirmed the progress in implementing such controls.

Increase/decrease in Overall Corporate Risk Score

- 3.15 During Quarter 1, 2020/21 there was a reduction in the risk score for Corporate Risk 1.2 External (Political and Legislative) Environment. This was due to the collaboration across the region including regular liaison with Local Authorities and the West Midlands Combined Authority through formal structures, e.g. the Strategic Co-ordinating Group and the Local Resilience Forum.

There was a reduction in the risk score for Corporate Risk 2.1 (People). This was due to the positive engagements with staff and representative bodies during the first three months of the pandemic.

There was an increase in the risk score for Corporate Risk 4.1 (Protection). This was due to COVID-19 having an impact on the ability for Fire Safety Inspection Officers being unable to visit high risk premises during the first three months of the pandemic. However, during Quarter 2, 2020/21 this was reduced due to the recommencing of audits of high-risk premises.

- 3.16 The Position Statement attached as Appendix 2 provides the detail of the risk management activity undertaken or ongoing in respect of the Authority's 9 Corporate Risks at the end of Quarter 2, 2020/21.
- Corporate Risks 1.2, 2.1, 2.3, 5.1, 5.2, 8.1 and 8.2 have been awarded a green (substantial) confidence opinion, which is the highest level that can be awarded.
 - Corporate Risks 2.2, 3.1, 3.2, 4.1, 7.1 and 7.2, have been awarded an amber (satisfactory) confidence opinion. In all cases, work is in progress to enable for a green rating to be attained.
 - Corporate Risk 6.1 has been awarded a red (limited) confidence opinion. Work continues to be in progress to move his risk to an Amber or a Green rating.

- 3.17 Corporate Risks will continue to be submitted to the SET meetings on a quarterly basis and reported into the Audit and Risk Committee every six months whilst the COVID-19 pandemic continues.

4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment is not required and has not been carried out. The matters contained in this report do not relate to a policy change.

5. **LEGAL IMPLICATIONS**

There are no direct legal implications associated with the implementation of the recommendations set out in this report.

6. **FINANCIAL IMPLICATIONS**

There are no financial implications associated with the implementation of the recommendations set out in this report.

7. **ENVIRONMENTAL IMPLICATIONS**

None

BACKGROUND PAPERS

Frequency of Risk Reporting to Audit Committee,
Audit Committee Report, 11 April 2016

Delivery of The Plan 2019/22
Authority Report, 18 February 2019

Delivery of The Plan 2020/23
Authority Report, 17 February 2020

Corporate Risk Update to Audit Committee,
Audit Committee Report, 27 July 2020

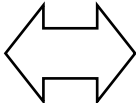

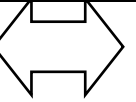

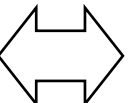

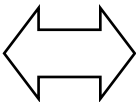

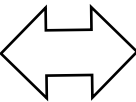

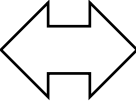

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The contact for this report is Assistant Chief Fire Officer, Gary Taylor, Strategic Enabler – Process, telephone number 0121 380 6914.


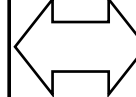
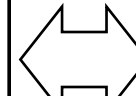
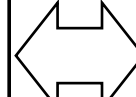
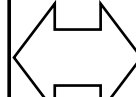
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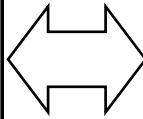
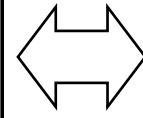
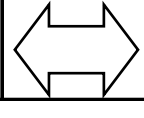
Corporate Risk Assurance Map - Summary - Qtr 4 2019/2020

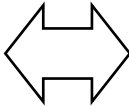

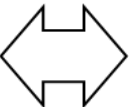

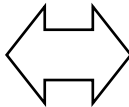

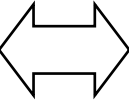

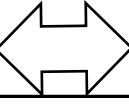

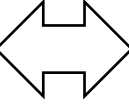

No.	Outcome of Risk Realisation	Risk Owner	Direction of Travel	Overall Confidence	Likelihood	Impact	Risk Score
CR1	External (Political and Legislative) Environment	SE Strategic Hub - Karen Gowreesunker					
1.2	The Fire Authority is unable to positively position itself within public servicer reform to sustain and create new services resulting in reduced confidence, credibility and/or reputational damage.				3	3	9
CR2	People	SE People - Sarah Warnes (2.3 - Steve Taylor)					
2.1	The Fire Authority is unable to maintain positive staff consultation and engagement, resulting in an inability to deliver strategic objectives, outcomes and continuous improvement.				3	3	9
2.2	The Fire Authority is unable to deliver its Service Delivery Model effectively, as a result of insufficient or ineffective employees, throughout the organisation, resulting in reduced confidence and credibility; and increased reputational damage.				3	3	9
2.3	The Fire Authority is unable to meet statutory duties to provide a safe and healthy workplace and protect the environment, resulting in a significant failure and reduced confidence and credibility; and increased criminal proceedings, litigation and reputational damage.				2	3	6
CR3	Delivery of Services - Prevention	SE Prevention - Jason Campbell					
3.1	The Fire Authority is unable to engage with the most vulnerable members of the community and reduce community risk resulting in increased fire and non-fire related incidents, fatalities and injuries.				3	3	9
3.2	The Fire Authority is unable to establish effective partnership arrangements and deliver community outcomes, resulting in a significant impact upon the organisation's financial standing, reputation and ability to deliver key objectives.				2	2	4

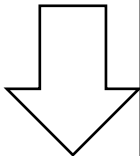
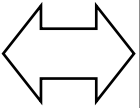
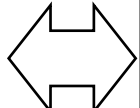
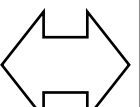
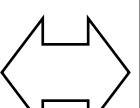
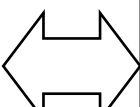
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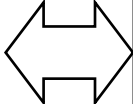
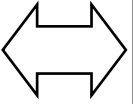
No.	Outcome of Risk Realisation	Risk Owner	Direction of Travel	Overall Confidence	Likelihood	Impact	Risk Score
CR4	Delivery of Services - Protection	SE Protection - Steve Taylor					
4.1	The Fire Authority is unable to effectively discharge its duties under the Regulatory Reform (Fire Safety) Order and associated legislation, resulting in a decline in non-domestic fire safety standards; reduced confidence and credibility; and increased litigation and reputational damage.				2	3	6
CR5	Delivery of Services – Response	SE Response - 5.1 Steve Vincent/ 5.2 Simon Barry					
5.1	The Fire Authority is unable to ensure that operational incidents are dealt with safely, assertively and effectively using appropriate levels of resources and personnel, resulting in increased firefighter and community risk; reduced confidence and credibility; and increased reputational damage.				2	4	8
5.2	The Fire Authority is unable to maintain its command and control function, resulting in an inability to receive, process and respond to emergency calls effectively, so increasing community risk; reducing confidence and credibility; and increasing reputational damage.				2	3	6
CR6	Business Continuity & Preparedness	SE Organisational Preparedness - Steve Vincent					
6.1	The Fire Authority is unable to provide business continuity arrangements, to maintain delivery of core functions, as a result of extensive disruption to normal working arrangements, including national and international deployments, significant and major events, resulting in increased community risk; reduced confidence; increased reputational damage; and external scrutiny.				3	4	12
CR7	Information, Communications and Technology	SE ICT - Jason Danbury					
7.1	The Fire Authority is unable to provide and maintain an effective ICT provision to support the delivery of core functions, resulting in significant disruption to the organisation's functionality, reduced confidence, credibility, reputational damage and external scrutiny.				2	3	6

This information is marked **Official - WMFS Medium**. It is your personal responsibility to ensure it is distributed to the appropriate people only.

7.2	The Fire Authority is unable to provide effective management and security of organisational information and documentation including the receipt, storage, sharing and transfer of information and data, resulting in reputational damage, litigation, substantial fines and external scrutiny.				2	3	6
No.	Outcome of Risk Realisation	Risk Owner	Direction of Travel	Overall Confidence	Likelihood	Impact	Risk Score
CR8	Finance & Assets	SE Finance and Resources - Mike Griffiths					
8.1	The Fire Authority is unable to deliver its statutory responsibilities, predominantly through the Service Delivery Model, due to insufficient funds, resulting in external scrutiny and intervention; reduced confidence and credibility; and increased reputational damage.				3	3	9
8.2	The Fire Authority is unable to deliver effective financial management arrangements, due to misuse of funds, resulting in external scrutiny, intervention and litigation.				2	3	6

