

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, 02 September 2019 at 10:30

at Fire Service HQ, 99 Vauxhall Road, Nechells, Birmingham B7 4HW

for the purpose of transacting the following business:

Agenda – Public Session

- | | | |
|----|--|-----------------|
| 1 | To receive apologies for absence (if any) | |
| 2 | Declarations of interests | |
| 3 | Minutes of the Audit and Risk Committee held on 29 July 2019 - Chair | 3 - 16 |
| 4 | Corporate Risk Update - ACO Gary Taylor | 17 - 54 |
| | Request of a Member to Discontinue Pension Payment Periodical Contributions - New Firefighters' Pension Scheme (2006) - Mike Griffiths, Treasurer | 55 - 58 |
| 6 | Pensionable Pay Decision - Mike Griffiths, Treasurer | 59 - 72 |
| 7 | Annual Audit Letter 2018-19 - Richard Percival, Grant Thornton | 73 - 90 |
| 8 | Residential Homes - Mike Griffiths, Treasurer | 91 - 94 |
| 9 | Audit and Risk Work Programme 2019-2020 - Chair | 95 - 100 |
| 10 | Update on Topical, Legal and Regulatory Issues (Verbal Report). | |
| 11 | Exclusion of the public and press
Chair to move:- <i>"That the public and press be excluded from the rest of the meeting to avoid the possible disclosure of exempt</i> | |

*information under Schedule 12A to the Local Government Act 1972
as amended by the Local Government (Access to Information)
(Variation) Order 2006 for the reasons stated below."*

Agenda – Private Session

12 Audit_Committee_Update_Issue_29 - Peter Farrow, Internal Auditor

- This document contains some information which cannot be made readily available. However, to comply with the spirit of the Freedom of Information Act, should you require details of this report it may be possible to give you access to certain information. If you wish to do that, please apply to the Data Manager, details below. Freedom of Information Act request, Martina Doolan, Data Manager, West Midlands Fire Service Headquarters, 99 Vauxhall Road, Birmingham, B7 4HW.

Distribution:

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

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Minutes of the Audit and Risk Committee ^{Item 3}

29 July 2019
at Fire Service Headquarters, Vauxhall Road,
Birmingham B7 4HW

Present: Councillors Miks (Chair), Gill (Vice Chair), Miller and Spence

Apology: Councillor David Barry
Mr Ager (Independent)
Peter Farrow, Audit Manager
John Matthews, Internal Audit
ACO Gary Taylor, Strategic Enabler (Process)

As well as the Members of the Committee the following officers attended the meeting:

Mike Griffiths, Treasurer
Kal Shoker, Finance Manager
Karen Gowreesunker, Strategic Enabler (Strategic Hub)
Richard Percival, Grant Thornton
Javed Aktar, Grant Thornton

Councillor Brackenridge, Chair (Observing)

At the beginning of the meeting everyone introduced themselves.

35/19 **Declarations of Interest**

There were no declarations of interest.

36/19 **Minutes of the Audit and Risk Committee held on 3 June 2019**

Resolved that the minutes of the Audit and Risk Committee held on 3 June 2019 be approved as a correct record.

37/19 **Audit and Risk Committee Terms of Reference**

The Committee noted its Terms of Reference.

The Terms of Reference had been amended to reflect the separation of the role of the Pensions Board from the Role of the Audit and Risk Committee.

Audit and Risk Committee

“To have delegated responsibility as Scheme Manager for making decisions in the management and administration of the firefighters’ pension schemes.

Pension Board

The Pension Board assists the Audit and Risk Committee in the role as Scheme Manager to secure compliance with regulations relating to Governance and Administration.”

Resolved that the amendments to the Audit and Risk Committee Terms of Reference be approved.

38/19 **Audit Findings Report 2018/19**

The Committee noted the Audit Findings report (AFR) 2018/19. The AFR set out and reported on the key messages arising from the external audit work undertaken during the year. The AFR is designed to support the Auditor’s opinions and conclusions and is a requirement of the Code of Audit practice.

Mr Richard Percival, Grant Thornton, explained the findings to the Members of the Committee and summarised the key messages on the Financial Statements and Value for Money arrangements arising from their audit of the accounts.

It was confirmed that there was nothing to report under the Auditor’s Statutory Duties and the Auditor was able to provide an Unqualified Opinion.

The Management Representation letter would be signed following the meeting.

Materiality for the financial statements remained at circa £2.5m with the performance materiality circa £1.8m and was set out in a table in the report.

The Auditor stated that they had looked at four risk areas:

The revenue cycle includes fraudulent transactions – no issues to report in this regard.

Management override of controls - no issues identified in respect of management of override of control

Karen Gowreesunker left the meeting at this point.

Valuation of pension fund net liability – the Auditor did not have anything to report on this work, however, during the course of the audit The Authority has sought a revised report from the actuary in order to account for the impact of the recent “McCloud” judgement and also in relation to Guaranteed Minimum Pension (GMP) impact.

The Auditor stated that this was a complex issue regarding age discrimination that had been referred to the Court of Appeal but an appeal by the government had been denied.

It was noted that the final version of the accounts would need to allow for this issue. The revised actuaries reports were received in July and accounts updated accordingly, it had led to an increase in the net pension liability of £53.633m.

The overall impact is nil because of the way local authority accounts work and is a latent issue. However, contributions will be significantly impacted and the Treasurer would need to consider this.

A review had now been undertaken. The Finance Manager confirmed that this was a national issue that affected every fire authority across the country.

Valuation of Property Plant and Equipment – the Auditor stated that the valuation involved large figures and a slight change to estimated key assumptions can impact on the figures involved.

The Auditor had reviewed and were comfortable with the valuations.

The Auditor stated he was prepared to give an Unqualified Opinion and was waiting for a letter of assurance from the West Midlands Pension Fund in the next couple of days.

In respect of Value for Money, the Auditor had carried out an initial risk assessment in February 2019 and identified one significant risk using the guidance contained in AGN03.

The Auditor stated that they cannot cover all bases but looking for risks where a wrong conclusion could be based.

Financial sustainability was a key issue for all authorities and fire authorities.

In 2018/19 the Auditor considered the Authority's £2.5m favourable variance to be a good result considering the challenges faced.

2019/20 budget assumes savings of £3.8m and the use of £1.1m of balances.

The use of balances had been discussed at the previous meeting of the Audit and Risk Committee.

The Auditor stated that the future financial outlook for the Fire and Rescue Authorities is key and there would be pressure and significant uncertainty on balances going forward and also a pressure to spend on balances.

By 2021/22 there would be an estimated £1.7m gap in the budget.

Notwithstanding this there is sufficient financial stability.

One Member was extremely concerned on the amount of money to be found in savings and felt that further savings would bring suffering to the employees, the Authority and organisation. Concern was expressed for employees and jobs. With the reserves being reduced, the Members asked the Auditor what would happen if the government did not provide a grant.

The Auditor stated that the reserves bought time but could only be used once and there was a level of uncertainty. Officers could only plan for the known, but will continue to have to make savings.

The Treasurer stated that the use of reserves had been discussed at Authority meeting in February 2019 where the budget had been confirmed.

There would be a short fall this year and next year and it was recognised that in year 3 there would be significant shortfall.

The issue will be addressed in the next few months at meetings of the Authority and Policy Planning Forum.

The report identified flashing warning signs for the next two years and the Authority will need to consider these issues in the next two years if the warning signs unfold.

In response to a question from the Chair regarding the significant new risks emerging which will require the Authority to find further efficiency savings, it was confirmed the Internal and External Auditors were keeping an eye on these issues and the Authority would be required to look at these issues at future meetings.

Another Member expressed concern about the pension liability on the Authority for the next ten years.

The Auditor confirmed that an actuarial re-evaluation would be taking place next year.

The Treasurer confirmed that the specific pension issue has created the need to reassess the situation in the next six months.

All sectors are affected and the Fire Sector total equated to £4bn and the Authority's share of this amount will be high.

The full impact will not be known for a number of months. It is also unknown how this will be funded.

The Chair asked the Auditor for an explanation of the difference between the proposed and final fee figures.

The Auditor stated that Grant Thornton are regulated.

Between last year and this year a new contract was negotiated by the Public Sector Appointments Ltd (PSAA) and fees were reduced by one third.

The Regulator required further work on Pensions and PPE costing £1,000, the additional work on assessing the impact of the McCloud ruling required additional work costing £1,500 and additional work was required on Pensions IAS19 at a cost of £1,500. The additional charge of £4,000 was to cover the additional work undertaken.

There is a process for fees and following referral to the Public Sector Audit Appointments Ltd they will or will not approve.

The Auditor confirmed that all authorities would be asked for an additional fee because additional issues were not in the initial contract.

39/19 **Statement of Accounts 2018/19**

The Audit and Risk Committee's approval was sought for the Authority's Statement of Accounts for the financial year ended 31 March 2019. The full Statement was attached as Appendix A to the report and can be viewed at www.wmfs.net/your-fire-service/openness/documents.

A summary of the Statement outlining the main issues was attached at Appendix B to the report. The Treasurer stated the Statement links closely with the Audit Findings Report. It was confirmed that the Letter of Representation was to be signed by the Chair of the Audit and Risk Committee and the Treasurer at the end of the meeting. Members were informed that the Statement linked to the Workshop held for Members of the Audit Committee on 3 June 2019, however, as the majority of Members were new to the Audit and Risk Committee, the Treasurer recapped the main areas of the lengthy report. The Treasurer stated that the main Statements were the Comprehensive Income and Expenditure Statement and the Balance Sheet, although both were significantly affected by accounting requirements relating to pension arrangements.

The Treasurer highlighted the Movement in Reserves Statement which showed Earmarked Reserves had decreased by £5.604m from £38.984m to £33.380m in the year ending 31st March 2019 and General Reserves had decreased by £1.476m to £6.914m in the year ending 31st March 2019.

Last year the assumption was that the Authority would need to use £1.5m in general balances and the figure was in line with the assumed use.

The Authority's overall reserves had decreased by £7.080m and it was anticipated that this trend would continue.

The Treasurer stated that the prime purpose of the report was to seek approval of the set of accounts, which was a sizable document. A summary of the accounts was also provided.

The Treasurer confirmed that the Comprehensive Income and Expenditure Statement and Movement in Reserves Statement were set out on pages 69 and 70 of the agenda pack.

Total reserves as at 31 March 2019 were £42.700m and it was anticipated they would reduce further in future years.

The overall reserves as at 31st March 2019 are made up of:
£6.914m Un-earmarked general fund reserve
£33.380m Earmarked general fund reserve
£2.249m Capital receipts reserve
£0.157m Government grant

There are other long term liabilities which are linked to pension liabilities of £1.8 billion.

The Treasurer highlighted the scale and size of this figure which was required to be reflected as part of accounting regulations.

The Treasurer also highlighted the Long Term Borrowing which stood at £35.697m. This had reduced from £36.002m the previous year. This was historical borrowing undertaken by the Authority which was used to acquire assets.

The value of Property Vehicles Plant and Equipment stood at £131.195m

The value of assets was higher than the outstanding borrowing amounts.

£40.302m Cash and cash equivalents was held as at 31 March 2019 compared to £51.379m as at 31 March 2018 the figure was down by circa £11m, a significant proportion of which was the reduction in reserves.

One Councillor expressed concerns about the impact of reducing budget on employees.

In answer to a Members question, the Treasurer confirmed that the guidance stated that if general balances exceeded 5% of the total budget, the Authority would be expected to justify this.

The Authority's general balances were above this figure but by 31st March 2021 this figure will be circa £5m and earmarked balances will reduce more quickly as they are being used to fund capital projects.

The Authority's budget was considered to be relatively healthy but would not be so in a couple of years and members would see a real change in the future.

Members of the Authority would be increasingly required to consider the impact of the reducing budget.

In answer to a question regarding penalties for Authority's with general balances higher than 5%, the Treasurer confirmed that the argument being used was if balances were being used to smooth out budget reductions and are earmarked to support projects and the capital infrastructure, then there would not be a direct loss but there were differing political views on reserves.

It was confirmed that the reserves are kept in banks and building societies as part of the Treasury Management arrangements with Sandwell MBC.

In answer to a question from the Chair regarding a longer term debt to Dudley MBC, the Finance Manager confirmed that this debt related to the ex-West Midlands County Council and all local authorities including the Fire Authority were required to make contributions towards the debt which should would be running for the next 7 years.

In response to a question from the Chair regarding the Assets that the Authority holds, the Treasurer confirmed that the Fire Authority used to provide accommodation for firefighters and their families and some remain occupied with strong legal tenancy agreements. Some of the accommodation is empty but are within the boundary of the fire station and the Service were considering how best to utilise the accommodation.

An example was given that at Perry Barr Fire Station, planning permission was being sought for alternative access to the properties so that they could be brought back into use by a housing association or property developer. Officers were looking at ways of using the accommodation as effectively or appropriately as possible.

The Chair requested a report at the next Audit and Risk Committee regarding the Authority's residential homes. The Treasurer agreed to provide the information requested.