Business Continuity - Corporate Risk				Qtr 2, 2020/21			
No.	Outcome of Risk Realisation	Risk Owner	Direction of Travel	Overall Confidence	Likelihood	Impact	Risk Score
CR1	External (Political and Legislative) Environment	SE Strategic Hub - Karen Gowreesunker					
1.2	The Fire Authority is unable to positively position itself within public service reform to sustain and create new services resulting in reduced confidence, credibility and/or reputational damage.	Karen Gowreesunker			2	3	6
CR2	People	SE People - Sarah Warnes (2.3 - Jason Campbell)					
2.1	The Fire Authority is unable to maintain positive staff consultation and engagement, resulting in an inability to deliver strategic objectives, outcomes and continuous improvement.	Sarah Warnes			2	3	6
2.2	The Fire Authority is unable to deliver its Service Delivery Model effectively, as a result of insufficient or ineffective employees, throughout the organisation, resulting in reduced confidence and credibility; and increased reputational damage.	Sarah Warnes			3	3	9
2.3	The Fire Authority is unable to meet statutory duties to provide a safe and healthy workplace and protect the environment, resulting in a significant failure and reduced confidence and credibility; and increased criminal proceedings, litigation and reputational	Jason Campbell			2	3	6
CR3	Delivery of Services - Prevention	SE Prevention - Steve Vincent					
3.1	The Fire Authority is unable to engage with the most vulnerable members of the community and reduce community risk resulting in increased fire and non-fire related incidents, fatalities and	Steve Vincent			3	3	9
3.2	The Fire Authority is unable to establish effective partnership arrangements and deliver community outcomes, resulting in a significant impact upon the organisation's financial standing, reputation and ability to deliver key objectives.	Steve Vincent			2	2	4
CR4	Delivery of Services - Protection	SE Protection - Sam Burton					

4.1	The Fire Authority is unable to effectively discharge its duties under the Regulatory Reform (Fire Safety) Order and associated legislation, resulting in a decline in non-domestic fire safety standards; reduced confidence and credibility; and increased litigation and reputational damage.	Sam Burton			2	3	6
CR5	Delivery of Services – Response	SE Response - Steve Vincent/Simon Barry					
5.1	The Fire Authority is unable to ensure that operational incidents are dealt with safely, assertively and effectively using appropriate levels of resources and personnel, resulting in increased firefighter and community risk; reduced confidence and credibility; and increased reputational damage.	Steve Vincent			2	4	8
5.2	The Fire Authority is unable to maintain its command and control function, resulting in an inability to receive, process and respond to emergency calls effectively, so increasing community risk; reducing confidence and credibility; and increasing reputational damage.	Simon Barry			2	3	6
CR6	Business Continuity & Preparedness	SE Organisational Preparedness - Steve Vincent					
6.1	The Fire Authority is unable to provide business continuity arrangements, to maintain delivery of core functions, as a result of extensive disruption to normal working arrangements, including national and international deployments, significant and major events, resulting in increased community risk; reduced confidence; increased reputational damage; and external scrutiny.	Steve Vincent			3	4	12
CR7	Information, Communications and Technology	SE ICT - Kash Singh					
7.1	The Fire Authority is unable to provide and maintain an effective ICT provision to support the delivery of core functions, resulting in significant disruption to the organisation's functionality, reduced confidence, credibility, reputational damage and external scrutiny.	Kash Singh			2	3	6
7.2	The Fire Authority is unable to provide effective management and security of organisational information and documentation including the receipt, storage, sharing and transfer of information and data, resulting in reputational damage, litigation, substantial fines and external scrutiny.	Kash Singh			2	3	6

CR8 Finance & Assets		SE Finance and Resources - Mike Griffiths					
8.1	The Fire Authority is unable to deliver its statutory responsibilities, predominantly through the Service Delivery Model, due to insufficient funds, resulting in external scrutiny and intervention; reduced confidence and credibility; and increased reputational damage.	Mike Griffiths			3	3	9
8.2	The Fire Authority is unable to deliver effective financial management arrangements, due to misuse of funds, resulting in external scrutiny, intervention and litigation.	Mike Griffiths			2	3	6

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND RISK COMMITTEE

7 DECEMBER 2020

1. **ANNUAL REPORT OF THE SENIOR INFORMATION RISK OWNER**

Report of the Chief Fire Officer

RECOMMENDED

That the Committee are to note the Annual Report of the Senior Information Risk Owner (SIRO) (Appendix 1).

2. **PURPOSE OF REPORT**

This report provides the rationale for the planned publication of an annual report from the SIRO to provide assurance in relation to how the organisation discharges its duties and responsibilities in relation to information governance.

3. **BACKGROUND**

- 3.1 The organisation has an existing Management of Information framework and supporting policies that define how information is managed within the organisation.
- 3.2 The digital transformation that the organisation has undertaken has delivered many benefits including increasing reliance on the underlying information systems, infrastructure and data.
- 3.3 Across the public sector, many organisations produce an Annual Report from the SIRO to provide further detail about performance against specific legislation such as the Data Protection Act 2018 but also to consider the wider risks and mitigations related to information governance.

- 3.4 A PowerPoint presentation providing a summary of the Annual SIRO report has been produced, which can be found as Appendix 2.

4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment is not required and has not been carried out. The matters contained in this report will not lead to and/or do not relate to a policy change.

5. **LEGAL IMPLICATIONS**

It is considered best practice for organisations to provide assurance in relation to its performance in relation to information governance.

6. **FINANCIAL IMPLICATIONS**

There are no financial implications arising as a result of the content of this report.

7. **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications arising as a result of the content of this report.

BACKGROUND PAPERS

Annual SIRO Report 2019

The contact for this report is Assistant Chief Fire Officer, Gary Taylor, telephone number 0121 380 6006.

PHIL LOACH
CHIEF FIRE OFFICER

Annual Report Of The Senior Information Risk Owner

OCTOBER 2020

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Abstract

This annual report provides an update from the Senior Information Risk Owner (SIRO) in respect of activity and performance related to information governance. It provides assurances that information risks are being effectively managed; what is going well; and where improvements are required.

Executive Summary

This annual report provides an update from the Senior Information Risk Owner (SIRO) in respect of activity and performance related to information governance. It provides assurances that information risks are being effectively managed; what is going well; and where improvements are required. The report outlines new and emerging information governance considerations and the projects and tasks the organisation has in place to minimise risk and improve performance. West Midlands Fire Service continues to be committed to effective information governance, with robust arrangements in place to ensure the organisation complies with legislation and adopts best practice.

Governance arrangements are closely monitored to ensure systems, policies and procedures are fit for purpose; and that all employees and elected members understand the importance of information governance and security so that good practice is everyone's business and embedded as part of the West Midlands Fire Service culture. Cyber risks present a real and increasing challenge to all organisations with a summary included to list action already undertaken and further activity planned to maintain and strengthen defences and enhance corporate resilience. Performance in relation to information requests processed under for example Freedom of Information and Data Protection legislation is summarised in the report.

Introduction

The annual report from the Senior Information Risk Owner (SIRO) reflects on the organisation's information governance work undertaken during the preceding year, and provides assurances that personal data is held securely; information is disseminated effectively and provides an overview of key performance indicators relating to the organisation's processing of information requests within the necessary legal frameworks.

The Annual Report also provides a forward look at new and emerging information governance considerations for the organisation, the work the organisation has in place to minimise risk or improve performance.

Key Roles and Responsibilities

The Chief Fire Officer is the most senior role in the service he is responsible for advising the Fire Authority and for ensuring, along with the Authority's Monitoring Officer and Treasurer, that the Authority can effectively discharge all responsibilities imposed upon it by statute and guidance.

West Midlands Fire and Rescue Authority are responsible and West Midlands Fire Service are required to operate in accordance with a wide range of legislation. They are accountable to the communities of the West Midlands for the service provided by the fire service.

The role of Senior Information Risk Owner (SIRO) is held by the Assistant Chief Fire Officer (Process Programme Executive) with responsibility for information security within West Midlands Fire Service.

The SIRO role is supported by the information Asset Owners (IAO) who are the Strategic Enabling Team (SET) with responsibilities for information assets within their respective areas.

The Data Protection Officer is responsible for monitoring internal compliance, inform and advise on the organisation's data protection obligations, provide advice regarding Data Protection Impact Assessments (DPIAs) and act as a contact point for data subjects and the supervisory authority i.e. The Information Commissioner's Office (ICO).

Employees are responsible for adhering to the relevant policies of the organisation in

respect of protecting information and adhering to appropriate classifications, handling instructions and confidentiality requirements.

Governance and Monitoring Arrangements

West Midlands Fire Service is audited by Sandwell MBC who conduct an annual themed review of matters related to information management. External audits are also undertaken by Grant Thornton to provide an additional layer of assurance.

The Audit and Risk Committee of West Midlands Fire Authority provide scrutiny of the arrangements in place within West Midlands Fire Service including information governance and compliance with relevant legislation.

The ICO is the UK's independent body set up to uphold information rights with responsibility for data protection, freedom of information and other legislation related to accessing information.

Management and Assurance

West Midlands Fire Service has a Corporate Risk Register and Risks 7.1 and 7.2 relate to the confidentiality, integrity and availability of systems including identification of risk and the controls applied to mitigate the risk. This is reviewed and reported to the Strategic Enabling Team monthly to ensure that emerging and new risks are captured in a timely manner.

The Portfolio, Programmes and Project system (3PT) captures risks related to transition and operational activities and ensures that these are monitored at Programme Board

The outcomes of audits by Sandwell MBC are integrated into the organisational policies, processes, and procedures.

Periodically the organisation will commission external organisational assurance reviews to provide independent scrutiny of specialist areas such as Digital and Data to provide assurance that the organisational infrastructure is secure, and the threat of cyber security incidents is minimised.

The organisation has a Management of Information framework that is a comprehensive policy covering how information should be managed and includes classification, handling instructions, best practice, and guidance for all employees.

Training is provided by the Data and Governance Team and covers managing

information principles and compliance with data protection legislation. This is supported by regular global updates to remind employees about protocols related to the security of information. SET as the Information Asset Owners also receive bespoke training sourced externally to enable them to perform their role.

Training Uptake

Course Name	Completed	Not Completed
Management of Information	76%	24%
GDPR	81%	19%

Planned and Completed Activity in 3PT

There is a project within 3PT called Management of Information which contains tasks and sub-tasks to improve and transform the way in which information is managed within the organisation. The high-level stages of the programme of works is below:

Activity	Description	Status	Delivered
Stage 1 Framework	Creation of the Management of Information Framework	Completed	2017
Stage 2 Classification	Definition of organisational classification scheme	Manual system - Completed Automation of marking - In Progress	2017
Stage 3A Information Sharing	Mechanism to ensure that organisational information sharing is managed centrally	Completed	2017
Stage 3B Automated Requests	System to automate requests for information such as under the Freedom of Information Act	In progress	To be completed in 2020/21

Stage 4 Training	Training packages created and made available to employees through the e-learning system	Completed	2017 MOI 2018 GDPR
Stage 5 CIA	Improvements to infrastructure, processes, and systems to strengthen cyber security.	In progress	To be completed in 2020/21
Stage 6 GDPR	Implementation of GDPR and new data protection legislation	Completed	2018

Progress within this project is reported monthly to the Process Programme Board including issues, risks, assumptions and dependencies with other organisational projects and programmes of work. Deviations from expected outputs are highlighted and discussed and impacts upon the expected value from the project are considered.

Digital and Data Security & Cyber Risks

Information governance and cyber risk are considered to be significant risk areas for all organisations locally, nationally and globally, with risks of accidental data loss, physical system failures and direct malicious cyber-attacks an ongoing area requiring focus. There is an ongoing need for the organisation to address all aspects of this risk through robust technical solutions and risk management processes as well as addressing the cultural and behavioural elements of this risk. The National Cyber Security Centre (NCSC) produces a weekly cyber security threat bulletin that evidences the risks to organisations both within the public and private sector.

What has been done:

In summary, the following key actions were delivered which has improved the organisation's management of information risks:

- Attainment of Cyber Essentials which is a government backed scheme that enables organisations to assess themselves against a set of pre-defined standards.
- Implementation of outcomes from an external information assurance to remediate

weaknesses in the management of passwords, patching of systems and treatment of legacy hardware and software systems.

- Proactive scanning of infrastructure to monitor activities and more easily identify areas of concern.

What is planned:

Progress has also been made with the following actions, with further work planned during the next year:

- Compliance with Government Minimum Technical Cyber Security Standards and accreditation with Cyber Essentials Plus which is an external verification and assurance of the organisational approach to information security.
- Implementation of multi-factor authentication giving improved management of identification of users and devices.
- Automated classification of information to reduce data loss by applying controls by default.
- Planned internal cyber security exercises using toolkits provided by the Cabinet Office.
- Sharing of the content within this report with the Organisational Intelligence Team to improve policies and learning
- Inclusion of the content within this report within the Station Peer Assessment (SPA) process.

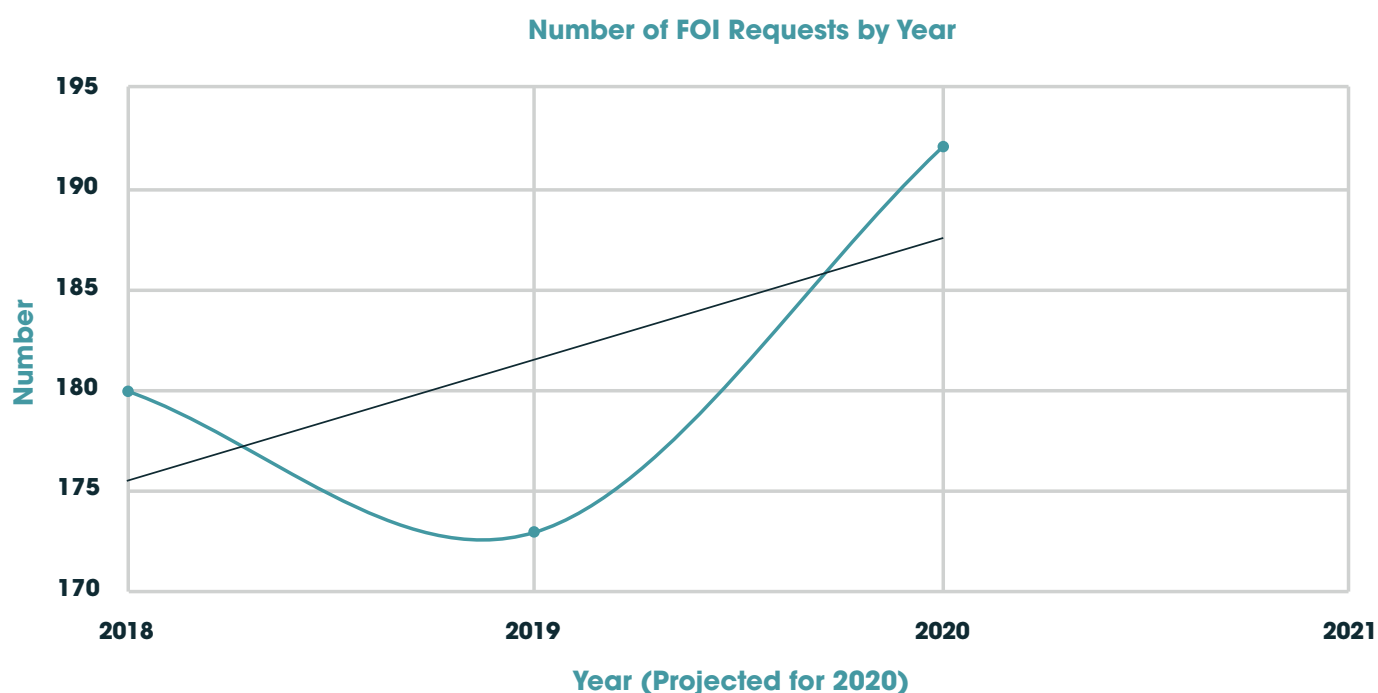
As the importance of digital information and networks grows, cyber security is of high importance and remains a corporate priority. The type of risks posed include theft of sensitive corporate and personal data, theft or damage to data, threat of hacking for criminal or fraud purposes and potential disruption to infrastructure such as ICT systems, intranet, and public facing website. The National Cyber Security Centre (NCSC) has advised that Cyber risk has been increasing and for several years and where possible WMFS has followed the published guidance and achieved accreditation with Cyber Essentials.

Freedom of Information 2000

The Freedom of Information Act 2000 gives people the right to request information from public authorities and is intended to promote a culture of openness, transparency and accountability amongst public sector bodies and enable the public to better understand how public authorities carry out their duties, how they make decisions and how they spend their money.

Level of activity

Year	Number of FOI requests
2018	180
2019	173
2020 (To end of August)	76 (Projected 192)

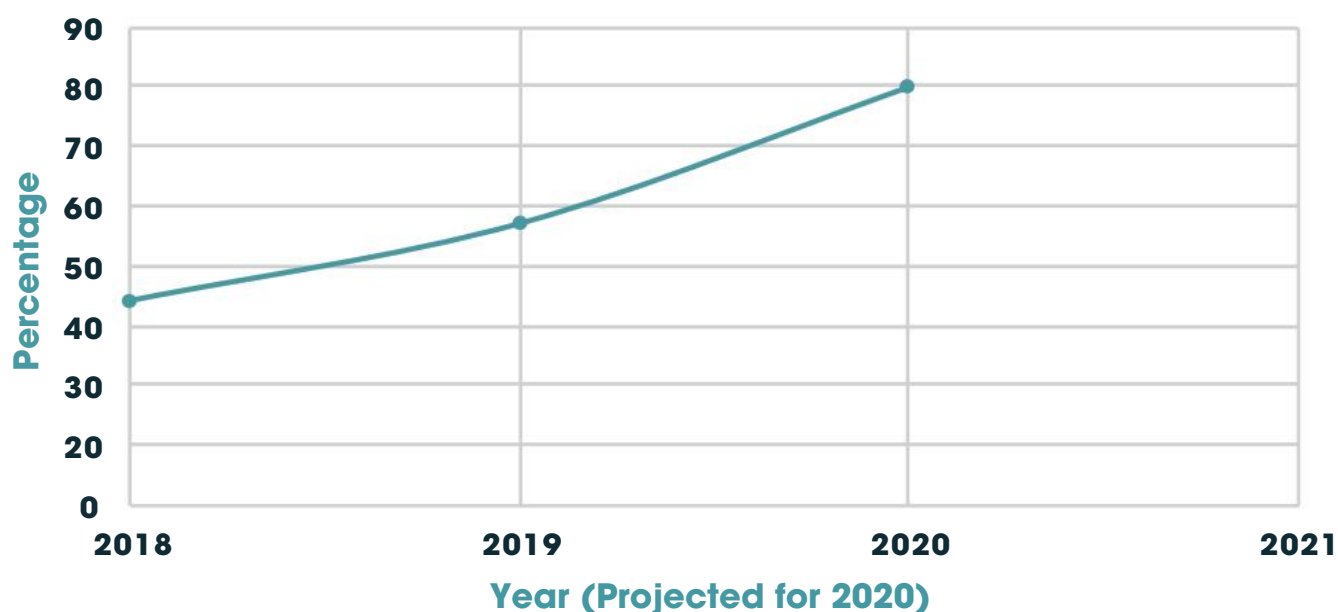


There is an increase in the number of requests processed and the trendline is upwards. Anecdotal evidence from the Governance team indicates that the complexity of requests has also increased.