Members enquired about the critical judgement in applying accounting policies on page 90 of the agenda pack and, in particular, the statement of No residual value of assets. The Authority assumes that the residual value of plant or equipment will be nil when they are de-commissioned, as the assets are held to provide a service rather than the resale at the end of their useful life. The Treasurer stated that equipment and plant is sold on if it is felt it has a sales value and officers would seek to gain some income and depreciation is reflected in the accounts.

Some equipment was cannibalised for parts when it has come to end of its useful lifespan.

Resolved that the Summary Accounts be noted and Statement of Accounts for 2018/19 as set out at Appendix A be approved.

40/19 **Treasury Management Annual Report 2018-19**

The Committee received the Treasury Management Annual Report 2018/19, which covered the Treasury Activity during 2018/19 and the Actual Prudential Indicators for 2018/19, which had been compiled by the Treasurer.

The Authority approved its 2018/19 Treasury Management strategy as part of the Budget Setting report in February 2018 and also received a mid-year Treasury Management update at the Audit and Risk Committee meeting in November 2018.

The three key Treasury Management activities to note were:

Capital Expenditure

The Authority's capital expenditure for 2018/19 was £8.809m which was funded mainly by the use of revenue contributions (£8.149m) capital grants (£0.660m). The largest spend on capital was £3.8m on the redevelopment of Coventry Fire Station, £1.8m on the Vehicle Replacement Programme and £1.3m on the redevelopment of Aston Fire Station.

No borrowing was undertaken to finance any capital expenditure in 2018/19.

The Authority's Debt

As at 31 March 2019 the Authority's total external debt was £36m of which £33.1m was in respect of borrowing undertaken with Public Works Loan Board and the balance £2.9m is in respect of the Authority's share of the Ex WMCC debt. The value of long-term assets held by the Authority as at 31st March 2019, which the loans have helped fund was £131.4m

The average rate of interest payable on this debt was 5.4%.

The Authority's Investment

As at 31 March 2019 the Authority's investments totalled £40.9m which are invested with Sandwell MBC as part of the treasury management arrangement the Fire Service has with them.

Interest is received on the Authority's average cash balance and is based on the average return achieved by Sandwell MBC plus 10 basis points which for 2018/19 was 0.73%. This compares favourably to the benchmark, which is the average 7-day LIBID rate of 0.51%.

In answer to a Member's enquiry it was confirmed that the average rate of interest was 5.4%. Some of the outstanding loans that were over 20 years old had a higher rate of interest whereas more recent loans attracted lower interest rates.

In answer to a question from the Chair about the possibility of renegotiating the interest rates charged on long term loans, the Finance Manager confirmed that it was possible to refinance debt and Treasury Management advisors would look at this from time to time and if the PWLB offered better interest rates, officers would look to take advantage of the better interest rates. However, it was noted that if loans were repaid and replacement loans taken out, there would be a premium to pay and officers needed to consider the balance between paying a loan off and paying the premium charge.

41/19 Minutes of the Pensions Board held on 4 March 2019 and 4 June 2019

The Committee received the Minutes of the Pensions Board held on 4 March 2019 and 4 June 2019.

Mr Kal Shoker gave the apologies of Mr Neil Chamberlain, Chair of the Pensions Board who was unable to attend the meeting.

It was explained the frequency of Pension Board meetings had increased from two to four per year. This was to ensure more timely discussions on pensions issues and to reduce the time between meetings. Previously, due to a meeting being cancelled there had only been one Pension Board in a municipal year.

Similarly, to ensure a quorum at meetings, the number of Employee Representatives and Employer Representatives had increased from 2 to 3.

Both sets of minutes were considered together. It was noted that the Chair of the Strategic Advisory Board, Malcolm Eastwood, had attended the Pensions Board on the 4 March 2019.

The Committee were informed that the Pension Board considered on a regular basis:

Pensions Advisor – supporting information
Risk Register
Firefighters Pension Scheme Bulletins
Topical Legal and Regulatory Information

The Chair noted the Actions and, in particular, the item regarding Engagement with the Audit and Risk Committee. Mr Shoker explained that the Pension Board recommended regular engagement and dialogue with the Audit and Risk Committee as Scheme Manager and the Chair of the Pensions Board.

One of the Actions in the Minutes of the meeting of the 4 June 2018 was a request for a named person to be nominated as a point of contact for the Scheme Manager. The Chair stated that this would remain as the Audit and Risk Committee.

The Chair thanked the Pensions Board for their work and reports.

43/19 Annual Report of the Pensions Board 2018/19

The Annual Report of the Pensions Board for 2018/19 was received.

42/19 Audit and Risk Workplan 2018-2019

The Committee noted the Work Programme for 2018/19.

43/19 Update on Topical, Legal and Regulatory Issues

There were no new issues to report.

44/19 Training

Members were asked to let the Clerk know if there were any specific areas of training required.

Councillor Spence had previously received training from the Treasurer that had been very useful.

LGA Training for Scheme Managers would be arranged for the Members of the Audit and Risk Committee and members of the Pension Board. A date would be confirmed.

The meeting finished at 1120 hours.

Julie Connor Strategic Hub 0121 380 6906 Julie.Connor@wmfs.net

WEST MIDLANDS FIRE AND RESCUE AUTHORITY Item 4

AUDIT AND RISK COMMITTEE

2 SEPTEMBER 2019

1. **CORPORATE RISK UPDATE**

Report of the Chief Fire Officer.

RECOMMENDED

THAT Audit and Risk Committee approve the Corporate Risk Assurance Map Summary (Quarter 1, 2019/20, Appendix 1) and note the Position Statement (Quarter 1, 2019/20, Appendix 2) for each risk.

THAT Audit and Risk Committee approve the removal of Corporate Risk 9.1 and 9.2.

2. **PURPOSE OF REPORT**

This six-monthly update is provided to ensure Members remain informed about all aspects relating to the management of the Authority's corporate risks. It covers Quarter 4 2018/19 and Quarter 1 2019/20.

3. **BACKGROUND**

- 3.1 This report includes the Corporate Risk Assurance Map Summary and the Position Statement for Quarter 1 2019/20. This is the combined six-monthly report as agreed by Members at the Audit Committee Meeting held on the 25 July 2016.
- 3.2 In accordance with the Service's risk management strategy, the Corporate Risk Assurance Map Summary is submitted for approval by the Audit and Risk Committee, following its submission and discussion at the Corporate Quarterly Performance Review Meeting.

Ref. AR/2019/Sept/11208196

- 3.3 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.
- 3.4 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.
- 3.5 To enable for effective risk management, the Risk Owner will periodically undertake an assessment of each corporate risk. The frequency of this review will be based upon the estimated risk rating undertaken 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				
	3				
	2				
	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

- 3.6 In order to ensure that Members are kept informed of corporate risk matters a Corporate Risk Assurance Map

Ref. AR/2019/Sept/11208196

Summary for Quarter 1 2019/20 (Appendix 1) and the Position Statement for Quarter 1 2019/20 (Appendix 2) are attached.

3.7 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.

3.8 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.

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

Increase/decrease in Overall Corporate Risk Score

3.10 During Quarter 4 2018/19 there was an increase in the risk score for Corporate Risk 4.1, Protection. This risk score increased from 6 (Likelihood 2 x Impact 3) to 9 (Likelihood 3 to Impact 3).

Ref. AR/2019/Sept/11208196

This was due to the high demand and complexity in the building applications received. These applications included two high profile developments, High Speed Rail (HS2) and the Commonwealth Games. Additional investment for Protection resources into the Planning and Building Applications team was agreed by the Authority in November 2018, however it would take approximately 12 months for the additional Protection officers to become competent.

- 3.11 In Quarter 1 2019/20 there was a decrease in Corporate Risk 1.1 External (Political and Legislative) Environment. This decreased from 6 (Likelihood 3 x Impact 2) to 2 (Likelihood 1 x Impact 2).

The change in The Plan 2019-2022 indicates there is currently limited risk of public service reform impacting on the delivery of strategy and core service delivery.

- 3.12 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 for the six months (Quarter 4 2018/19 and Quarter 1 2019/20).

- Corporate Risks 1.1, 1.2, 2.3, 4.1, 5.1, 5.2, 8.1 and 8.2 have been awarded a green confidence (substantial) opinion, which is the highest level that can be awarded.
- Corporate Risks 2.1, 2.2, 3.1, 3.2, 6.1, 7.1, 7.2, 9.1 and 9.2 have been awarded an amber (satisfactory) confidence opinion. In all cases, work is in progress to enable for a green rating to be attained.

Position Statement Summary

- 3.13 **Corporate Risk 2 – People** The risk owner is confident that positive progress continues to be made in the delivery of several elements of the collective agreements and the Employee Relations Framework (ERF) has now been issued. An E-cademy learning package for all employees is being developed, to enable all employees to ensure a greater understanding of the ERF and the specific elements of it.

- 3.14 **Corporate Risk 3 – Prevention** An IT solution to assist with Safe and Well visits is currently being developed as part of the introduction of Tymly, which is currently being piloted in the Black Country South. This is with the view to eventually rolling it out across the organisation.
- 3.15 **Corporate Risk 5 – Response** The continuation of the flexible use of resources to achieve the savings outlined in the financial efficiency plan and deliver a balanced budget, means that there is an overall reduction in fleet availability. The reduction in fleet generally applies across the Brigade Response Vehicles and is supplemented by 2nd appliances riding at 4, instead of 5 personnel.
- 3.16 **Corporate Risk 6 – Business Continuity and Preparedness** The Emergency Planning team, alongside Local Resilience Forum Partners continue to engage with EU Exit No Deal planning. West Midlands Fire Service are maintaining awareness of updated government planning assumptions and have continued engagement with the Ministry of Housing Communities and Local Government.
- 3.17 **Corporate Risk 7 – Information, Communications and Technology** The organisation continues to take a cloud-based approach to data storage thus reducing the reliance on in-house processes, procedures and infrastructure to access and maintain data. Cloud based solutions for business continuity and disaster recovery are being considered to improve resilience.
- 3.18 **Corporate Risk 8 – Finance and Assets** The budget was set in February 2019 with several significant issues still to be determined regarding future funding impacts. This specifically related to the Firefighters Pension Scheme, Firefighters pay awards, the outcome of the Governments Fair Funding Review and a lack of clarity around future Government funding settlements linked to the uncertainty of the timing and impact of public sector Comprehensive Spending Reviews. Details regarding these issues have not yet been determined.
- 3.19 **Corporate Risk 9 – Business Development** The recommendation is for Corporate Risk 9.1 and 9.2 to be removed. This is due to the Fire Authority commissioning officers to develop options to make appropriate budget

Ref. AR/2019/Sept/11208196

Reductions, in order to set a balance budget. The revised strategy was presented and agreed at the 18 February 2019 Authority meeting, where it was agreed that “The Plan” and the balanced budget would be delivered through the flexible risk-based management of resources daily. There is no longer a requirement to achieve flexible funding targets through business development. The health contracts that were in place were finally closed on the 3 April 2019.

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

Corporate Risk Update to Audit Committee,
Audit Committee Report, 25 July 2016

Delivery of The Plan 2018-21
Executive Committee Report, 6 June 2018

Ref. AR/2019/Sept/11208196

Strategy Options
Fire Authority, 17 September 2018

Strategy Options
Fire Authority, 19 November 2018

Investment Report
Fire Authority, 18 February 2019

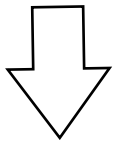
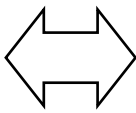
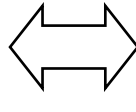
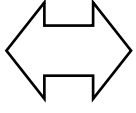
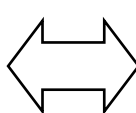
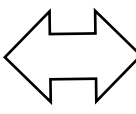
Strategy Options 2019 – 2020
Fire Authority, 18 February 2019

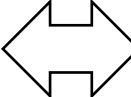
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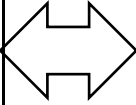
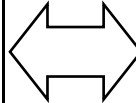
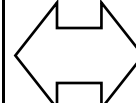
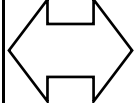
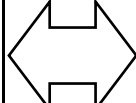
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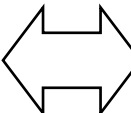
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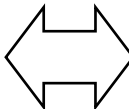
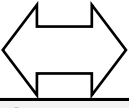
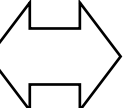
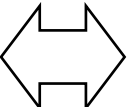
Corporate Risk Assurance Map - Summary - Qtr 1 2019/2020

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					
1.1	Public Service Reform enables new duties and/or major changes to the governance, structure, role or activities of the fire and rescue service requiring major re-organisation, resulting in an inability to deliver against organisational strategy and planned community outcomes.				1	2	2
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.				3	3	9
CR2	People	SE People - Sarah Warnes (2.3 - Steve Vincent)					
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.				3	3	9
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	3	9
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

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
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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
CR9	Business Development	SE Business Development - Preith Shergill					
9.1	The Fire Authority is unable to create, grow and sustain appropriate alternative funding opportunities and meet financial targets, through the delivery of these opportunities via the Service Delivery Model. This will result in a budget shortfall impacting upon our ability to maintain the Service Delivery Model and delivery of core services.				4	1	4
9.2	The Fire Authority is unable to meet contractually binding arrangements for the provision of commissioned and/or paid services resulting in litigation; reduced confidence and credibility; and increased reputational damage.				2	2	4

Corporate Risk Quarter 1 Position Statement July 2019

Item 4

Individual Risk Position Statement

Corporate Risk 1 – External (Political and Legislative) Environment

Corporate Risk 1.1:
Public Service Reform enables new duties and/or major changes to the governance, structure, role or activities of the fire and rescue service requiring major re-organisation, resulting in an inability to deliver against organisational strategy and planned community outcomes.

Emerging Issues	<p>The overall risk score for this risk has reduced from 6 to 2 (likelihood 1 x Impact 2) and risk rating of ‘low’ is maintained against this corporate risk.</p> <p>The statutory Order that was developed and finally approved at West Midlands Combined Authority (WMCA) on the 22nd March 2019, did not receive final consent for laying in parliament on the 5 June 2019. Four Local Authorities did not provide their consent, and this has closed down the transfer of governance of the Service from West Midlands Fire and Rescue Authority (WMFRA) to the WMCA and Mayor.</p> <p>WMFRA which reformed and reduced its size in 2018, will remain as the governing body for the Service.</p> <p>The revision of the Authority’s Strategy in February changed its approach to the development of locally commissioned work to support the wider prevention agenda and the achievement of the financial efficiency plan. An impact of this was the need to adopt an approach to delivering front line services flexibly enabling the management of resources on a daily basis, to ensure the achievement of a balanced budget.</p>
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	<p>This approach to delivering the strategy may have an impact of the services ability to contribute to public service reform priorities in the future.</p> <p>The change in The Plan 2019-2022 indicates that this risk is no longer relevant at a strategic level. There is currently limited risk of public service reform impacting on the delivery of strategy and core service delivery.</p>
Changes to control measures	<p>Several control measures associated with the transfer of governance have now been closed which aligns to the consideration that this risk can be reviewed as to its appropriateness aligned to the Plan.</p>
Assurance updates	<p>As identified above control measures in place to manage this risk have been largely closed. Some control measures remain in operation as these will still exist aligned to ongoing relationship management and strategy setting.</p> <p>The risk owner is confident that this risk is low level and could be closed at a corporate level.</p>

Corporate Risk 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.

Emerging Issues	<p>The overall risk score remains the same as has been throughout the year.</p> <p>A revised strategy agreed by the Fire Authority in February 2019, limits the ability for the service to engage in collaborative and/or commissioned working relationships from a wider health prevention perspective.</p>
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	<p>The ceasing of the governance transfer to the combined authority also has an impact on being able to manage this risk effectively as one of the many benefits to this move was a closer alignment to public service reform priorities across the conurbation.</p> <p>However, this does not prevent the Service continuing to position itself in the best way possible. Opportunities to enable this may require greater focus to ensure alignment to our strategic direction.</p> <p>Further consideration is required aligned to the development of the Service 3 year rolling strategy moving forward.</p>
Changes to control measures	<p>As with risk1.1 the control measures associated with the change in governance have been closed now as this governance transfer will not now take place.</p> <p>The Authority's strategy for 2019/22 maintains priorities of prevention, protection and response services, albeit the flexible management of resources to manage financial efficiencies means that established prevention interventions may be reduced as a result of this approach. More transformational interventions to target the most vulnerable will be more challenging to achieve.</p>
Assurance updates	<p>With the closure of several control measures the risk maintains its status at the control measures remaining are those aligned to the effective management and development of strategic direction.</p> <p>The risk owner is confident that these measures are sufficiently strong to ensure that where possible the Service is able to position itself effectively in public service reform</p>

Corporate Risk 2 - People

Corporate Risk 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.

Emerging Issues	The overall risk has remained the same this quarter at 9 (likelihood 3 x impact 3). This was following a reduction from the 1 st quarter of the year 12 (likelihood 4 x impact 3).
Changes to control measures	<p>Good progress continues to be made in the delivery of several elements of the collective agreements (CA's) to include: The Employee Relations Framework (ERF) which is now issued. The framework in relation outlines to the working arrangements for the joint working party, joint consultative committee and the joint consultative panel are also being amended to reflect the CA's. Further development is taking place to provide an E-cademy package for all employees to ensure a greater understanding of the ERF and the specific elements held within the policy. The contract for the cultural review has been awarded to RealWorldHR who are now undertaking the cultural review. The outcomes are due to be published in September 2019.</p> <p>The Fire Authority was presented with several proposals for the delivery of the future strategy on 17 September 2018. In considering the "in year" 2018/19 short term financial control measures it was agreed that the service would reduce the use of the number of voluntary additional shifts. This has now been implemented and will continue to be evaluated to ensure minimal impact on the service delivery model and staff.</p> <p>Employee engagement 1st April</p>

	<p>Options were presented to the Fire Authority on 18 February 2019 for the delivery of the future strategy in relation to the management of fleet availability. Following agreement on the approach from the Fire Authority and undergoing an extensive consultation process the approach implemented on the 1st April. The approach will continue to be evaluated to seek feedback and ensure ongoing staff engagement to minimise staff impact and ensure the effective use of resources.</p> <p>Consultation and engagement through the (ERF) continues to be positive throughout the quarter with all options being consulted on through the joint consultative committee.</p> <p>There have been ongoing national discussions in relation to pay and conditions of service. Following the results of the ballot in April 2019, where Firefighters rejected the current pay offer and also re-endorsed the unions strategy in pay negotiations. Discussions have continued Nationally. The latest position to be noted from the Fire and Rescue Service national employer's states – the National Joint Council has agreed to pause the national broadening of the role negotiation. Further discussions are taking place in relation to a pay award. WMFS continue to engage with staff and the representative bodies on this matter and will continue to monitor the National discussions and potential impacts.</p>
Assurance updates	<p>The risk owner is confident in the progress that has been made in the last quarter and that plans are in place to maintain positive local relations with representative bodies and staff. A further statement has been provided in relation to the National discussions on pay. There has been no escalation in relation to industrial action linked to pay discussions. WMFS will continue to monitor the National discussions. Based on this assessment the risk score remains the same.</p>

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Corporate Risk 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.

Emerging Issues	The overall risk score is 3 (likelihood) x 3 (impact) total 9. The risk score remains at 9 due to the current position as discussed in 2.1.
Changes to control measures	<p>The three-year staffing strategy continues to provide a strong level of forecasting for the organisation. Current recruitment and selection processes continue to provide required staffing levels are maintained to ensure the delivery of the Service Delivery Model. In addition, the revised attraction and selection process is enabling a high level of successful candidates from underrepresented groups.</p> <p>The Competency Risk Assessment recommendations were approved for 2018/19 and have been applied for 12 months Improvements to the Distributed Training Model (DTM) project are progressing well. The organisation through quarterly reporting has a good level of assurance in relation to the completion of standardised assessments. Progress is being made in relation to all standardised assessments this will be monitored for progress as part of the quarterly performance review. Further development is being carried out on the reporting tools to ensure we are gathering the appropriate levels of intelligence in a timely manner.</p> <p>The organisation received the outcomes of the Her Majesty's Inspectorate Constabulary (HMIC) with overall performance assessed as good with outstanding being awarded for responding to fires and other incidents. The areas for improvement are being considered and further organisational</p>

	<p>improvements will be taken forward following the cultural review outcomes.</p> <p>The assessment of ability to deliver the competency framework in relation to Organisational Learning and People Development is being undertaken to ensure the appropriate levels of resources are available in support of the service delivery model.</p> <p>Performance in relation to attendance management has risen and continues to be an area of focus. Three training and development packages have been developed to support managers in providing appropriate levels of support, these are: Workplace adjustment passport, Wellbeing action plan and the Stress risk assessment/work.</p>
Assurance updates	The risk owner is assured that the current control measures ensure the delivery of the services and therefore the risk score of 9 will remain the same in this quarter.

Corporate Risk 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.

Emerging Issues	<p>The overall risk score remains the same at 6 (likelihood 2 x impact 3). This is a medium rated risk.</p> <p>Performance against corporate indicators reflects that injuries exceeded the target for quarter 1 (actual 41 compared to target 31.5). This compares with 39 injury reports for quarter 1 2018/19.</p>
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	<p>In respect of RIDDOR, performance was under the target for quarter 1 (actual 5 compared to target 3.5). This compares with 4 RIDDOR reports in quarter 1 2018/19.</p> <p>Levels of near hits and violence to crews (mainly verbal abuse) have reduced, compared to same quarter in 2018/19. The Health, Safety and Wellbeing team has increased its challenge of near hit reports, where other reporting mechanisms should have been used and this will contribute to a reduction in near hits.</p> <p>In April, WMFS received a Notification of Contravention from the Health and Safety Executive (HSE). This related to a swimming assessment injury in October 2018 and expressed the HSE Inspector's opinion following their investigation. WMFS has acted on all the opinions and the HSE has confirmed that it is not proportionate or in the public interest to take any further action. The injured party has returned to work and is on full duties.</p> <p>Health, Safety and Wellbeing was considered in the HMICFRS inspection, during January 2019, and was reported on positively.</p> <p>Monthly Health, Safety and Wellbeing Committee meetings are continuing successfully at Brigade level, involving the Representative Bodies, who have also been involved in joint investigations into both injuries and near hits.</p> <p>The Health and Safety Policy is now due to be reviewed, to reflect the change in the Chair of the Fire Authority.</p>
Changes to control measures	No changes have been made this quarter, but all risk owners are advised to check this corporate risk, as some controls were reassigned to more appropriate owners last quarter.

Assurance updates	Control measures have been reviewed July 2019.
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Corporate Risk 3 – Delivery of Services - Prevention

Corporate Risk 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.

Emerging Issues	Safe and Well visits continue to be delivered in line with the position agreed with the FBU whereby information will be gathered for all questions. In cases where Firefighters are uncomfortable asking specific questions, the householder will be asked to complete an online form to provide the relevant information. An IT solution is currently being developed as part of the introduction of Tymly currently being piloted in the Black Country South, with the view to eventually rolling out across the brigade. The delivery of the IT solution continues to be delayed due to conflicting ICT priorities and capacity (completion of RIDGE for legal compliance). ICT business analysts are completing scoping work with the Prevention team to ascertain a delivery date for the MVP. The situation will be monitored to identify impact on corporate performance and a delivery update will be provided next quarter.
Changes to control measures	No changes are required as the current situation provides an adequate platform for WMFS to manage risk (via Prevention) in line with the IRMP.
Assurance updates	Assurance is provided through the Corporate Performance Indicators (PI)

Corporate Risk 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.

Emerging Issues	<p>We have worked to cleanse our partnerships data base to ensure we have an effective record of true partnerships in relation to Safe and Well (SAW) referrals. This has resulted in a reduction in the percentage of referrals from partners leading to a fall in the average points for a Safe and Well visit from 8.51 to 7.57. This is likely to be linked to the reduced percentage of SAW's from partners as we know the most vulnerable people are identified through partner agency referrals.</p> <p>Analysis has been supplied to all commands identifying the true level of partnership activity as a guide for the cleansing process.</p> <p>Commands continue to identify and work with local partners to generate high quality referrals and the Partnerships team continue to offer support where required.</p>
Changes to control measures	No changes are required as the current situation provides an adequate platform for WMFS to manage risk (via Prevention) in line with the IRMP.
Assurance updates	Assurance is provided through the Corporate Performance Indicators (PI). This situation will be monitored and it is envisaged that improvements can be made with the introduction of an ICT platform that makes partner referrals a more efficient process.

Corporate Risk 4 – Delivery of Services – Protection

Corporate Risk 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.

Emerging Issues	<p>The overall risk score remains at 9 - medium likelihood score remaining at 3 and impact score remaining at 3 = 9 medium.</p> <p>As a result of continued high and increased demand and complexity of building regulation applications, achievement of the statutory 15-day building regulation consultation timescales continues to be challenging for the Planning and Building Regulation Applications team (PBRAT). There has been a continued increase in the level of complexity in building regulation applications received.</p> <p>Consultation continues for high profile development projects for High Speed Rail (HS2) and Common Wealth Games that contributes in the increased demand for the PBRAT.</p> <p>It is foreseeable that demand for building regulation and planning applications will continue to remain high and building complexity as a potential impact of the benefits to the economy from such developments. This will continue to be challenging for the team to achieve stipulated timescales for consultations.</p> <p>Following testing of aluminum cladding material, national testing has been extended to cover a wider range of materials. This is likely to increase demand on Protection resources to manage community risk where buildings are identified as having materials that fail the enhanced testing criteria.</p>
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<p>Changes to control measures</p>	<p>Additional resources and support for the Applications team has been provided to enhance response to statutory building regulation consultations and enable timescales to be consistently achieved and maintained in an effective and efficient way. Resources have been redirected and refocused within the team to ensure that planning and building consultations are prioritised over other external activities.</p> <p>This quarter has seen improvements in the number of consultations processed within the stipulated time frames, from 48% in quarter 4 - 2018-2019 to 73% in quarter 1 - 2019-20 through interim control measures. Dedicated resources have been increased within the PBRAT following the injection of further investment commencing in the financial year 2019-20. However continuous development is necessary to ensure that staff within the PBRAT acquire the required knowledge and skills to enable the effective discharge of statutory responsibilities. It is anticipated that sector competence of the additional staff will be achieved in approximately 9 months.</p> <p>Achievement of statutory consultations processed within stipulated timescales continues to be monitored under routine performance management arrangements.</p> <p>Protection officers continue to prioritise notifications of buildings with suspected or confirmed flammable cladding materials to ensure compliance with fire safety legislation and ensure public safety and enhance public confidence across the West Midlands Conurbation. Fire Engineers continue to support Birmingham Local Authority in completing remedial action plans for flammable cladding/insulation materials and retrofitting of sprinklers in residential high-rise buildings.</p>
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	Six High Rise Residential Buildings have been retrofitted with sprinklers and two further high-rise buildings have had flammable cladding removed within the Birmingham Local Authority Area through support of the Fire Engineers.
Assurance updates	Level 1 – assurance is provided by the control owner and is verified by the risk owners.