FOI requests processed within 20 -day statutory time limit

Year	Within time limit
2018	80
2019	98
2020	61

FOI Requests - % Within time limit (20 days)



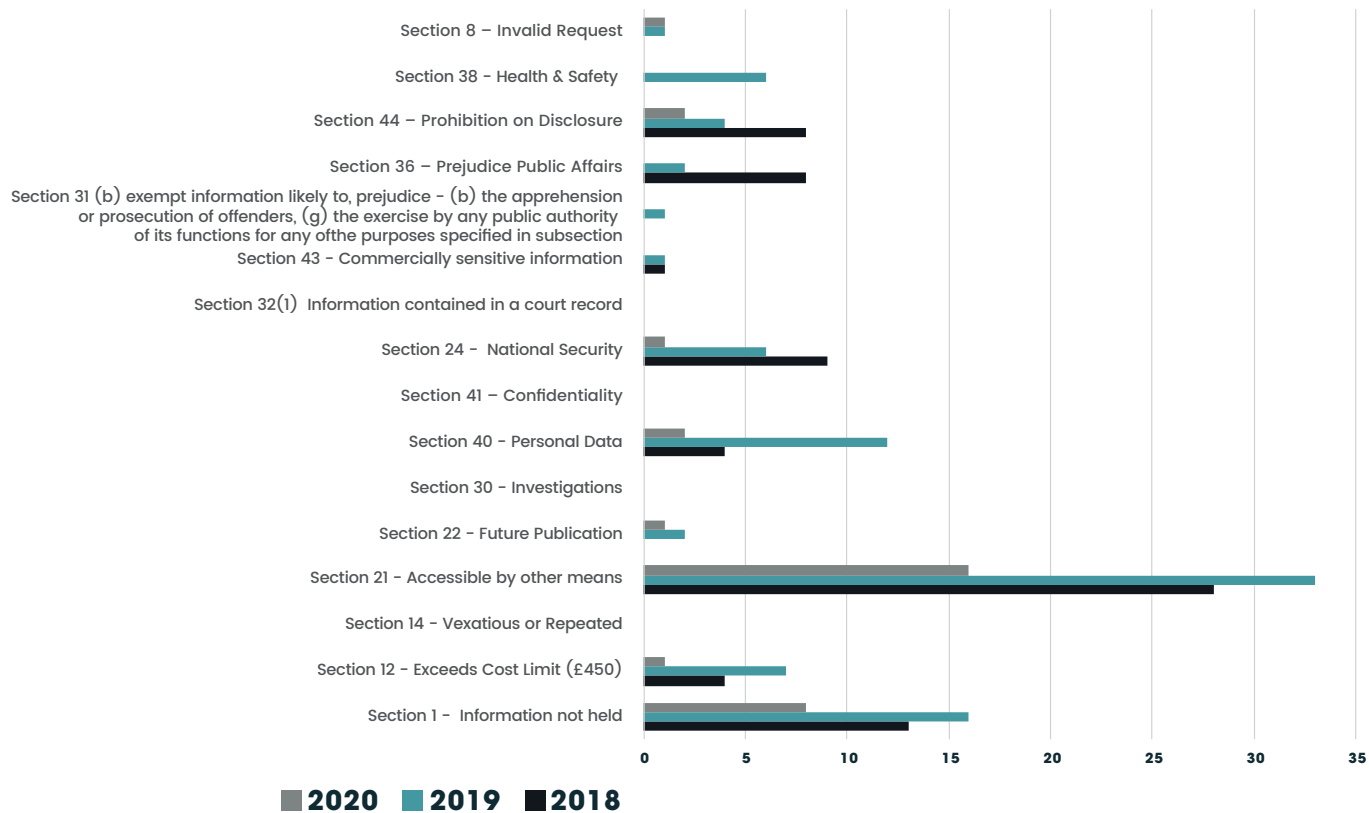
There has been an increase in the percentage of requests processed within the statutory time limit. It was identified during an internal audit in 2019 that a significant number of requests were not being processed within the statutory time limit and this was considered as part of the restructure within Digital and Data. The reorganisation of resources and the creation of a Governance Team has delivered this improvement. The strategy to proactively publish information has meant that some requests are easier to process. The complexity of the remaining requests and possibly due to remote working, the time elapsed to gather information is longer. The process is currently predominantly manual and reliant on the Governance Team to retrieve information to fulfil requests from other sections who may not always appreciate the statutory time scale for response.

There are automation improvements planned for FOI to automatically flag and escalate elapsed time and improve the number of requests that are completed within the statutory time limit of 20 days. The aspiration would be to respond to 100% of requests within the statutory timescale. The Information Commissioner's Officer has set the tolerance threshold at 90% and currently 52% of central government departments are not meeting this threshold. The organisation would want to at least achieve the 90% threshold by Q4 2021.

Exemptions

Exemption Times Applied:	2018	2019	2020
Section 1 – Information not held	13	16	8
Section 12 – Exceeds Cost Limit (£450)	4	7	1
Section 14 – Vexatious or Repeated	0	0	0
Section 21 – Accessible by other means	28	33	16
Section 22 – Future Publication	0	2	1
Section 30 – Investigations	0	0	0
Section 40 – Personal Data	4	12	2
Section 41 – Confidentiality	0	0	0
Section 24 – National Security	9	6	1
Section 32(1) Information contained in a court record	0	0	0
Section 43 – Commercially sensitive information	1	1	0
Section 31 (b) exempt information likely to, prejudice – (b) the apprehension or prosecution of offenders, (g) the exercise by any public authority of its functions for any of the purposes specified in subsection	0	1	0
Section 36 – Prejudice Public Affairs	8	2	0
Section 44 – Prohibition on Disclosure	8	4	2
Section 38 – Health & Safety	0	6	?
Section 8 – Invalid Request	0	1	1
Total	75	91	32

FOI Exemptions by Year



Charges

WMFS cannot charge for the provision of information, however if it is estimated that a request will incur unreasonable cost then it can issue a Refusal Notice under Section 12 of the Act and issue a Fees Notice. The threshold set by the Act is 18 hours (equivalent to £450 at a notional hourly rate of £25).

To reach a decision about whether to apply a Section 12 exemption, the Data and Governance Team works with the service area to estimate the expected time to:

- Determine whether the information is held
- Locate information or appropriate documents
- Retrieve the information or document containing it
- Extract the information.
- Process the request

Year	Section 12 Notice	Total value	Paid
2018	4	£443,833	None
2019	7	£17,750	None
2020	1	£6,250	None

Internal Reviews

Customers who submit a FOI request can request an internal review if they are not satisfied with the response provided. Internal reviews provide WMFS with an opportunity to review the request handling process prior to any potential referral to the Information Commissioner's Office by the requester

Year	Internal Review Requests
2018	6
2019	3
2020	1

Outcomes of Internal Reviews

Year	Decision upheld	Fee notice	Further information
2018	4	1	1
2019	1	2	0
2020	0	1	0

Referrals to the Information Commissioner's Office (ICO)

If an applicant is not satisfied with the outcome of an Internal Review, they can refer their case to the Information Commissioner, who will assess the case and make an independent decision about the way WMFS has handled the request.

Following a referral and a subsequent case investigation, the ICO can issue a Decision Notice requiring WMFS to disclose information it may previously have refused to disclose.

Year	Number
2018	0
*2019	*1
2020	0

*This was due to late response and then a Fees Notice were issued.

Referrals to the First Tier Tribunal (FTT)

If an applicant is dissatisfied with the Information Commissioner's decision, they have the right to refer the matter to the First Tier Tribunal (FTT). WMFS can also appeal fines issued for data breaches and enforcement notices to the FTT. The FTT is independent of the Government and listens to representation from both parties before it reaches a decision. Any party wishing to appeal against an ICO Decision Notice has 28 days to do so.