Corporate Risk 5 – Delivery of Services - Response

Corporate Risk 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.

Emerging Issues	<p>The continuation of the flexible use of resources to achieve the savings outlined in the financial efficiency plan and deliver a balanced budget mean that there is an overall reduction in fleet availability. The reduction in fleet generally applies across the Brigade Response Vehicle (BRV) and is supplemented by 2nd appliances riding at 4 instead of 5 personnel.</p> <p>As the strategy options for 2019/20 are implemented following approval by the Fire Authority, further impacts on fleet availability will be realised and implemented in a risk- based manner in consideration of the IRMP.</p> <p>Standardised assessments continue to be reported to the Quarterly Performance Reporting (QPR) meetings and progress has been made in these being achieved on time across all commands. However, with the continued Flexible</p>
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	<p>use of Resources, low staffing figures and high ridership factor, this is very likely to have an impact moving forwards. Supervisory Officers are finding It increasingly difficult to book and maintain watch standardised assessments. OLPD, are continually monitoring this and where there are potential impacts. FREC, is proving to be very difficult not only for the SBAs to obtain and maintain qualification, but also for them to deliver effectively whilst crews remain available. This is mainly due to this being a recognised outside qualification that is quality assured.</p> <p>There is a plan being devised to mitigate these emerging issues.</p>
Changes to control measures	No changes to control measures and the on-duty Area Commander continues to be responsible for day to day fleet/resource management. Evaluation of impact across Prevention, Protection and Response indicators will continue to take place and be reported into the Strategic Enabling Team (SET).
Assurance updates	Level 1 assurance provided by risk owner

Corporate Risk 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.

Emerging Issues	No emerging issues this quarter that raise the corporate risk level above the previously reported level of 6. There are continuing local discussions taking place around staffing and optimum crewing levels within Fire Control and these are progressing positively at this time.
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	During the quarter, there was an intruder to the HQ building which resulted in a review of security arrangements and as these have now been implemented any future risk has been mitigated.
Changes to control measures	Security arrangements for HQ have been improved and there have been some direct enhancements to the security of the Fire Control area based on staff feedback.
Assurance updates	Level 1 assurance provided by risk owner

Corporate Risk 6 – Business Continuity & Preparedness

Corporate Risk 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.

Emerging Issues	European Union (EU) Exit The Emergency Planning team, alongside Local Resilience Forum Partners continue to engage with EU Exit no deal planning. WMFS are maintaining awareness of updated government planning assumptions and have continued engagement with Ministry of Housing Communities and Local Government (MHCLG).
Changes to control measures	The risk score remains at: x 3 (likelihood) x 3 (impact) = 9 (Medium).
Assurance updates	Plans and Arrangements The Solvay multi-agency External Emergency Plan has been published following a validation exercise. Exercising has also taken place at two Control of Major Accident Hazard (COMAH) Domino sites

	<p>within the West Midlands (XPO Logistics and Esso Petroleum) to test communication arrangements.</p> <p>WMFS have also started early engagement and planning with multi-agency partners for the Commonwealth Games.</p> <p>Business Continuity</p> <p>The Business Continuity policy has been reviewed in line with the current Business Continuity Institute Good Practice Guidelines. Consultation took place over an eight-week period and the policy has now been published.</p> <p>The Emergency Planning College have delivered Business Continuity training at WMFS, alongside multi-agency partners.</p> <p>Business Continuity training has taken place on station, including the exercising of some station Business Continuity Plans. This has resulted in learning which has led to updates being made to all station plans, including the addition of practical steps to minimise disruption due to loss of station premises. For example, previously, this section of the plan did not consider implications of kit which is left on station and therefore may be inaccessible.</p> <p>A new contract is in place for Personal Protective Equipment (PPE). This includes Key Performance Indicators (KPI) which includes access to replacement kit within two hours of notifying the contractor. This will also include the contractor ensuring levels of loaner kit. These updated arrangements have been included in relevant strategic Business Continuity Plans.</p> <p>Incident Room</p> <p>Incident Room Mangers have supported exercises and incidents during the last quarter, including National Resilience Deployments, disruption to availability of risk information and a table-top multi-agency exercise.</p>
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Corporate Risk 7 – Information, Communications and Technology

Corporate Risk 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.

Emerging Issues	<p>The overall risk score is 6. The risk continues to be medium.</p> <p>The organisation continues to take a cloud-based approach to data storage thus reducing the reliance on in-house processes, procedures and infrastructure to access and maintain data. Cloud based solutions for business continuity and disaster recovery are being considered to improve resilience.</p> <p>An external information security audit has been undertaken and identified four areas for improvement in the organisation. The areas identified were password management, legacy systems and hardware and a small number of firewall configurations. These areas have been risk assessed and the immediate risks remediated with plans in place to complete additional enhancements.</p> <p>There has been an uplift in malicious cyber-attacks being experienced. We are working with external companies and peers in following national guidance with regard the recent increase in cyber security threat. We have also bolstered the level of in-house expertise in relation to systems and information security.</p>
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Changes to control measures	<p>The implementation of Office 365 has reduced the impact significantly of the loss of an on-premises data centre. Work is ongoing to establish accreditation for Code of Connection (CoCo) to the Emergency Services Network (ESN) and the Public Services Network (PSN) ensuring that the Home Office and the National Fire Chiefs Council (NFCC) requirements around cyber security threats are met.</p> <p>Additional requirement to meet the first technical standard that will be incorporated into the Government Functional Standard for Security. Compliance with the Government Cyber Essentials standard has been achieved as directed in the technical standard and further work has been identified and resourced.</p> <p>Increased levels of communication have been made available to raise employee awareness around cyber security in the form of news bulletins, middle manager briefings, Yammer and Teams messages.</p>
Assurance updates	<p>The overall risk confidence opinion is amber</p>

Corporate Risk 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.

Emerging Issues	<p>The overall risk score remains at 6. The risk continues to be medium. The risk level may reduce further over the next few quarters as automated processes to protect data are introduced within the organisation.</p> <p>Post implementation of the European Union General Data Protection Regulations (EU GDPR) on 25th May 2018 there is an increased requirement for organisations to demonstrate ongoing compliance with the legislation.</p> <p>There could be an impact on information flows if the United Kingdom exits the European Union on the 31st October 2019 without a meaningful deal that covers information flows.</p>
Changes to control measures	<p>Increased levels of communications in relation to information security have been published to all employees as well as an increased drive to complete bespoke training packages related to EU GDPR and Management of Information. Increased levels of uptake of employees undertaking required training has reduced the number of reported data protection breaches for this quarter.</p> <p>Automated tools for marking documents and managing requests will replace the existing processes and provide better assurance by auditing compliance with the Management of Information framework.</p>

	<p>Stakeholder group and project activity captured in Legal Compliance transition work to ensure that disruption to business is reduced as far as practicably possible in the event of the United Kingdom leaving the European Union on 31st October 2019 without a deal.</p> <p>Officers are continuing to work collaboratively through the (NFCC) work streams to ensure national guidance is embedded consistently.</p>
Assurance updates	The overall risk confidence opinion is amber

Corporate Risk 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.

Emerging Issues	The risk score remains at 3 (Likelihood) x 3 (Impact) = 9. The overall risk level is Medium
Changes to control measures	<p>In February 2016, The Government communicated the Authority's Core Funding settlement. In setting out a provisional 4-year settlement (2016/17 to 2019/20), confirmation was received that the core funding reduction would be circa £10 Million by 2019/20. This level of reduction presented a significant challenge to the Service in terms of maintaining the Service Delivery Model whilst setting a balanced budget. In planning for significant funding reductions, the Service set out an Efficiency Plan, which was considered and approved by the Fire Authority on 19th September 2016 and submitted to the Home Office by 14th October 2016.</p> <p>On June 6th 2018 the Executive Committee approved the removal of New Entrant contracts to avoid industrial action by Grey Book staff.</p>

	<p>It was recognised this decision would have a significant impact on the Services ability to generate Alternative Funding and achieve the full level of staff savings reflected within the Financial Efficiency Plan (FEP). At the Authority meeting on 17th September 2018, Members supported a reduced level of Voluntary Additional Shifts to make savings of £750k in 2018/19 to offset the shortfall in the FEP. Further work was undertaken on five options presented to Members at the same Authority meeting, which were reported back to the 19th November Authority meeting. A further report was presented to the Fire Authority meeting on 19th February 2019, recommending the basis of the Service changes to be made from 2019/20 to ensure the 2019/20 budget and beyond could be set in a balanced manner (i.e. to meet the FEP shortfall combined with the Protection Function approve investment of £600k [Fire Authority meeting 19th November 2018] plus further proposed support service investments of £202k considered at the February 2019 Fire Authority meeting). The recommendations were approved by the Fire Authority.</p> <p>The budget was set in February 2019 with a number of significant issues still to be determined re: future funding impacts (specifically in relation to the Firefighters Pension Scheme, Firefighters pay awards, the outcome of the Government's Fair Funding Review and lack of clarity around future Government funding settlements linked to the uncertainty of the timing and Impact of public sector Comprehensive Spending Reviews) but at this stage, details around those issues have not been determined.</p> <p>Thus, the Risk Owner considers the likelihood score of 3 should remain unchanged at this stage.</p>
Assurance updates	<p>The work and associated reports of the external auditor provides assurance against several controls in place to manage against the realisation of risk on the assurance map.</p>

	<p>Level 1 assurance has been provided across most of the control environment with most controls measures being awarded at substantial (green) rating in terms of their effectiveness in managing risk triggers and are supported by a number of level 3 assurances and therefore no immediate interventions were identified as being required.</p> <p>The Risk Owner therefore has provided for a substantial (Green) confidence opinion as to the collective strength of the control environment in managing this risk.</p>
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Corporate Risk 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.

Emerging Issues	<p>The risk score is 2 (Likelihood) x 3 (Impact) = 6. The overall risk level is Medium.</p>
Changes to control measures	<p>There is no change to the control measures associated with the effective management of this risk</p>
Assurance updates	<p>The work and associated reports of the Internal Auditor and External Auditor provides assurance against several controls in place to manage against the realisation of risk on the assurance map.</p> <p>Level 1 assurance has been provided across most of the control environment with most controls measures being awarded at substantial (green) rating in terms of their effectiveness in managing risk triggers and are supported by several level 3 assurances and therefore no immediate interventions were identified as being required.</p> <p>The Risk Owner therefore has provided for a substantial (Green) confidence opinion as to the collective strength of the control environment in managing this risk.</p>

Corporate Risk 9 – Business Development

Corporate Risk 9.1:

The Fire Authority is unable to create, grow and sustain appropriate flexible funding opportunities and meet financial targets, through the delivery of these opportunities via the Service Delivery Model. This will result in a budget shortfall impacting upon our ability to maintain the Service Delivery Model and delivery of core services.

Emerging Issues	The risk score is 4 (Likelihood) x 1 (Impact) = 4. The overall risk level is Very Low.
Changes to control measures	There is no change to the control measures associated with the effective management of this risk.
Assurance updates	Commercial activities and income generation are being considered as part of the Strategic Enabling Team review.

Corporate Risk 9.2:

The Fire Authority is unable to meet contractually binding arrangements for the provision of commissioned and/or paid services resulting in litigation; reduced confidence and credibility; and increased reputational damage.

Emerging Issues	The risk score is 4 (Likelihood) x 1 (Impact) = 4. The overall risk level is Very Low.
Changes to control measures	There is no change to the control measures associated with the effective management of this risk.
Assurance updates	Commercial activities and income generation are being considered as part of the Strategic Enabling Team review.

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND RISK COMMITTEE

2 SEPTEMBER 2019

1. **REQUEST OF MEMBER TO DISCONTINUE PAYMENT OF PERIODICAL CONTRIBUTIONS - NEW FIREFIGHTERS' PENSION SCHEME (2006)**

Report of the Chief Fire Officer.

Recommended that the Committee in their role as Scheme Manager, consider the request (Appendix 1) and decide if it can be accepted as required by the rules of the New Firefighters Pension Scheme (2006).

2. **PURPOSE OF REPORT**

This report is submitted to provide the details of the request of a Firefighter to discontinue payment of his periodical contributions under the rules of the New Firefighters' Pension Scheme (2006).

3. **BACKGROUND**

3.1 Part 11, Chapter 2, Paragraph 8 of the New Firefighters' Pension Scheme 2006, shown below, states that:

- (1) An authority may —
 - (a) at the request of a firefighter member who has elected to purchase additional service by the payment of periodical contributions; and
 - (b) solely on the grounds of his financial circumstances, agree to discontinue the making of deductions from his pay by way of such contributions.
- (2) Where the firefighter member and the authority agree that deductions should be discontinued for a period not exceeding six months ("the discontinuance period"),

Ref. AU/AU/2019/Sept/11408191

the authority shall resume the making of deductions as soon as reasonably practicable after the end of that period or, at the request of the firefighter member, at such time before the end of that period as may be agreed.

- (3) Where the firefighter member and the authority agree that deductions should be discontinued for a period of six months or more, the member's election under rule 6 shall be treated as cancelled with effect from the date of the agreement.
- (4) The period of additional service purchased up to the date on which the last contribution was deducted shall be treated as if it were the period ascertained in accordance with the formula:
 - $A \times \frac{B}{C}$, where —
 - A is the number of 60ths of additional service which the firefighter member elected to purchase,
 - B is the period in respect of which contributions have been made, and
 - C is the period in respect of which contributions would have been made in accordance with the election (disregarding for this purpose any deemed cancellation under paragraph (3)).
- (5) Subject to paragraph (6), where—
 - (a) deductions were discontinued under paragraph (2), and
 - (b) the firefighter member wishes to purchase additional service referable to the discontinuance period, a deduction of an amount equal to the aggregate of the contributions that would otherwise have been made in respect of that period shall be made on the same occasion as the first resumed deduction is made.
- (6) Where the firefighter member's rate of pay at the end of the discontinuance period is less than at the beginning of that period, deductions in respect of the discontinuance period shall be made at the rate that

would have applied if deductions had been made from his salary during that period.

- 3.2 The request, attached as Appendix 1, has been received from a member of the New Firefighters Pension Scheme (2006).
- 3.3 The Committee are asked to consider and decide if this request can be accepted.

4. **EQUALITY IMPACT ASSESSMENT**

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

5. **LEGAL IMPLICATIONS**

There are no legal implications from making a decision in this matter.

6. **FINANCIAL IMPLICATIONS**

There are no direct Financial Implications of making a decision on this matter.

BACKGROUND PAPERS

The Firefighters Pension Scheme (England) Order 2006

The contact name for this report is ACO Sarah Warnes, (Strategic Enabler – People) telephone number 0121 380 6004.

PHIL LOACH
CHIEF FIRE OFFICER

Ref. AU/AU/2019/Sept/11408191

Appendix 1

To the Scheme Manager, Firefighters' Pension Scheme 2006

I am currently paying £306.03 into my pension with a voluntary additional payment of £106.67 for added years in order to bridge the gap of approximately 2 years I fell short on in completing 40 years' full pension payments.

As I transferred my British Armed Forces pension into the West Midlands Fire Service upon joining in 2009, also to assist in narrowing the gap.

As it stands now my pension payments are £306.03 with the additional voluntary payment of £106.67, totalling £412.70 a month, that I have been paying into my pension for the last 10 years approximately.

I now wish to cancel my additional payment of £106.67 to put into my home as I feel this is more beneficial to me.

Apologies for any inconvenience.

Ref. AU/AU/2019/Sept/11408191

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

Item 6

AUDIT AND RISK COMMITTEE

2 SEPTEMBER 2019

1. PENSIONABLE PAY DECISION

Report of the Chief Fire Officer.

RECOMMENDED that in their role as Scheme Manager, the Committee decides whether the allowance for the provision of Canine Response should be treated as pensionable pay.

2. PURPOSE OF REPORT

This report is submitted to provide information to allow the Committee to make a decision as required by the Firefighters' Pension Scheme regulations, as to whether the allowance for the provision of Canine Response should be treated as pensionable pay

3. BACKGROUND

- 3.1 West Midlands Fire Service has recently implemented a new allowance payable to a member of the Technical Rescue Unit for the provision of Canine Response. A decision needs to be made as to whether this payment is pensionable under the rules of the various Firefighters' Pension schemes.
- 3.2 In a paper submitted to the Strategic Enabling Team meeting of 12 December 2018 it stated that in recognition of the additional responsibility and impact on personal time, and in line with similar arrangements across other Fire and Rescue Services, it is proposed that a 10% pay enhancement is attached to the role.
- 3.3 Further information has been provided that indicates the allowance is paid to also recognise the following issues.
 - the dog is permanently resident with the employee;
 - the employee has caring responsibilities for the dog and to ensure that it remains fit and healthy for work;

Ref. AU/AU/2019/Sept/11408194

- the dog is available for duty in line with the employee's shift pattern and on call arrangements; and
- the employee needs to reach and maintain additional competencies to enable the dog to be deployed to operational incidents.

4. **DEFINITION OF PENSIONABLE PAY**

Pensionable pay for all schemes is defined as being the pay determined in relation to the performance of the duties of the role.

5. **GUIDANCE FROM HOME OFFICE FIREFIGHTERS' PENSION SCHEME**

Following a recent Court Ruling the Firefighters' Pension Scheme Advisory Board have issued the fact sheet attached as appendix 1 of this report.

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 an employee in receipt of the allowance. 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**

Deciding that this allowance is part of Pensionable pay will increase the cost by a maximum of £1,139 per annum.

BACKGROUND PAPERS

The Firemen's Pension Scheme Order 1992

The Firefighters' Pension Scheme (England) Order 2006

The Firefighters' Pension Scheme (England) Regulations 2014

Report of the Strategic Enabler for Response outlining the evaluation outcomes from the previously implemented recommendations regarding the Technical Rescue Unit (TRU) Staffing alongside a proposal for future staffing – To the Strategic Enabling Team meeting 12 December 2018.

The contact name for this report is Assistant Chief Officer Gary Taylor (Strategic Enabler - Process) telephone number 0121 380 6914.

PHIL LOACH
CHIEF FIRE OFFICER

Pensionable Pay

Introduction

This factsheet has been prepared to give guidance to FRAs on Booth v Mid and West Wales [2019] EWHC 790 (Justice Fancourt)¹, a recent High Court judgment on pensionable pay. While the judgment considered pay for the Welsh Firefighters Pension Schemes, the points of the judgment apply equally to pay in the English Firefighters Pension Schemes.

It is important to note that the issues in any pensionable pay case are finely balanced and often depend on the exact detail and nature of the payments. As this note illustrates, the reasons for pay being pensionable may depend on the nature of the contract or on the precise requirements of the role. Therefore you cannot assume that if a duty system in place for your FRA has the same name as the ones in this factsheet the same rules will apply.

This factsheet should be read with that in mind and you should seek reassurance that any pensionable pay decision made for your FRA has considered all of the relevant case law.

Background

As reported in [FPS Bulletin 14 - November 2018](#) the Pensions Ombudsman decision [PO-14863](#) considered a number of different pensionable pay elements for the Welsh Firefighter schemes as summarised below

Pensionable Element	Scheme	TPO decision – relevant paragraphs	TPO judgment
Training Allowance	1992	45 – 49	Pensionable
Day Crewing	2007 ² & 2015	50 - 69	Not pensionable
Self-Rostered Crewing	2007 & 2015	70 – 71	Not pensionable
USAR	2007 & 2015	72 - 78	Pensionable

The Ombudsman's decision was appealed and considered by the High Court. This factsheet considers the High Court judgment³ on this case.

¹ <http://www.fpsregs.org/images/Legal/Caselaw/BoothvMWWFRA.pdf>

² In England this scheme is known as the Firefighters Pension Scheme 2006 (FPS 2006) or New Firefighters Pension Scheme (NFPS).

³ A summary of the High Court Judgment on these elements can be found on page [4](#)

Does this judgment mean that all temporary allowances or overtime should be pensionable?

The judgment comments specifically on four types of allowance only. While the judge makes some useful comments on how to interpret the regulations it is still a matter for each FRA to determine what is and isn't pensionable taking into account their contractual arrangements, the regulations and all relevant case law.

What are the issues?

The case considered by the High Court is whether these four allowances and payments are pensionable within the meaning of the Firefighter Pension Scheme rules⁴.

■ The regulations

- The Firefighters Pension Scheme 1992 (FPS 1992) requires pay to be determined in relation to the 'performance of the duties of the role'. Under case law there has to be an 'element of permanency'.
- The Firefighters Pension Scheme 2006 (FPS 2006) and the Firefighters Pension Scheme 2015 (FPS 2015) regulations, which are virtually identical, requires pay to be determined in relation to the performance of the duties of the role but in addition the payment in effect has to be permanent as the regulations specifically exclude an 'allowance or emoluments paid on a temporary basis'.

Therefore under the FPS 2006 and FPS 2015 there is a specific requirement in the regulations for pay to be permanent, in that they specifically exclude payments 'paid on a temporary basis', whereas under the FPS 1992 the case law has determined that there has to be an 'element of permanency'. It is not clear from the case law whether this means that a payment that may be pensionable under the 1992 regulations might not be pensionable under the later regulations. However, this is a possibility that FRAs should be alive to when determining whether a payment is pensionable.

■ A definition of 'temporary'

The 2006 and 2015 regulations themselves do not provide a definition of 'temporary'. Therefore the application of the those regulations has long been an issue for the Firefighters' scheme with confusion over the correct interpretation of temporary in regulations such as [\[17\(1a\)\]](#) which uses the term "the member's pay received for the performance of the duties of the member's role except any **allowance or emoluments paid to that member on a temporary basis**".

⁴ [Firefighters Pensionable Pay Rules](#)

The meaning of the word ‘temporary’ within the regulations has often been the subject of debate, and this judgment provides some important commentary on how to construe the meaning of the words ‘temporary’ and ‘permanent’ within the regulations.

Paragraph 39 says

“I have come to the conclusion that “permanent” in these statutory provisions does not signify pay or emoluments that must endure to the end of the employment. I consider that what is meant by “permanent” is pay other than allowances or emoluments that are **temporary in the sense of being occasional, one-off, irregular or for a limited period of time only**. The words “permanent” and “temporary” have to be construed in context. Employment as a firefighter is generally employment for the whole or majority of a member’s working life. It is not employment for a fixed term. Over a working lifetime, the way in which a firefighter’s role is performed can change frequently; the circumstances and conditions are not ossified at the outset of employment so as to endure for its duration. To suggest that only allowances and emoluments that will endure for the whole of the member’s employment are pensionable seems to me to be unrealistic and a class devoid of content. On the other hand, it is entirely **sensible and realistic to exclude from pensionable pay any emoluments that are occasional, one-off, irregular or limited in time.**”

■ The ‘Blackburne Principles’

When interpreting the application of pensionable pay, the ‘Blackburne principles’ are often cited. In Norman v Cheshire Fire & Rescue Service [2011] EWHC 3305 (QB)⁵ the judge cited that the decision of Kent & Medway Towns Fire Authority v Pensions Ombudsman and anor, [2001] OPLR 357 (Justice Blackburn)⁶, held that in order for pay to be pensionable it had to be:

- i. Calculated in accordance with ordinary rate of pay
- ii. For work done under the Firefighters contract of employment
- iii. Regular in nature, i.e. something to which the firefighter was entitled in the ordinary course of fulfilling duties under the contract, not a one off or unexpected payment

These principles have become known as the ‘Blackburne principles’ and should be considered as part of any pensionable pay decision.

⁵ [http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/QB/2011/3305.html&query=2011.+EWHC+3305+\(QB\)](http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/QB/2011/3305.html&query=2011.+EWHC+3305+(QB))

⁶ <http://www.fpsregs.org/images/Legal/Caselaw/KentvTPO.pdf>

High Court Judgment⁷

As noted in bulletin 14, it was expected that the decision of the Ombudsman would be appealed. The High Court judgment handed down on 29 March 2019 was as a result of that appeal.

The case considered four different elements of pay across the three firefighter pension schemes, the High Court judgment can be summarised as follows

Pensionable Element	Scheme	High Court – relevant paragraphs	High Court judgment
Training Allowance	1992	18	Pensionable as part of permanent role, but not pensionable if attached to a temporary promotion
Day Crewing	2007 ⁸ & 2015	53	Pensionable
Self-Rostered Crewing	2007 & 2015	53	Pensionable
USAR	2007 & 2015	56 & 59	Not pensionable because it is part of a secondary contract which is paid in relation to the performance of the duties of a specialist USAR team member rather than forming the duties of the Firefighter's role as a Firefighter.

In respect of each element of pay the Court considered the 'Blackburne principles' (as noted above).

■ Training Allowance

The court determined that the training allowance while attached to a permanent role is pensionable. However before the permanent role it was received as part of a temporary promotion and, therefore, while paid on a temporary basis it was not pensionable.

The judge considered the following points in making his conclusion.

1. Was it pay for work done was it paid in relation to the 'performance of duties as a regular firefighter?

⁷ <http://www.fpsregs.org/images/Legal/Caselaw/BoothvMWWFRA.pdf>

⁸ In England this scheme is known as the FPS 2006 or NFPS

The FRA argued that the allowance for training did not meet the requirements of being 'in relation to the performance of duties as a regular firefighter'⁹. The judge nevertheless concludes in Paragraphs 17 & 18 that "The relevant role map for Mr XXX (Watch Manager) includes supporting the development of teams and individuals and assessing candidate performance" and **as such the role of trainer should be considered in relation to the duties of a regular firefighter**. However, "Direct Trainer became part of Mr Bradshaw's role from July 2012 only".