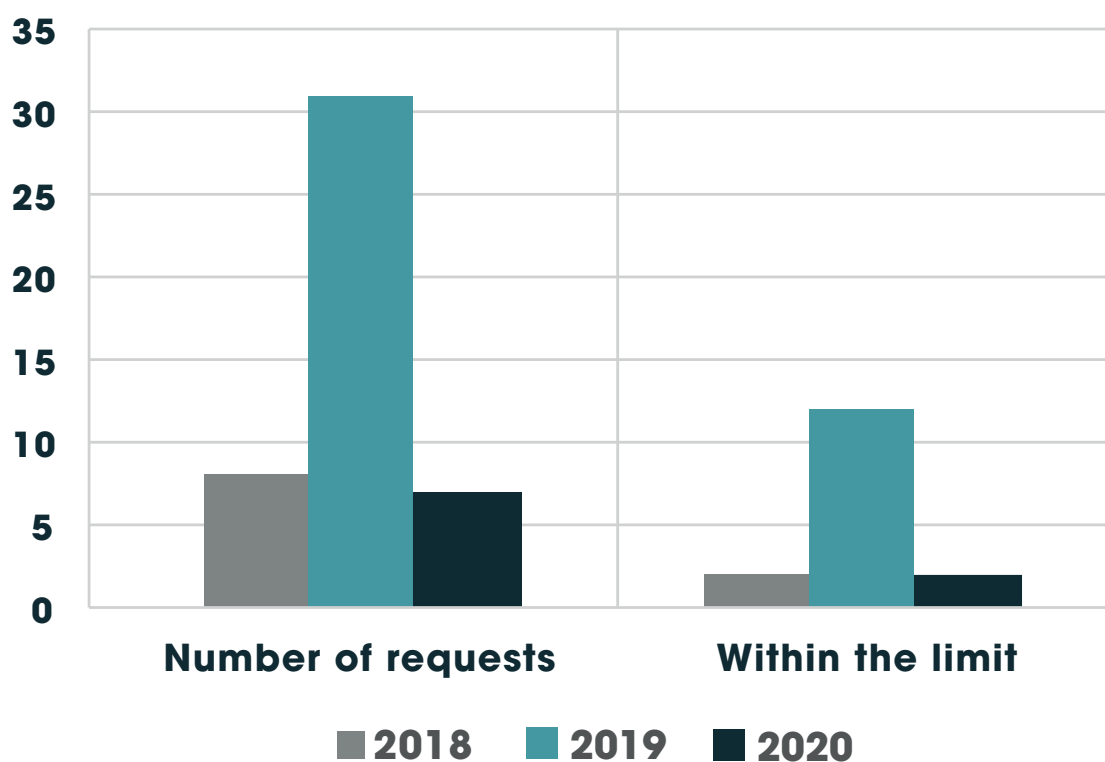
There have been 0 referrals to the FTT in the past 3 years.

Data Protection Act 2018 (DPA)

Under the Data Protection Act 2018 any living person, regardless of their age, can request information about themselves that is held by WMFS. This application process is referred to as a Subject Access Request (SAR).

Year	Number of requests	Within time limit
2018	8	2
2019	31	12
2020	7	2

Subject Access Requests



Automation Improvements are being considered to support the retrieval of information for SARs as currently the process is predominantly manual searches and redaction. It is reliant upon employees responding promptly to requests from the Governance Team, but this can be impacted by availability and capacity.

Data Breach Management and Reporting

Any concerns relating to potential data breaches are promptly investigated and risk assessed based on scale, assessment of numbers of people affected, sensitivity, nature of breach and likely impact. Dependant on the assessment, the incident may need escalation to the SIRO and IAO may be self-referred by WMFS to the Information Commissioners Office (ICO). The reporting, attempt to recover, investigation and learning phases of data breach incidents play a key role in the management of risk and improvement of internal controls.

Summary of Data Protection Breaches

The table below shows the number and broad categories of the type of data protection breaches within the organisation. The data protection breaches increased from 2018 which aligned with the introduction of the General Data Protection Regulations and Data Protection Act 2018. Within the organisational implementation plan, increased training and guidance was made available to all employees so the increase in reporting may be an indicator of greater awareness.

	Number
2017	6
DM Security Incident : Hardware Loss / Theft : Personal Information – Not Breached	1
DM Security Incident : Human Error : Personal Information – Breached	3
DM Security Incident : Unauthorised Access : Personal Information – Breached	1
DM Security Incident : Unforeseen Circumstances : Personal Information – Breached	1
2018	31
DM Security Incident : Hardware Loss / Theft : Personal Information – Not Breached	1
DM Security Incident : Human Error : Personal Information – Breached	17
DM Security Incident : Human Error : Personal Information – Not Breached	1
DM Security Incident : Unauthorised Access : Personal Information – Breached	6
DM Security Incident : Unauthorised Access : Personal Information – Not Breached	1
DM Security Incident : Unforeseen Circumstances : Personal Information – Breached	2
DM Security Incident : Unforeseen Circumstances : Personal Information – Not Breached	3
2019	43
DM Security Incident – Human error – Personal information – Breached	5

DM Security Incident : Hacking of email accounts : Personal Information Breached	1
DM Security Incident : Hardware Loss / Theft : Personal Information – Not Breached	1
DM Security Incident : Human Error : Personal Information – Breached	30
DM Security Incident : System Error : Personal Information – Breached	1
DM Security Incident : Systems Error : Personal Information – Not Breached	1
DM Security Incident : Unauthorised Access : Personal Information – Breached	4
2020	10
DM Security Incident : Human Error : Personal Information – Breached	8
DM Security Incident : Human Error : Personal Information –Possible Breach	1
DM Security Incident : Unauthorised Access : Personal Information – Breached	1
Grand Total	90

Consistently across the reporting period 'Human Error' was the single highest factor in data protection breaches. A refresh of the organisational training is currently in progress to reduce the number of these incidents.

There were 4 data protection breaches that classified as High risk to the individual's rights and freedoms:

- Release of recruitment spreadsheet externally containing personal and special category data, financial information, location details and scores. (Reported to ICO)
- External facing website incorrectly configured leading to the exposure of personal, special category and location details contained within an application form. (Reported to ICO)
- Folder containing personal, special category data, location details and access codes of an elderly vulnerable person found at a hospital.
- Officer used personal details of potential new recruits inappropriately.

Environmental Information Regulations 2004 (EIR)

Since the EIR Regulations came into force in 2004, WMFS has processed a very limited number of requests for information under this legislation.

EIR is similar to the Freedom of Information Act insofar as it gives the public access to environmental information to encourage greater awareness of issues that affect the environment. It includes policies, plans and procedures relating to the environment, reports on the state of the environment, and environmental impact studies. It also

includes data taken from monitoring activities and risk assessments that affect or are likely to affect the environment.

There have been no requests received within the organisation under this legislation.

Transparency and Open Data

The organisation routinely publishes data about its activities to promote awareness, understanding and scrutiny as a public body. It also creates efficiencies and reduces the time taken to handle FOI requests if the requester can be directed to the information.

Incident data is published on the organisational website and gives an anonymised overview of the incidents received, the type of incidents and the operational response in terms of appliances sent to deal with the incident. This information is processed against standardised geographies that are published from the Office of National Statistics (ONS).

Information about the breakdown of the workforce is also published giving detail about gender, ethnicity, belief systems, sexual orientation, age, and gender pay differentials.

Every FOI request is anonymised and published on the organisational website so that the public can see what has already been requested and re-use that information.

The Integrated Risk Management Plan is published on the organisational website setting out the priorities and objectives in 'Our Plan'. It is a rolling, three-year document which covers things like reducing serious traffic accidents, helping people have safer, healthier lives and ensuring emergencies are tackled effectively and safely.

The Annual Assurance Report provides a yearly overview of governance activities and the framework in which the organisation operates. The document is available on the organisational website and links to other key pieces of information such as the Statement of Accounts (Summary and Full Reports), Annual Audit Letter, Efficiency Plan, Contracts, Expenditure over £500, land and building assets of the Authority and the Pay policy.

Information about fire safety enforcement action such as prohibitions and enforcement notices under the Regulatory Reform (Fire Safety) Order 2005 are published for every fire and rescue service through a data portal managed by the National Fire Chiefs' Council (NFCC).

The organisation also routinely provides returns to the Home Office about the incidents that it attends, the number of safe and well visits and fire safety audits it has undertaken, and information about the workforce profile. This information is anonymised and published on the government (.gov.uk) website.

Conclusion

Information is a key organisational asset and West Midlands Fire Service strives to derive maximum benefit from the information that it collects, shares and receives. To deliver this it is critical that information is protected in terms of confidentiality, integrity and availability so that organisation can make data driven decisions as part of its underlying strategy of being evidence led in its approach. A program of work is in place as part of the organisation's Portfolio to ensure that the benefits of data driven decision making are firmly embedded and the risks to this approach are mitigated.

The foundations of a robust information management framework have been delivered and is being reviewed to align with new ways of working and the introduction of technologies that will automate protecting data and accessing systems. Minimum cyber security standards have been published by government and progress is being made against to achieve compliance and where possible exceed what is required. An external audit of information systems, hardware and infrastructure was undertaken, and areas of vulnerability have been addressed. Where possible technology is being used to simplify how we protect the confidentiality, integrity and availability of information

The focus for the following year is to implement functionality across the organisation to improve cyber security, protect information assets and prevent data loss. There are projects in place to digitise paper records and as part of this process, retention and archiving will become more automated and proactive. There will also be a drive to consolidate and simplify data across fewer platforms so that it becomes easier to make information available to those who need it and protect it from those who do not need it.