2. Was the pay regular in nature (in line with the ordinary course of duties)?

The judge concluded in paragraph 18 that while the allowance was attached to a temporary promotion, it was not pensionable due to the temporary nature of the role and therefore the temporary nature of the payment. "I therefore consider that the allowance paid to Mr Bradshaw before July 2012 was not pensionable pay, because it was not a permanent emolument of his role". However on transfer to a new permanent role, combining firefighter duties with training duties the emolument became permanent and therefore pensionable.

3. The pay is in line with ordinary rate of pay

Under the 'Blackburne principles' it is necessary to consider whether the pay is in line with the ordinary rate of pay, i.e. paid as a % of pay according to role. The judge agreed that this was the case. "10% allowance for training is calculated in accordance with his ordinary rate of pay"¹⁰

In this case the judge concluded that the role of trainer was within the duties of a regular firefighter as it formed part of the individual's relevant role map, so was paid in relation to work done under his contract of employment. This highlights the importance of considering the contractual arrangements.

While the judge concluded that the role of trainer was within the duties of a regular firefighter and therefore any allowance received for that should be treated as pensionable, the judge also considered that it can only be treated as pensionable while it is a permanent position. If a person receives a training allowance attached to a temporary role, it does not meet the required test of being 'regular in nature'. We can draw from that whether or not an allowance is pensionable depends on the nature of the contract as well as the role.

The case considered specifically whether the training allowance was pensionable under FPS 1992. Nevertheless the argument for the allowance being pensionable once attached to a permanent role can equally be applied to FPS 2006 & FPS 2015, as both sets of regulations specifically exclude temporary allowances.

Actions for FRAs

- To consider whether training allowances or other allowances paid to members of FPS 1992, FPS 2006 & FPS 2015 are paid (i) in relation to work done under the contract of employment in relation to the duties of the role; and (ii) are attached to a permanent role and paid regularly, in which case it should be made pensionable if not already treated as such.

⁹ Paragraph 12

¹⁰ Paragraph 17

- Consider whether there are historic mistakes that need correcting (further information on corrective action is on page [\[8\]](#)).

▪ Day Crewing and Self-Rostered Crewing

The court has determined that the allowances paid to a regular firefighter in relation to working under a particular duty system (such as the day crewing and self-rostered crewing allowances) are pensionable.

The case considered two main points;

1. Whether the allowance is paid in relation to the performance of the duties of the firefighter member's role

The judge concludes in paragraph 32 "...in agreement with the Ombudsman's determination at para [52], that the allowances paid to Messrs Booth and Jones were "pay in relation to the performance of the duties of the firefighter member's role" or "emoluments" within the meaning of rule 1(b) of the NFPS and "pay received for the performance of the duties of the member's role" or "emoluments" within the meaning of rule 26 of the 2015 Scheme."

2. Whether the allowance is paid on a permanent or a temporary basis?

Paragraphs 33 to 53 of the judgment cover the arguments put forward by both parties on what is meant by "temporary" and "permanent" and sets out seven reasons given by the judge in paragraphs 41 to 47 on **why "permanent" in the statutory provisions does not signify that pay or emoluments must endure to the end of employment**. The judge found in favour of the appellant firefighters concluding in paragraph 53 that the whole of day crewing or self-rostered allowances are pensionable.

While the case considered specifically whether pay received for duty systems was pensionable under FPS 2006 & FPS 2015 only, the judge's concluding points could be applied to FPS 1992, as both the Kent & Medway Towns Fire Authority and the Norman v Cheshire Fire and Rescue case (see above) required there to be an element of regularity and permanency for a payment to be pensionable.

Actions for FRAs

- To consider whether duty system allowances in FPS 2006 & FPS 2015 should be made pensionable if not already done so.
- To consider whether duty system allowances in FPS 1992 should be made pensionable.
- Consider whether there are historic mistakes that need correcting.

■ USAR (Urban Search and Rescue)

The court has determined that the way the contract is structured may affect whether the payment is pensionable.

The case considered two main points;

1. Whether the allowance is paid in relation to the performance of the duties of the firefighter member's role?

In this case the duties of the USAR role were contracted under a secondary contract. The judge concluded¹¹ that pay under the separate contract was pay in relation to contractual duties as a specialist member of the USAR team. It was not pay in relation to the performance of the duties of the member's role as a regular firefighter. This was despite the fact that it is unlikely that anyone other than a regular or retained firefighter would be paid as a USAR team member. "Thus, the allowance is not pay in relation to the performance of the duties of a regular firefighter's role; it is paid in relation to the performance of the duties of a specialist USAR team member."

2. Whether the allowance is paid on a permanent or a temporary basis?

The judge concluded¹² "In those circumstances, the emoluments from the secondary contract are not permanent emoluments within the meaning of rule 1(1)(b) of the NFPS or reg 26 (1)(b) of the 2015 Scheme". This is because the secondary contract was renewed on a yearly basis, depending on the continuation of Government funding. The USAR contract was effectively a short-term contract for one year, despite it being renewed yearly from 2009 onwards.

The case considered specifically whether pay received for USAR payments was pensionable under FPS 2006 and FPS 2015 only. Nevertheless the judges concluding points can equally be applied to other specialist roles that might be under a second contract, or indeed USAR payments made to the 1992 scheme members.

The judgment was specific to the terms under which the member received the USAR payment. The payment failed both tests, in that it was not paid in relation to 'the performance of the duties of the firefighter's role' and it was not paid on a permanent basis.

The judgment did not consider what the status would be in relation to a payment for USAR work which forms part of an individual's role map under their main contract or where it is paid as an additional responsibility allowance (ARA). Whether such a payment is pensionable may depend on the specific contractual arrangements. However, if those arrangements are renewed on a yearly basis or dependent on periodic funding then, we can take from the judges concluding points in paragraph 59, that such allowance would not be permanent.

Actions for FRAs

- To consider secondary contract arrangements, and if the secondary contract does not include duties that are part of the Firefighter's role, to ensure that payments from secondary contracts are not treated as pensionable.
- Consider whether there are historic mistakes that need correcting.

¹¹ Paragraph 56

¹² Paragraph 59

Corrective Action

FRAs will need to review all contracts and allowances in place in line with this judgment and if necessary take legal advice to consider whether amendments are needed to a pensionable allowance. You may find that you need to make an allowance or payment either pensionable when it was previously considered non-pensionable, or non-pensionable when it was previously considered pensionable.

When making any pensionable pay decision, the reasoning for that decision and what case law has been considered should be documented.

With regards to any retrospective action that may be needed to correct pensionable pay where it has been previously deemed as not pensionable, LGA on behalf of SAB are taking further legal advice, specifically on whether the limitations act can or should be used. Please address any queries in the meantime to bluelight.pensions@local.gov.uk

Further Information

LGA Firefighters Pension Scheme Conference 2018; Firefighters Pension Scheme – pensionable pay update: Jane Marshall, Weightmans - <http://www.fpsregs.org/images/admin/AGMpenpayv1.pdf>

■ Known Case Law

- [Kent and Medway Towns Fire Authority v Pensions Ombudsman and anor, \[2001\] OPLR 357](#)
- [Norman v Cheshire Fire & Rescue Service, \[2011\] EWHC 3305 \(QB\)](#)
- Mr Michael Smith v South Wales Fire & Rescue Service, [PO-3511](#) (2014)
- Mr N v West Yorkshire Fire and Rescue Authority, [PO-11867](#) (2017)
- Mr A v Warwickshire Fire and Rescue Authority, [PO-15584](#) (2018)

■ Pensionable Pay Regulations

	England ¹³	Wales	Scotland	Northern Ireland
FPS 1992	G1	G1	G1	Article 56
FPS 2006¹⁴	Part 11, Chapter 1, 1 & 2	Part 11, Chapter 1, 1 & 2	Part 11, Chapter 1, 1 & 2	Part 11, Chapter 1, articles 61 & 62
FPS 2015	17	26	17	26

■ Additional Pension Benefits (APBs)

Certain pension payments are pensionable under an APB. The APB factsheet is available [here](#)

¹³ The pensionable pay regulations are identical across England, Wales, Scotland and Northern Ireland, however presently the consolidated version is only available for England.

¹⁴ Applies to Special Members of the FPS2006, also known as modified scheme members

This factsheet has been prepared by LGA to give some guidance on the rules of the pension scheme using the regulations as they stand at April 2019, however they should be used only as an informal view of the interpretation of the firefighters' pension scheme as only a court can provide a definitive interpretation of legislation. This factsheet should not be interpreted as legal advice

Please address any queries on the content of this factsheet to
bluelight.pensions@local.gov.uk

May 2019

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND RISK COMMITTEE

2 SEPTEMBER 2019

1. **ANNUAL AUDIT LETTER 2018/19**

Report of the Treasurer.

RECOMMENDED

THAT the Audit and Risk Committee notes the Annual Audit Letter (AAL) attached as an Appendix to this report.

2. **PURPOSE OF REPORT**

This report is submitted to inform the Audit and Risk Committee of the findings of the external audit work undertaken for the audit year 2018/19 which is summarised in the AAL.

3. **BACKGROUND**

3.1 The AAL summarises the key findings from external audit work undertaken for the 2018/19 audit year. The audit comprised two elements:

- To audit and give an opinion on the Authority's financial statements.
- An assessment of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources (the value for money conclusion).

3.2 The Annual Findings Reports (AFR) presented to the Audit and Risk Committee on 29 July 2019 outlined the findings of the audit work undertaken.

- 3.3 Following the Audit and Risk Committee meeting, the auditor issued an unqualified opinion on the Authority's 2018/19 financial statements included in the Authority's Statement of Accounts.
- 3.4 As part of the external audit work programme, the auditor was also required to provide a value for money conclusion. In carrying out this work the auditor is required to follow the National Audit Office (NAO)'s Code of Audit Practice (the Code) and Auditor Guidance Note (AGN) 07 – Auditor Reporting. The NAO Code of Audit Practice specifies the following criterion for auditors to evaluate:
- "In all significant respects, the audited body takes properly informed decisions and deploys resources to achieve planned and sustainable outcomes for tax payers and local people."*
- 3.5 As a consequence of this work, the auditor concluded that for 2018/19 the Authority had proper arrangements in all significant respects to secure economy, efficiency and effectiveness and to ensure it delivered value for money in its use of resources.
- 3.6 The Treasurer has been consulted and has agreed the content of the AAL.
- 3.7 Representatives from Grant Thornton will present and explain the findings detailed in the AAL to the Audit Committee.

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**

There is a legal requirement for the Authority to consider the AAL Statutory Instrument 2015 No. 234 – The Accounts and Audit Regulations 2015.

6. **FINANCIAL IMPLICATIONS**

The agreed scale fee for the provision of external audit services for the audit year 2018/19 was set at £29,750 although the AFR highlighted a fee variation (increase) of £4,000 on this figure.

7. **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications arising from this report.

BACKGROUND PAPERS

The Audit Findings 2018/19 – Agenda item 5 – Audit and Risk Committee 29 July 2019.

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

MIKE GRIFFITHS
TREASURER

The Annual Audit Letter for West Midlands Fire & Rescue Authority

Year ended 31 March 2019

August 2019



Contents



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Appendices

A Reports issued and fees

Executive Summary

Purpose

Our Annual Audit Letter (Letter) summarises the key findings arising from the work that we have carried out at West Midlands Fire & Rescue Authority (the Authority) for the year ended 31 March 2019.

This Letter is intended to provide a commentary on the results of our work to the Authority and external stakeholders, and to highlight issues that we wish to draw to the attention of the public. In preparing this Letter, we have followed the National Audit Office (NAO)'s Code of Audit Practice and Auditor Guidance Note (AGN) 07 – 'Auditor Reporting'. We reported the detailed findings from our audit work to the Authority's Audit & Risk Committee as those charged with governance in our Audit Findings Report on 29th July 2019

Respective responsibilities

We have carried out our audit in accordance with the NAO's Code of Audit Practice, which reflects the requirements of the Local Audit and Accountability Act 2014 (the Act). Our key responsibilities are to:

- give an opinion on the Authority's financial statements (section two)
- assess the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources (the value for money conclusion) (section three).

In our audit of the Authority's financial statements, we comply with International Standards on Auditing (UK) (ISAs) and other guidance issued by the NAO.

Our work

Materiality	We determined materiality for the audit of the Authority's financial statements to be £2,396,000, which was 2% of the Authority's gross revenue expenditure.
Financial Statements opinion	We gave an unqualified opinion on the Authority's financial statements on 31 st July 2019.
Whole of Government Accounts (WGA)	We completed work on the Authority's consolidation return following guidance issued by the NAO.
Use of statutory powers	We did not identify any matters which required us to exercise our additional statutory powers.
Value for Money arrangements	We were satisfied that the Authority put in place proper arrangements to ensure economy, efficiency and effectiveness in its use of resources. We reflected this in our audit report to the Authority on 31 st July 2019.
Certificate	We certified that we have completed the audit of the financial statements of West Midlands Fire & Rescue Authority in accordance with the requirements of the Code of Audit Practice on 31 st July 2019.

Audit of the Financial Statements

Our audit approach

Materiality

In our audit of the Authority's financial statements, we use the concept of materiality to determine the nature, timing and extent of our work, and in evaluating the results of our work. We define materiality as the size of the misstatement in the financial statements that would lead a reasonably knowledgeable person to change or influence their economic decisions.

We determined materiality for the audit of the Authority's financial statements to be £2,396,000, which is 2% of the Authority's gross revenue expenditure. We used this benchmark as, in our view, users of the Authority's financial statements are most interested in where the Authority has spent its revenue in the year.

We also set a lower level of specific materiality for remuneration disclosures of £100,000 due to their sensitivity nature and public interest.

We set a lower threshold of £119,802, above which we reported errors to the Audit & Risk Committee in our Audit Findings Report.

The scope of our audit

Our audit involves obtaining sufficient evidence about the amounts and disclosures in the financial statements to give reasonable assurance that they are free from material misstatement, whether caused by fraud or error. This includes assessing whether:

- the accounting policies are appropriate, have been consistently applied and adequately disclosed;
- the significant accounting estimates made by management are reasonable; and
- the overall presentation of the financial statements gives a true and fair view.

We also read the remainder of the financial statements and the narrative report and annual governance statement to check it is consistent with our understanding of the Authority and with the financial statements on which we gave our opinion.

We carry out our audit in accordance with ISAs (UK) and the NAO Code of Audit Practice. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Our audit approach was based on a thorough understanding of the Authority's business and is risk based.

We identified key risks and set out overleaf the work we performed in response to these risks and the results of this work.

Audit of the Financial Statements

Significant Audit Risks

These are the significant risks which had the greatest impact on our overall strategy and where we focused more of our work.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Management Override of Controls</p> <p>Under ISA (UK) 240 there is a non-rebuttable presumed risk that the risk of management over-ride of controls is present in all entities. We therefore identified management override of control, in particular journals, management estimates and transactions outside the course of business as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>As part of our audit work we have:</p> <ul style="list-style-type: none"> evaluated the design effectiveness of management controls over journals; analysed the journals listing and determine the criteria for selecting high risk unusual journals; tested unusual journals recorded during the year and after the draft accounts stage for appropriateness and corroboration; gained an understanding of the accounting estimates and critical judgements applied made by management and considered their reasonableness with regard to corroborative evidence; and evaluated the rationale for any changes in accounting policies, estimates or significant unusual transactions. 	<p>Our audit work did not identify any issues in respect of management override of controls. In particular, the findings of our review of journal controls and testing did not identify any significant issues.</p>
<p>Valuation of Property, Plant and Equipment</p> <p>The Authority revalue its land and buildings on an annual basis to ensure that the carrying value is not materially different from the current value at the financial statements date. The valuation of land and buildings represents a significant estimate by management in the financial statements due to the size of the numbers involved (£120.675 million) and the sensitivity of this estimate to changes in key assumptions.</p> <p>Management have engaged the services of a valuer to estimate the current value as at 31 March 2019.</p> <p>We therefore considered valuation of land and buildings, particularly revaluations and impairments, as a specific audit consideration.</p>	<p>As part of our audit work we have:</p> <ul style="list-style-type: none"> evaluated the design effectiveness of management controls over journals; analysed the journals listing and determine the criteria for selecting high risk unusual journals; tested unusual journals recorded during the year and after the draft accounts stage for appropriateness and corroboration; gained an understanding of the accounting estimates and critical judgements applied made by management and considered their reasonableness with regard to corroborative evidence; and evaluated the rationale for any changes in accounting policies, estimates or significant unusual transactions. 	<p>Our audit work did not identify any issues in respect of valuation of land and buildings.</p> <p>We challenged the Authority's valuer with regard to some of the assumptions used in the 2018-19 valuation. Our conclusion was that there was a low risk of material estimation uncertainty from these assumptions.</p>

Audit of the Financial Statements

Significant Audit Risks - continued

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Valuation of Pension Fund Liability</p> <p>The Authority's pension fund net liability, as reflected in its balance sheet as the net defined benefit liability, represents a significant estimate in the financial statements.</p> <p>The pension fund net liability is considered a significant estimate due to the size of the numbers involved (£1,805 million in the Authority's balance sheet) and the sensitivity of the estimate to changes in key assumptions.</p> <p>We therefore identified valuation of the Authority's pension fund net liability as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>We have:</p> <ul style="list-style-type: none"> • updated our understanding of the processes and controls put in place by management to ensure that the Authority's pension fund net liability is not materially misstated and evaluated the design of the associated controls; • evaluated the instructions issued by management to their management expert (an actuary) for this estimate and the scope of the actuary's work; • assessed the competence, capabilities and objectivity of the actuary who carried out the Authority's pension fund valuation; • assessed the accuracy and completeness of the information provided by the Authority to the actuary to estimate the liability; • tested the consistency of the pension fund asset and liability and disclosures in the notes to the core financial statements with the actuarial report from the actuary; and • undertook procedures to confirm the reasonableness of the actuarial assumptions made by reviewing the report of the consulting actuary (as auditor's expert) and performing any additional procedures suggested within the report. <p>During the course of the audit the Government was refused leave to appeal to the Supreme Court with respect to the Appeal Court judgement on the McCloud case. This related to an Employment Tribunal decision on age discrimination in the Firefighters and other pension schemes. Our view is that this judgement gives rise to a past service cost and liability as the ruling creates a new obligation.</p> <p>We discussed this with management and the Authority sought a revised report from the actuary to account for the impact of the McCloud judgement.</p>	<p>The revised actuary's reports were provided in July and the accounts updated accordingly. This led to a £53.6 million increase in the net pension liability shown on the face of the balance sheet. It also resulted in a significant number of adjustments to the primary statements and the notes to the accounts.</p> <p>Our audit work did not identify any issues in respect of the revised valuation of the pension fund net liabilities.</p>

Audit of the Financial Statements

Audit opinion

We gave an unqualified opinion on the Authority's financial statements on 31st July 2019.

Preparation of the financial statements

The Authority presented us with draft financial statements in accordance with the national deadline, and provided a good set of working papers to support them. The finance team responded promptly and efficiently to our queries during the course of the audit.

Issues arising from the audit of the financial statements

We reported the key issues from our audit to the Authority's Audit & Risk Committee on 29th July 2019.

Annual Governance Statement and Narrative Report

We are required to review the Authority's Annual Governance Statement and Narrative Report. It published them on its website within the Statement of Accounts in line with the national deadlines.

Both documents were prepared in line with the CIPFA Code and relevant supporting guidance. We confirmed that both documents were consistent with the financial statements prepared by the Authority and with our knowledge of the Authority.

Whole of Government Accounts (WGA)

We carried out work on the Authority's Data Collection Tool in line with instructions provided by the NAO . We issued an assurance statement which confirmed the Authority was below the audit threshold.

Other statutory powers

We also have additional powers and duties under the Act, including powers to issue a public interest report, make written recommendations, apply to the Court for a declaration that an item of account is contrary to law, and to give electors the opportunity to raise questions about the Authority's accounts and to raise objections received in relation to the accounts.

We did not identify any matters which required us to exercise our additional statutory powers.

Certificate of closure of the audit

We certified that we have completed the audit of the financial statements of West Midlands Fire & Rescue Authority in accordance with the requirements of the Code of Audit Practice.

Our certificate of audit completion was issued on the 31st July 2019 with our audit opinion.

Value for Money conclusion

Background

We carried out our review in accordance with the NAO Code of Audit Practice, following the guidance issued by the NAO in November 2017 which specified the criterion for auditors to evaluate:

In all significant respects, the audited body takes properly informed decisions and deploys resources to achieve planned and sustainable outcomes for taxpayers and local people.

Key findings

We have focused our work on the significant risks that we identified in the Authority's arrangements. In arriving at our conclusion, our main considerations were in relation to the financial sustainability of the Authority, given the continued use of general reserves and the significant risks in relation to pensions costs and increased levels of savings required to deliver a balanced budget.

We considered:

- how the Authority has responded to these challenges in terms of its plans for future years.
- whether your financial position leads to material uncertainty about the going concern of the Authority and reviewed related disclosures in the financial statements.

The risks we identified and the work we performed are set out overleaf.

Overall Value for Money conclusion

We are satisfied that in all significant respects the Authority put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2019.

Key findings

We set out below our key findings against the significant risks we identified through our initial risk assessment and further risks identified through our ongoing review of documents.

	Significant risk in our Audit Plan	Findings	Conclusion
1	<p>Financial Sustainability</p> <p>We said that:</p> <p>The Authority is forecasting that it will deliver the budget for 2018/19 however this will require the use of £1.5 million of general reserves. The Authority's reserves have reduced from £9.2million in 2016/17 to £6.9 million at the start of 2019/20. It is anticipated that £1.1 million of General Reserves will be utilised in 2019/20 and a further £0.75 million used in 2020/21, reducing general reserves to £5 million. The 2019/20 budget requires savings of £3.8 million to be made in order to achieve the budget.</p> <p>Looking forward, there are significant new risks emerging which will require the Authority to find further efficiency savings which include the impact of:</p> <ul style="list-style-type: none"> FFPS – Employers Contributions – potential additional costs of £5.3 million per annum assuming no government funding. FFPS – Court of Appeal judgement – potential additional costs of £1.5m per annum. <p>We said we would:</p> <ul style="list-style-type: none"> assess how the Authority has responded to these challenges in terms of its plans for future years. consider whether your financial position leads to material uncertainty about the going concern of the Authority and will review related disclosures in the financial statements. 	<p>2018-19 Outturn</p> <p>The Authority once again delivered an improved position against its approved budget delivering net expenditure of £104.296m against a plan of £107.016m, giving a positive variance of £2.720m. In addition, funding also delivered a positive variance of £607k, with income received of £55.910m against a plan of £55.303m. The net impact for the Authority was to deliver a positive variance to plan of £2.503m, which has been used fully to create new earmarked reserves. In addition, contributions from earmarked reserves were also lower in the year, £8.108m compared to a plan of £8.932m, giving a positive variance of £824k.</p> <p>In June 2018, the Executive Committee approved the removal of New Entrant contracts to avoid industrial action by Grey Book staff. This has impacted the Services ability to generate Alternative Funding and achieve the full level of staff savings reflected within the Financial Efficiency Plan. At the Authority meeting on 17th September 2018, Members supported a reduced level of Voluntary Additional Shifts to make savings of £750k in 2018/19 to offset the shortfall in the FEP.</p> <p>2019-20 Position:</p> <p>The Authority approved a budget for 2019-20 in its February 2019 Authority meeting taking into account the latest Government settlement notified to them at the end of January 2019. This will be the final year of the four-year settlement that the Authority signed up to in 2016/17, which required it to deliver savings of £9.895m over the same period.</p> <p>The 2019-20 budget assumes:</p> <ul style="list-style-type: none"> Savings of £3.8m to be made in 2019/20 in order to achieve the Financial Efficiency Plan savings. Increased net costs of £0.5m for Firefighters Pension Scheme – Employers Contributions due to a change in the discount rate for unfunded public sector pensions from 3% to 2.4%, which has the effect of increasing the employer contributions (to include ill-health costs) from an average 17.6% to 30.2% from April 2019. The increase in the 2019/20 Employer's Pension contributions is estimated to be £6.2m. A s31 government grant of £5.7m has been allocated in 2019/20. 	<p>Auditor view</p> <p>On the basis of our work, having regard to the guidance on the specified criterion issued by the Comptroller and Auditor General in November 2017, we are satisfied that the Authority put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2019.</p>

Key findings

We set out below our key findings against the significant risks we identified through our initial risk assessment and further risks identified through our ongoing review of documents.