Annual Report of the Senior Information Risk Owner (SIRO)

Audit and Risk Committee



Roles and Responsibilities

- West Midlands Fire and Rescue Authority
- The Chief Fire Officer
- Senior Information Risk Owner (SIRO)
- Information Asset Owners (IAO)
- The Data Protection Officer
- Employees, Contractors, Third Parties



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ASSURANCE



Annual Report - Purpose

- Good Practice
- Assurance
 - Internal
 - External
- Identify
 - Weaknesses
 - Strengths
- Transparency

Annual Report - Overview

- Legislation & Standards
 - Data Protection Act 2018
 - Freedom of Information Act 2000
 - Government Technical Standards
 - Environmental Information Regulations 2004
- Performance
 - Statutory Time Limits
 - Local Performance Indicators (LPI)
- Risk Mitigation
 - Cyber Security
 - National Cyber Security Centre
- Future Developments
 - Digital Enablement
 - Automated Protection



Key Findings

- Responsibilities and Roles supported by Policy
- Compliance performance indicators improved
- Digital transformation
 - Benefits
 - Challenges
- Cyber Security is increasing globally
- Improvements identified and scheduled
- Accreditation
 - Internal
 - External
- Improved Transparency
 - Dashboards
 - Real-time information
- Mature framework
 - Embedded processes
 - Automation
- Proactive not reactive

Pensions Board

14 May 2020 by Virtual Meeting

Attendance: Neil Chamberlain (Chair),
Adam Harper, Employee Representative
Emmett Robertson, Employee Representative
Alan Tranter, Employee Representative
Wendy Browning Sampson, Employer
Representative
Kal Shoker, Employer Representative
Paul Gwynn, Pensions Adviser
Karen Gowreesunker, Clerk to the Fire Authority
Observer: Councillor Catherine Miks, Chair of the
Audit and Risk Committee to the Fire Authority

1. Apologies

Apologies were received from Julie Felton, Employer Representative.

2. Annual Benefits Statement 2020

Paul Gwynn confirmed that statements had been issued to Deferred Members. Preparation of statement issue to Active Members is on schedule to meet the 31/08/2020 deadline. Should unexpected matters arise affecting this position, they will be reported to the Pensions Board (hereafter 'the Board') for agreed mitigation.

Alan Tranter enquired upon the impact of the Covid-19 pandemic on resource management of the Pensions and Payroll Team, Paul Gwynn confirmed the team were effectively co-ordinating activity through remotely secure technological support.

In response to an enquiry from Kal Shoker about latitude to issue statements beyond the deadline, Paul Gwynn responded the Regulator had issued guidance on their website. This stated that should a breach of this deadline occur, they would consider circumstances sympathetically on an individual case basis, that enforcement was not automatically necessary. It was re-affirmed that if current resourcing remained constant, West Midlands did not envisage exceeding the deadline.

In response to an enquiry from Adam Harper about the format of statements, Paul Gwynn stated they conformed to the requirements as presently determined. It was anticipated that the format may be subject to review and proposals/changes will reported to the Board should that occur.

A related enquiry from Adam Harper was made regarding distribution of P60's during the period of closure of WMFS Headquarters site. Paul Gwynn confirmed that special arrangements had been actioned, enabling members of the Pensions and Payroll Team access to site for printing and enveloping of same. Distribution from Registry would be progressed accordingly. It was also confirmed that distribution by email was not viable, as the security of external email addresses could not be guaranteed; unlike existing employees who each had secure WMFS email addresses for receipt of P60's and associated personal data.

The Board expressed satisfaction with the context reported and arrangements for future progress.

3. **Assurance of Governance arrangements during Covid-19 Pandemic**

The Board received updates from Paul Gwynn and Kal Shoker on the capacity of the service to ensure maintenance of effective governance during the period of the Covid-19 pandemic. The Board were assured that

remote working was appropriately co-ordinated, turnaround times for payments were unaffected, contingency planning was in place should team availability be reduced.

It was noted that an increase in Widows benefits had been experienced and these payments were being prioritised.

The Board were reassured that payment mechanisms were robust to manage the practices of 'scammers', who are increasingly active within the pensions marketplace. The Regulator has previously expressed satisfaction with the WMFS infrastructure in this regard.

4. **Part Time Workers Prevention of Less Favourable Treatment Act 2000 (Regina-v-Judge O'Brien)**

The Board received a general overview of the context of the case and the matters that informed it. The case pertains to retained firefighters and the distribution of regulations from the LGA has been revised from 31/01/2020 to receipt during April 2020. These have yet to be received.

An enquiry from Adam Harper was made to Paul Gwynn on the anticipated approach that WMFS would progress. He confirmed the release of regulations would advise implementation. It was envisaged that a FAQ's sheet would be collated for all persons affected, together with awareness generation via the multitude of communication channels available. There would also be substantial tracking to engage with those who previously worked on a retained basis. The sites of Bilston, Handsworth and Sedgley were specifically referenced.

The Chair confirmed this would become a standing agenda item.

5. **Any Other Business**

An enquiry from Wendy Browning-Sampson was made on the status of the Injury Award Report. This should have been presented to the Audit and Risk Committee of the Fire Authority on 23 March 2020, a meeting that was cancelled due to the initiation of a lockdown. It was confirmed by both the Chair of the Audit and Risk Committee and the Clerk to the Fire Authority, that this report will be received by the Committee at its next meeting to be arranged for early June 2020. An amendment to Government legislation enables this Committee to meet in a virtual environment.

There was substantial discussion following an enquiry upon the progression of Remedy and the encouragement by the Fire Brigades Union for members to seek compensation resultant of the delay in final determination of McCloud.

Paul Gwynn summarised that the Treasury were due to publish a proposed solution for Remedy during Spring 2020 and subsequently undertake consultation. Publication is awaited. The compensation legal case is secondary to Remedy, in that it relates to Members seeking to claim for the period of delay in determining a judgement. A court case is anticipated for July 2020.

The benefits accrued in different variants of the Pension Scheme, the dates for payment of remedy, the level of overpaid/underpaid contributions into schemes, sit at the heart of the issues to be resolved. There is likely a Choice or Deferred Choice proposal for members.

The Chair requested the Board be updated on general developments. He also requested that employee representatives' detail specific individual queries through Paul Gwynn, who informs the Board of matters arising thereafter. This will ensure meetings are completed at the appropriate level of strategic and operational discussion.

An update enquiry was requested by Alan Tranter on the recent visit of the Pensions Regulator. Paul Gwynn confirmed that the report was awaited, and it would be received into the service through the Clerk to the Fire

Authority and the Chair of the Audit and Risk Committee. The general sense emanating from the visit was one of positivity of outcome. The Pension Regulator intimated they were satisfied with the decision-making process between Pensions Board and Audit and Risk Committee and the assurance that embedded. In addition, they were satisfied with the level of cyber security in situ to manage business. An information point was made by Paul Gwynn of a project underway to complete scanning of documents to further safeguard personal data. This received collective endorsement.

The Board agreed they will welcome the findings of the report and will support the Service in managing local circumstances in accordance with regulations.

6. Date and Time of Next Meeting

The next meeting of the Board was not scheduled. A date in advance of 31 August 2020 would be confirmed, method of transaction determined by developments in lockdown guidance.

Phil Fellows Strategic Hub 0121 380 7617 Email: Philip.fellows@wmfs.net
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Pensions Board

30 July 2020 at 15.30 hrs by Virtual Meeting

Attendance: Adam Harper, Employee Representative
Alan Tranter, Employee Representative
Wendy Browning Sampson, Employer Representative
Kal Shoker, Employer Representative
Paul Gwynn, Pensions Adviser
Observer: Councillor Catherine Miks, Chair of the Audit and Risk Committee to the Fire Authority

1. Apologies

Apologies were received from Neil Chamberlain (Chair), Julie Felton (Employer Representative), Karen Gowreesunker (Clerk to WMFRA), Emmett Robertson (Employee Representative).

Neil Chamberlain withdrew on the day of the meeting due to urgent professional business. His nomination of Kal Shoker to Chair the meeting, was unanimously agreed by attending Board Members at commencement of the meeting.

2. Minutes of Pension Board 14 May 2020

The Board resolved that the minutes of the meeting held on 14 May 2020 be approved as a correct record of proceedings.

Alan Tranter enquired upon the most recent contact with the Pensions Regulator. Paul Gwynn confirmed a conversation within the previous two weeks. The Board expressed satisfaction that contact was on-going through the pandemic period.

3. **Annual Benefits Statement 2020**

Paul Gwynn confirmed statements were produced and release will be in advance of the required deadline. There are twenty statements yet to be finalised, all relating to Members who were divorced. All statements will have been posted to Members by 14 August 2020.

Alan Tranter enquired if the software utilised for production of statements was sufficient. Paul Gwynn confirmed it was and that a version software upgrade was being supported by West Midlands Fire Service (WMFS) ICT team for completion during August 2020. A procurement process for contract renewal effective of November 2021 is to be progressed, preferably moving to a cloud-based functionality.

4. **McCloud Sargeant consultation (Fire)(July 2020)**

The Board undertook a question and answer session to Paul Gwynn of the recently released consultation document.

Alan Tranter enquired if WMFS was supportive of the consultation response. Paul Gwynn replied the Service would provide unbiased context enabling those affected to make appropriate decisions. He stated that the principal considerations were if the proposal removed discrimination from the three schemes and addressed bereavement of Members. Paul Gwynn stated that it initially seems to resolve both items, however the item of deferred or immediate benefits is potentially the larger issue for consideration. The Local Government Association (LGA) prefer the opportunity to defer, as it will minimise issues for Members who will not draw down their benefits until the long term.

Adam Harper thanked Paul Gwynn for his support in clarifying issues for the benefit of Members and those of the Fire Brigades Union (FBU). Paul Gwynn responded that

data specific to individuals could be readily calculated with payroll and pensions functions being provided by the same functional team.

Alan Tranter enquired of Adam Harper, if the FBU will be a consultee; he replied to the affirmative. Kal Shoker enquired of Paul Gwynn if the response of West Midlands Fire and Rescue Authority (WMFRA) would be compiled by him and the process for its approval. Paul Gwynn confirmed the deadline for submission of responses was 11 October 2020 and the proposed response would be proceeding via the WMFS Section 151 Officer and onto either Audit and Risk Committee and WMFRA dependent upon timescales for meetings. The meetings for the new year municipal year were yet to be confirmed due to the on-going management of the pandemic; the Local Authorities (Coronavirus) (Flexibility of Local Authority Meetings) Regulations 2020 provided the flexibility within meeting arrangements to enable a validated consultation response from WMFRA

Adam Harper expressed the continual flow of information on the subject was important to advise responses and the approach so far was exemplary.

5. **Review of Risk Register**

The Board reviewed the content of the Risk Register, focussing upon those risks with a score of 4,6 and 8.

Risk 1 Operational Disaster – Paul Gwynn confirmed an order had been placed for a company to securely scan all documents by 2020 year-end at a cost of £4,500 plus VAT. Kal Shoker requested a verbal report on progress at the next Board meeting.

Risk 2 Member data incomplete or inaccurate – Paul Gwynn stated the data held was relevant and appropriate. The cleanse exercise has not been conducted, as the annual benefits statements provision has illustrated issues arising with non-returns, which will advise the process. Alan Tranter enquired if records were digitised would it mitigate risk, Paul

Gwynn replied that data needed to be accurate in paper or digital format, the latter being a scan of the former in this instance. NARF had a role in ensuring awareness among its Members of the importance of ensuring their details were current. Councillor Miks enquired if digital enabled easier access to records, Paul Gwynn replied only for officers from any location and that it does not alter accuracy of data stored.

Adam Harper enquired if P60 could be distributed to Members by email. Paul Gwynn replied that General Data Protection Regulations do not enable WMFS to distribute to outside of service addresses; all in Service email addresses are considered secure.

Alan Tranter enquired of any plan for the procurement of a bespoke pensions and payroll system or dashboard of pensions performance portal. Paul Gwynn reaffirmed that data accuracy and secure storage is critical; a Member self-service portal for updating personal details could be included to the scope of the procurement process for system contract re-let from November 2021.

Risk 4 Complete system failure at point of pay date – Paul Gwynn stated this risk was pertinent to IT failure and not the business continuity conducted by the Payroll and Pensions Team.

Risk 5 Failure to process BACS – Paul Gwynn stated the BACS file produced by WMFS Payroll and Pensions Team was sent to Sandwell MBC for transmission. The process is established but has been subject to a supplementary Covid-19 specific risk assessment. Kal Shoker confirmed that Sandwell MBC were intending to switch systems by 31 March 2021 and WMFS will be included to that process. A review of data is planned to minimise duplication from source to transmission.

Risk 8 Insufficient resource to enable function to meet requirements of Pension Regulator – Paul Gwynn provided assurance of risk management and itemised business continuity during Covid-19 by example.

Risk 17 Failure to interpret rules or legislation correctly and Risk 18 Failure to comply with disclosure requirements or communicate with staff – Paul Gwynn expressed the experience of the Payroll and Pensions Team and potential for succession planning therein. There is consistent liaison with LGA working and technical groups, hence the visibility and contribution of WMFS to improvement and interpretation within the sector is evident.

Wendy Browning-Sampson proposed the Risk Register include a last reviewed date at the end of the document. The Board accepted this proposal.

6. **Recruitment of Board Members 2021**

The Board were reminded by Paul Gwynn that the tenure of Employee Representatives concludes in June 2021. Arrangements for an election process will be confirmed by December 2020.

Wendy Browning-Sampson confirmed the recruitment process would cover a six-month period and the current recruitment process is to be assessed and verified for fitness for purpose in advance of commencement. It was also confirmed the Clerk to the WMFRA would be consulted in parallel to discuss the mechanism for future recruitment of Employer Representatives to the Board.

The Board agreed that this item become a standing agenda item during this period of recruitment.

7. **Assurance of Governance arrangements during Covid-19 Pandemic**

Kal Shoker confirmed the WMFS Final Accounts, which includes Pensions, were submitted to the Audit and Risk Committee on 27 July 2020. The external auditors Grant Thornton have raised no issues with the financial position, accounting practices and statement of accounts. The final sign off will not be completed until late September 2020, as the West Midlands Pension Fund accounts audit is yet to be approved of which WMFS accounts final sign-off is contingent.

Paul Gwynn confirmed the same Committee received two Pension related reports. The Request for Pensionable Pay Decision for Fire Safety trial was approved, whilst the Reinstatement of a Widow's Pension was deferred for further evidence gathering. Councillor Miks affirmed that all WMFRA meetings were being conducted in accordance with the Local Authorities (Coronavirus) (Flexibility of Local Authority Meetings) Regulations 2020.

Paul Gwynn confirmed that all pensions payments continue to be paid on time. A retrieval of overpayment is presently being progressed from the estate of a deceased Member.

8. **Date of Meetings**

The dates of future meetings were reaffirmed as:
Friday 11 September 2020 at 15.00hrs
Friday 11 December 2020 at 15.00hrs

Both to be conducted as virtual online meetings

9. **Any other Business**

Board Members referenced receipt of the latest FPS bulletin today. Paul Gwynn stated content was mainly for information and he had not identified any item for note of the Board.

The Strategic Hub were requested, via Phil Fellows, to contact Claire Hey of the FPS seeking her availability for training updates at the December meeting.

The Board meeting ended at 16.40hrs.

Phil Fellows Strategic Hub 0121 380 7617 Email: Philip.fellows@wmfs.net
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Pensions Board

11 September 2020 at 15.30 hrs by Online Meeting

Attendance: Neil Chamberlain, Chair of Pension Board
Adam Harper, Employee Representative
Alan Tranter, Employee Representative
Wendy Browning Sampson, Employer Representative
Julie Felton, Employer Representative
Kal Shoker, Employer Representative
Paul Gwynn, Pensions Adviser
Observer: Councillor Catherine Miks, Chair of the Audit and Risk Committee to the Fire Authority

1. Apologies

Apologies were received from Karen Gowreesunker (Clerk to WMFRA), Emmett Robertson (Employee Representative).

2. Minutes of Pension Board 30 July 2020

The Board resolved the minutes of the meeting held on 30 July 2020 be approved as a correct record of proceedings.

Wendy Browning-Sampson requested it be noted for the purpose of forward planning, the next meeting at which the Independent Chair of the Board is unavailable, an Employee Representative fulfils the role. This accords with the Terms of Reference that the Employer and Employee Representative alternate the role. The Board of the 30 July 2020 was Chaired by an Employer Representative.

The Board were updated the LGA/FPS representative was not available to undertake training at their next meeting scheduled for 11 December 2020. The Board agreed the proposal of the Chair to reconsider the date of the next

Board to accommodate her availability during December 2020. The Strategic Hub were requested to progress and revert to Board Members.

3. **Updates**

Annual Benefit Statements - Paul Gwynn confirmed all statements were issued during the period 11 to 15 August 2020, in advance of the required deadline of 31 August 2020. There are a few subsequent queries from Scheme Members being addressed which relate to implications of the outcome of Remedy. The Board expressed thanks to Paul Gwynn and the Payroll and Pensions Team for their efficiency in progressing this item, particularly within the circumstances of the Covid-19 pandemic.

Assurance of Governance arrangements during Covid-19 pandemic – Paul Gwynn provided assurance to the Board that Governance arrangements were being maintained. He cited two pension related reports presented at the West Midlands Fire and Rescue Authority (WMFRA) Audit and Risk Committee on 27 July 2020. Councillor Miks, the Chair of that Committee, confirmed discussion of the reports and their outcome.

Risk Register – Wendy Browning-Sampson suggested Board Members review the Risk Register in advance of meetings, update accordingly and identify specific items in readiness for discussion. Alan Tranter suggested the Register should be represented by RAG ratings (Red, Amber, Green) enabling prompt sighting of issues arising. The Chair requested that Wendy Browning-Sampson and Kal Shoker review the structure of the Risk Register and report back to the Board on potential improvements to its presentation, management and ownership.

A discussion progressed on Risk 10 (Successful legal challenge by FBU to Transitional Arrangements) and whether it should be revised to become two risks. Wendy Browning-Sampson and Adam Harper agreed that transitional arrangements had begun to generate recurring complaints. Paul Gwynn observed that Remedy was now a

standing agenda item and a future risk for consideration should there be insufficient capacity of employee or IT resource to deliver transitional arrangements. The Chair suggested this item be included to the review of the structure of the risk register.