	Significant risk in our Audit Plan	Findings	Conclusion
1	<p>Financial Sustainability</p> <p>We said that:</p> <p>The Authority is forecasting that it will deliver the budget for 2018/19 however this will require the use of £1.5 million of general reserves. The Authority's reserves have reduced from £9.2million in 2016/17 to £6.9 million at the start of 2019/20. It is anticipated that £1.1 million of General Reserves will be utilised in 2019/20 and a further £0.75 million used in 2020/21, reducing general reserves to £5 million. The 2019/20 budget requires savings of £3.8 million to be made in order to achieve the budget.</p> <p>Looking forward, there are significant new risks emerging which will require the Authority to find further efficiency savings which include the impact of:</p> <ul style="list-style-type: none"> FFPS – Employers Contributions – potential additional costs of £5.3 million per annum assuming no government funding. FFPS – Court of Appeal judgement – potential additional costs of £1.5m per annum. <p>We said we would:</p> <ul style="list-style-type: none"> assess how the Authority has responded to these challenges in terms of its plans for future years. consider whether your financial position leads to material uncertainty about the going concern of the Authority and will review related disclosures in the financial statements. 	<ul style="list-style-type: none"> No impact of the Firefighters Pension Scheme Court of Appeal 'McCloud' judgement which found that the transitional protections introduced with the new Pension scheme in 2015 were unlawfully discriminatory on grounds of age. The Authority have estimated that the increase in employer's contribution, if members moved back to the 1992 Scheme, would be in the region of £1.5m per annum. In July 2019, the Government was refused leave to appeal the judgement and therefore the employment tribunal will now consider the repatriations necessary. the Authority will generate estimated income of £3.079m (£3.877m in 2018/19). This is due to the Executive Committee approving the removal of New Entrant contracts to avoid industrial action by Grey Book staff in June 2018 which has had a significant impact on the Services ability to generate Alternative Funding and achieve the full level of staff savings reflected within the FEP. Use of £1.1m of general balances to support the net budget requirement. This would result in the Authority's available General Balances being approximately £5.8 million by the end of 2019/20 (6% of the Authority's 2019/2020 Net Revenue Budget). <p>Actual spend to May 2019, including commitments, was £19.683 million compared to a projected budget of £19.701 million, an overall favourable variance of £0.018 million. Management have confirmed as part of regular updates with them that at the end of Quarter 1 the Authority is on track to achieve the savings approved as part of the 2019/20 budget setting process and to deliver the budget position. Management have identified that there are a number of spend pressures emerging for the year but mitigating action is being taken where possible.</p> <p>The Authority is currently maintaining an under borrowed position and is forecast to continue to do so over the next two years.</p>	<p>Auditor view</p> <p>On the basis of our work, having regard to the guidance on the specified criterion issued by the Comptroller and Auditor General in November 2017, we are satisfied that the Authority put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2019.</p>

Key findings

We set out below our key findings against the significant risks we identified through our initial risk assessment and further risks identified through our ongoing review of documents.

	Significant risk in Audit Plan	Findings	Conclusion
1	<p>Financial Sustainability</p> <p>We said that:</p> <p>The Authority is forecasting that it will deliver the budget for 2018/19 however this will require the use of £1.5 million of general reserves. The Authority's reserves have reduced from £9.2million in 2016/17 to £6.9 million at the start of 2019/20. It is anticipated that £1.1 million of General Reserves will be utilised in 2019/20 and a further £0.75 million used in 2020/21, reducing general reserves to £5 million. The 2019/20 budget requires savings of £3.8 million to be made in order to achieve the budget.</p> <p>Looking forward, there are significant new risks emerging which will require the Authority to find further efficiency savings which include the impact of:</p> <ul style="list-style-type: none"> FFPS – Employers Contributions – potential additional costs of £5.3 million per annum assuming no government funding. FFPS – Court of Appeal judgement – potential additional costs of £1.5m per annum. <p>We said we would:</p> <ul style="list-style-type: none"> assess how the Authority has responded to these challenges in terms of its plans for future years. consider whether your financial position leads to material uncertainty about the going concern of the Authority and will review related disclosures in the financial statements. 	<p>Forward Look:</p> <p>The Authority's level of general reserves have declined significantly in recent years going from £8.4m (8.8% of net revenue budget) on the 1st April 2018 to £6.9m (7.2%) as at 1 April 2019 and expected to decline to £5.8m (6%) by 1 April 2020.</p> <p>The use of General Balances is not a sustainable means of funding the Authority's revenue budget. Consideration needs to be given to further Service changes to reduce the reliance on General Balances. From 2021/22, the financial plan currently shows a budget deficit of £1.7m. Using general reserves to temporarily fund this gap will further reduce to balances to £3.3m.</p> <p>The Authority's three-year financial strategy continues to be updated to ensure that the revenue budget is sustainable and does not seek to rely on reserves to deliver a balanced budget on an on-going basis.</p> <p>As part of the budget setting process each year, the S151 officer is required to review and confirm that the level of reserves held is prudent in light of the risks that the authority faces. The S151 has determined that the overall level of reserves is deemed reasonable and prudent when compared to the risk assessment set out in the budget and the level of savings required to be identified and achieved over the medium term.</p> <p>The impact of the McCloud judgement and the refusal to allow the government the appeal the judgement will have significant financial implications. These will only be able to be quantified once the Employment Tribunal considers the repatriations necessary and how this will be implemented. It is not yet clear whether any Government funding will be provided to mitigate this additional cost.</p>	<p>Auditor view</p> <p>On the basis of our work, having regard to the guidance on the specified criterion issued by the Comptroller and Auditor General in November 2017, we are satisfied that the Authority put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2019.</p>

A. Reports issued and fees

We confirm below our final reports issued and fees charged for the audit and confirm there were no fees for the provision of non audit services.

Reports issued

Report	Date issued
Audit Plan	March 2019
Audit Findings Report	July 2019
Annual Audit Letter	August 2019

As outlined in our audit plan, the 2018-19 scale fee published by PSAA of £29,750 assumes that the scope of the audit does not significantly change. There are a number of areas where the scope of the audit has changed, which has led to additional work. These are set out in the following table.

These fee variations have been discussed with the Treasurer but are subject to approval by PSAA Limited.

Fees

	Planned £	Actual £	2017/18 £
Statutory audit	29,750	33,750	38,636
Total fees	29,750	33,750	38,636

Audit fee variation

Area	Reason	Fee proposed
Assessing the impact of the McCloud ruling	The Government's transitional arrangements for pensions were ruled discriminatory by the Court of Appeal last December. The Supreme Court refused the Government's application for permission to appeal this ruling. As part of our audit we have reviewed the revised actuarial assessment of the impact on the financial statements along with any audit reporting requirements.	£1,500
Pensions – IAS 19	The Financial Reporting Council has highlighted that the quality of work by audit firms in respect of IAS 19 needs to improve across local government audits. Accordingly, we have increased the level of scope and coverage in respect of IAS 19 this year to reflect this.	£1,500
PPE Valuation – work of experts	As above, the Financial Reporting Council has highlighted that auditors need to improve the quality of work on PPE valuations across the sector. We have increased the volume and scope of our audit work to reflect this.	£1,000
Total		£4,000

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND RISK COMMITTEE

2 SEPTEMBER 2019

1. **RESIDENTIAL HOMES**

Report of the Treasurer.

RECOMMENDED

THAT the content of the report be noted.

2. **PURPOSE OF REPORT**

This report is submitted to inform the Audit and Risk Committee of the current status of the Authority's Residential Homes (flats and houses). These facilities were provided in the past for firefighter use. The Authority no longer provides residential homes to new tenants and any properties which become or are vacant are held as surplus assets for accounting purposes.

3. **BACKGROUND**

- 3.1 The Authority's Statement of Accounts 2018/19, approved by the Audit and Risk Committee at the meeting held on 29th July 2019, included a reference to the Authority's Residential Homes.
- 3.2 The Chair of the Audit and Risk Committee asked if a report could be presented at the next Committee meeting, giving more details of the number and status of the current vacant properties.
- 3.3 The list of current vacant Residential Homes is attached as Appendix A.

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**

The course of action recommended in this report does not raise issues which should be drawn to the attention of the Authority's Monitoring Officer.

6. **FINANCIAL IMPLICATIONS**

There are no direct financial implications arising from this report.

BACKGROUND PAPERS

2019-20 Property Asset Management Plan, Fire Authority Meeting 18th February 2019.

Statement of Accounts 2018/2019.

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

MIKE GRIFFITHS
TREASURER

APPENDIX A

WMFRA Vacant Residential Homes (flats and houses)

<u>Site</u>	<u>Comments</u>
Flats 1 and 2 Bloxwich Fire Station, High Street	Located above old vehicle maintenance building at rear of station
Houses 1, 2, 3, 6 Kings Norton Fire Station, Pershore Road South	Current interest from a 3rd Party (Pathfinder) in refurbishing & leasing House 6. Access to all properties only via station driveway and across rear yard and down steps.
Flats 3, 4, 5 & 6 Kings Norton Fire Station, Pershore Road South	Access to all flats only via station driveway and across rear yard and up stairway
Houses 1, 2, 3, 4, 5, 6 & 7 Perry Barr Fire Station, College Road	Planning application approved in relation to creation of new vehicular access with the intention of disposal
Flats 5, 6, 7, 8, 9, 10, 11, 13 & 14 Erdington Fire Station, Orphanage Road	F5 used by station as training Scenario (squatters) F6 used by station as training scenario (drug den) F8 used by NARF F9 used by Heritage Group F7, F10, F11, F13, F14 access to all properties via station driveway and across rear yard

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND RISK COMMITTEE

WORK PROGRAMME 2019/20

Date of Meeting	Item	Responsible Officer	Completed
2019			
29 July 2019	Terms of Reference of Audit and Risk Committee	Democratic Officer	
	Audit Findings 2018/19	Grant Thornton	
	Statement of Accounts 2018/19 (Approval)	Treasurer	
	Treasury Management Annual Report 2018/19	Treasurer	
	Minutes of the Audit and Risk Committee held on 3 June 2019	Democratic Officer	
	Minutes of the Pensions Board held on 4 March 2019	Pension Board Representative	
	Minutes of the Pensions Board held on 4 June 2019	Pension Board Representative	
	Pension Board Annual Report	Pension Board Representative	
	Training Requirements of Audit and Risk Members		

(Official – WMFS – Public)

	Audit and Risk Committee Draft Work Plan 2019/20	Democratic Officer Democratic Officer	
2 September	Corporate Risk Six Monthly Report	ACO Strategic Enabler (Process)	
	Annual Audit Letter 2018/19	Grant Thornton	
	Audit and Risk Committee Update	Grant Thornton	
	Request of Member to Discontinue Payment of Periodical Contributions – New Firefighters' Pension Scheme (2006)	Treasurer	
	Pensionable Pay Decision	Treasurer	
	Residential Homes	Treasurer	
	Minutes of the Audit and Risk Committee held on 29 July 2019	Democratic Officer	
	CIPFA Audit Committee Update Issue 29	Auditor	
	Audit and Risk Committee Workplan 2019/20	Democratic Officer	
30 September [Authority]	Audit Findings 2018/19 Statement of Accounts 2018/19 (to note)	Grant Thornton Treasurer	

(Official – WMFS – Public)

11 November	<p>Treasury Management – Mid year review 2019/20</p> <p>Audit and Risk Committee Update</p> <p>Internal Audit Progress Report</p> <p>Minutes of the Audit and Risk Committee held on 2 September 2019</p> <p>Audit Committee Work Plan</p> <p>Minutes of the Pension Board held on 10 September 2019</p> <p>Fraud Awareness Training</p> <p>Audit Overview</p>	<p>Treasurer</p> <p>Grant Thornton</p> <p>Audit Manager</p> <p>Democratic Officer</p> <p>Democratic Officer</p> <p>Phil Tromans</p> <p>John Matthews</p>	
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2020			
13 January	<p>Minutes of the Audit and Risk Committee held on 11 November 2019</p> <p>Internal Audit Progress Report</p> <p>Internal Audit Charter – Annual Review</p> <p>Audit and Risk Committee Update</p> <p>Audit and Risk Committee Work Plan</p>	<p>Democratic Officer</p> <p>Audit Manager</p> <p>Audit Manager</p> <p>Grant Thornton</p>	

(Official – WMFS – Public)

	Minutes of the Pension Board held on ? December 2019	Democratic Officer Democratic Officer	
23 March	Audit and Risk Committee Terms of Reference Internal Audit Plan 2020/21 Audit Plan 2019/10 Corporate Risk Report Six Monthly Update Communication with the Audit Committee for WMFRA Audit and Risk Committee Update Minutes of the Audit and Risk Committee held on 13 January 2020 Audit and Risk Committee Work Plan <i>Committee Members' Private meeting with Internal Auditors (to follow Committee)</i>	Audit Manager Audit Manager Grant Thornton ACO Strategic Enabler (Process) Grant Thornton Grant Thornton Democratic Officer <i>Audit Manager</i>	
1 June 2019	Annual Internal Audit Report 2019/20 Governance Statement 2019/20	Audit Manager Treasurer	

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	<p>Monitoring Policies and RIPA (Annual Whistleblowing Report)</p> <p>Annual Report of the Audit and Risk Committee 2019/20 for approval</p> <p>Audit and Risk Committee – Verbal Update</p> <p>Minutes of the Audit and Risk Committee held on 23 March 2019</p> <p>Minutes of the Pensions Board held on ?March 2019</p> <p>Annual Report of the Pension Board 2019/10</p> <p>Audit and Risk Committee Work Plan 2019/2020</p> <p><i>Committee Members' Private meeting with External Auditors</i></p> <p><i>Workshop for Members on Statement of Accounts 2019/20</i></p>	<p>Monitoring Officer/ ACO Strategic Enabler (Process)</p> <p>Chair</p> <p>Grant Thornton</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>	
22 June 2020 [Authority]	<p>Governance Statement 2019/2020</p> <p>Minutes of the Audit and Risk Committee held on 1 June 2019</p>	<p>Treasurer</p> <p>Democratic Officer</p> <p>Chair</p>	

(Official – WMFS – Public)

	Annual Report of the Audit and Risk Committee 2019/20		
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July 2020 (Audit and Risk Committee 2020/21)	Audit Findings 2019/20 Statement of Accounts 2019/20 (Approval) Treasury Management Annual Report 2019/20 Audit and Risk Committee Draft Work Plan 2020/21 Minutes of the Pension Board held June 2020 Annual Report of the Pension Board	Grant Thornton Treasurer Treasurer Democratic Officer
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