4. **McCloud Sargeant consultation (Fire)(July 2020)**

Paul Gwynn provided an update on actions undertaken since the recent release of the consultation document. He confirmed a draft response had been compiled for review by the Strategic Enabling Team at their meeting on 16 September 2020. The response would be presented for approval at the WMFRA meeting on 05 October 2020. Submission deadline for consultation responses is 11 October 2020.

The Board requested the opportunity to review the response in its current format. Paul Gwynn confirmed it was filed within the Pension Board Team site, for which all members had access.

Paul Gwynn reported the Scheme Advisory Board have requested the Home Office provide Guidance on Immediate Detriment Cases i.e those who retire during the Remedy period of 01/08/2015 – 01/03/2022. The legal standing of all cases considered as if Remedy has been agreed is being challenged. There are implications to be addressed regarding changes in taxation resultant of Scheme changes and the costs of Additional Voluntary Contributions.

Adam Harper enquired if West Midlands Fire Service (WMFS) were seeking a legal position, to which Paul Gwynn confirmed affirmatively. Alan Tranter enquired if transitional arrangements are potentially unlawful, enabling a Scheme Member to pursue a class action against WMFS implementing transitional arrangements. Paul Gwynn stated that it was feasible to envisage that occurrence.

Adam Harper commented there existed risk to both individual employee and WMFS. Paul Gwynn confirmed this position and upon further enquiry supplemented that WMFS and the local Fire Brigades Union Branch were in regular constructive liaison relevant to each bodies position on Remedy and the associated guidance.

The Chair enquired of how the prospective financial impact was being forecast. Kal Shoker confirmed that a £1.5 million budget pressure is mentioned in the February 2020 budget report to the WMFRA and additional grant would be sought from Government to minimise financial pressures placed upon the WMFRA.

5. **FPS Bulletin 36**

Paul Gwynn advised the Board that items contained within the bulletin were being progressed where required. He referenced the Annual General Meeting on 22 September 2020 and encouraged all Pension Board Members engage, being conducted online it would not be limited in number of attendees.

6. **Recruitment of Board Members 2021**

In the absence of the Chair at the meeting of 30 July 2020, Wendy Browning-Sampson reaffirmed discussion therein that the tenure of Employee Representatives concludes in June 2021. Arrangements for an election process will be confirmed by December 2020. The recruitment process would cover a six-month period and the current recruitment process is to be assessed and verified for fitness for purpose in advance of commencement. It was also confirmed the Clerk to the WMFRA would be consulted in parallel to discuss the mechanism for future recruitment of Employer Representatives to the Board.

The Chair requested to be advised of the exact recruitment process and timescale. He observed the performance of the current Board had been excellent for improving the quality of debate, which had been informed by its skillset therein. The Chair endorsed the agreement made at the previous

Board that this item become a standing agenda item during this period of recruitment.

7. **Date of Meeting**

The date of next meeting was reaffirmed as Friday 11 December 2020 at 15.00hrs, pending confirmation of an alternative date to undertake FPS training.

It was anticipated the meeting would be conducted as an online meeting.

8. **Any other Business**

There were no items of any other business raised.

The Board meeting ended at 16.35hrs.

Phil Fellows Strategic Hub 0121 380 7617 Email: Philip.fellows@wmfs.net
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WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND RISK COMMITTEE

WORK PROGRAMME 2020/21

Date of Meeting	Item	Responsible Officer	Completed
2020			
27 July 2020	Audit Plan 2019/20	Grant Thornton	27.07.20
	Informing the Audit Risk 2019/20	Grant Thornton	27.07.20
	Statement of Accounts 2019/20 (Draft Unaudited Approval)	Treasurer	27.07.20
	Treasury Management Annual Report 2019/20	Treasurer	27.07.20
	Governance Statement 2019/20	Treasurer	27.07.20
	Internal Audit Plan 2020/21	Audit Manager	27.07.20
	Internal Audit Annual Report 2019/20	Audit Manager	27.07.20
	Minutes of the Audit and Risk Committee held on 1 June 2020	Democratic Officer	27.07.20
	Training Requirements of Audit and Risk Members	Democratic Officer	27.07.20

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	Audit and Risk Committee Draft Work Plan 2020/21	Democratic Officer	Carried forward
26 Oct 2020	Terms of Reference of Audit and Risk Committee	Democratic Officer	26.10.20
	Treasury Management Mid-Year Report 2020/21	Treasurer	26.10.20
	Audit Progress & Sector Update	Grant Thornton	26.10.20
	Internal Audit Progress Report	Audit Manager	26.10.20
	Re-instatement of Pension Decision	Treasurer	26.10.20
	Remedy Report – McCloud/Sargeant	Treasurer	26.10.20
	Minutes of the Audit and Risk Committee held on 27 July 2020	Democratic Officer	26.10.20
	Audit and Risk Committee Draft Work Plan 2020/21	Democratic Officer	Carried forward
5 Oct 2020 [Authority]	Audit Findings Report 2019/20 Statement of Accounts 2019/20-(to approve)	Grant Thornton Treasurer	

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7 Dec 2020	Minutes of the Audit and Risk Committee held on 26 October 2020	Democratic Officer	
	Audit Progress & Sector Update	Grant Thornton	
	Internal Audit Progress Report	Audit Manager	
	Corporate Risk Update Q1 & Q2 2020/21	ACO Strategic Enabler (Process)	
	Annual SIRO report	ACO Strategic Enabler (Process)	
	Remedy Report – McCloud/Sargeant	Treasurer	
	Audit and Risk Committee Draft Work Plan 2020/21	Democratic Officer	
	Pension Board Minutes 14 May 2020	Democratic Officer	
	Pension Board Minutes 30 July 2020	Democratic Officer	
	Pension Board Minutes 11 September 2020	Democratic Officer	
	Fraud Awareness Training (tbc)	Phil Tromans John Matthews	

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14 December 2020 (Authority)	Minutes of the Audit and Risk Committee held on 26 October	Democratic Officer	
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2021			
15 February 2021 (Authority)	Minutes of the Audit & Risk Committee held on 7 December 2020 (tbc)	Democratic Officer	
22 March 2021	Minutes of the Audit and Risk Committee held on 7 December 2020	Democratic Officer	
	Internal Audit Progress Report	Audit Manager	
	Audit Progress & Sector Update	Grant Thornton	
	Audit and Risk Committee Terms of Reference	Clerk / Audit Manager	
	Internal Audit Plan 2021/22	Audit Manager	
	Audit Plan 20121/22	Grant Thornton	
	Internal Audit Charter – Annual Review	Audit Manager	
	Informing the Audit Risk Assessment – West Midlands Fire and Rescue Authority 2021/22	Grant Thornton	

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	<p>Minutes of the Pensions Board held on 09 December 2020</p> <p>Audit and Risk Committee Work Plan</p> <p><i>Committee Members' Private meeting with Internal Auditors (to follow Committee)</i></p>	<p>Democratic Officer</p> <p>Democratic Officer</p> <p><i>Audit Manager</i></p>	
7 June 2021	<p>Annual Internal Audit Report 2020/21</p> <p>Governance Statement 2020/21</p> <p>Monitoring Policies and RIPA (Annual Whistleblowing Report)</p> <p>Corporate Risk Update Q3 & Q4 2020/21</p> <p>Annual Report of the Audit and Risk Committee 2020/21 for approval</p> <p>Audit Progress & Sector Update</p> <p>Internal Audit Progress Report</p>	<p>Audit Manager</p> <p>Treasurer</p> <p>Monitoring Officer/ACO Strategic Enabler (Process)</p> <p>ACO Strategic Enabler (Process)</p> <p>Chair</p> <p>Grant Thornton</p> <p>Audit Manager</p>	

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	<p>Minutes of the Audit and Risk Committee held on 23 March 2020</p> <p>Minutes of the Pensions Board (tbc)</p> <p>Annual Report of the Pension Board 2020/21</p> <p>Audit and Risk Committee Work Plan-2020/21</p> <p><i>Committee Members' Private meeting with External Auditors</i></p> <p><i>Workshop for Members on Statement of Accounts 2020/21</i></p>	<p>Democratic Officer</p> <p>Democratic Officer</p> <p>Chair, Pensions Board</p> <p>Democratic Officer</p> <p><i>Grant Thornton</i></p> <p><i>Treasurer</i></p>	
21 June 2021 [Authority]	<p>Governance Statement 2020/21</p> <p>Minutes of the Audit and Risk Committee held on 22 March 2020 & 7 June 2020</p> <p>Annual Report of the Audit and Risk Committee 2020/21</p>	<p>Treasurer</p> <p>Democratic Officer</p> <p>Chair</p>	

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26 July 2021 (Audit and Risk Committee 2021/22)	Audit Findings 2020/21	Grant Thornton
	Statement of Accounts 2020/21 (Approval)	Treasurer
	Treasury Management Annual Report 2020/21	Treasurer
	Audit and Risk Committee Draft Work Plan 2021/22	Democratic Officer
	Minutes of the Pension Board (tbc)	Democratic Officer

