

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, 06 June 2022 at 14:00

to be held at Fire Service Headquarters, 99 Vauxhall Road, Nechells,

Birmingham B7 4HW

and digitally via Microsoft Teams

for the purpose of transacting the following business:

Agenda – Public Session

Item No.

This is a revised agenda, published 30 May 2022, containing the reports related to 'Immediate Detriment cases under the McCloud Sargeant Ruling' and 'Monitoring Policies on Raising Concerns at Work' (having previously being listed as 'to follow').

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|----------|---|------------------|
| 1 | To receive apologies for absence (if any) | |
| 2 | Declarations of interests | |
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Agenda – Private Session

Item No.

15	Workshop for Members on Statement of Accounts 2021/22
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Distribution:

David Barrie - Member, Catherine Miks - Chair, Peter Miller - Member, Charn Padda - Vice Chair, Sybil Spence - Member

This meeting of the West Midlands Fire and Rescue Authority will be held at Fire Service Headquarters. However, please note that although the meeting will be open to the public, there will be limited capacity due to ongoing social distancing measures.

The meeting will also be held digitally via Microsoft Teams allowing observers to access remotely. To access the meeting, please contact a member of the Strategic Hub, West Midlands Fire Service, who will be able to provide login details (please note that Microsoft Teams is not required to join a meeting) or provide guidance if you wish to attend in person at HQ.

Clerk Name:	Karen Gowreesunker
Clerk Telephone:	0121 380 6678
Clerk Email:	Karen.Gowreesunker@wmfs.net

Agenda prepared by Kirsty Tuffin

Strategic Hub, West Midlands Fire Service

Tel: 0121 380 6906 email: kirsty.tuffin@wmfs.net

**This agenda and supporting documents are also available
electronically on the**

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Minutes of the Audit and Risk Committee

Item 3

21 March 2022 at 10:30 hours

Conducted as a public meeting at Headquarters and digitally via Microsoft Teams

- Present:** Councillor Catherine Miks (Chair), Councillor Padda, Councillor Barrie
- Virtually:** Mr Mike Ager, Councillor Miller, Councillor Spence, Peter Farrow (Internal Audit), John Mathews (Internal Audit), Avtar Sohal (Grant Thornton), Philip Tromans (Internal Audit) Harkamal Vaid (Grant Thornton),
- Officers:** Gary Taylor, Martina Doolan, Mike Griffiths, Kal Shoker, Stephen Timmington and Kirsty Tuffin.
- Observers:** Steven Price-Hunt

54/22 Apologies for Absence

Apologies for absence were received from Karen Gowreesunker, Clerk of the Authority and Neil Chamberlain, Chair of Pension Board.

55/22 Declarations of Interest

There were no declarations of interest registered.

56/22 Minutes of the Audit and Risk Committee held on 06 December 2021

Resolved:

1. That the minutes of the previous meeting, held on 06 December 2021, be approved as a correct record of proceedings.

57/22 Annual Report of the Senior Information Risk Owner

Gary Taylor, SIRO – Assistant Chief Fire Officer, and Martina Doolan, Data and Governance Manager, presented the Annual Report of the Senior Information Risk Owner that provided assurance in relation to how the service discharged its duties and responsibilities in relation to information governance.

The Committee were provided an overview of the key roles and responsibilities that included the Chief Fire Officer who had been the most senior role in the service and had been responsible for the following:

- advising the Fire Authority and for ensuring, along with the Authority's Monitoring Officer and Treasurer, that the Authority could effectively discharge all responsibilities imposed upon it by statute and guidance.

West Midlands Fire and Rescue Authority and West Midlands Fire Service were also required to operate in accordance with a wide range of legislation. They were accountable to the communities of the West Midlands for the service provided by the fire service. The role of Senior Information Risk Owner (SIRO) had been held by the Assistant Chief Fire Officer for Operations and had been responsible for the following:

- information security within West Midlands Fire Service.
- The SIRO role had been supported by the information Asset Owners (IAO) who are the Strategic Enabling Team (SET) with responsibilities for information assets within their respective areas.

The Data Protection Officer had the following responsibility:

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

Employees had been responsible for:

- adhering to the relevant policies of the organisation in respect of protecting information
- adhering to appropriate classifications,
- handling instructions and
- confidentiality requirements.

The Committee were advised that the purpose of the SIRO report had been to ensure good practice, assurance (both internally and externally), to help identify weaknesses and strengths and ensured transparency. Substantial assurance had already been achieved from the internal auditors with another themed review to take place in 2022 that would focus upon freedom of information.

Following discussions on spam emails, it was noted that there had been approximately 350k cyber-attacks experienced by the Service since the beginning of the crisis in Ukraine (24 February). This reflected the scale of the issue and the risk to the cyber security of the Service. It is also reflected in the work that had been implemented on the Service's infrastructure, which had enabled the successful blocking of threats to date. The aim was to ensure that the highest level of cyber security was maintained but done so in as seamless a manner as possible to ensure a good user experience was also maintained. The Committee were advised that it was a constantly evolving situation; as the Service put measures in place to thwart threats, hackers changed their methods.

The Chair of the Committee enquired as to what could be done to highlight the findings of the report to Members of the Authority as a whole. Gary Taylor advised that although the details of the Annual Report of the SIRO Report would be recorded and submitted to the Authority via the minutes of this committee. It could be possible with the approval the Chair of the Authority for an update to be provided directly to Members via a meeting of the full Fire Authority or via a briefing at the Policy Planning Forum. It was agreed that the Chair of the Committee would discuss the matter with the Chair of the Authority to propose a discussion be had on cyber security at Fire Authority or Policy Planning Forum to make all Members aware.

Steve Price-Hunt, requested to ask questions on the report, as a member of the public. The Chair of the Committee granted permission for Steve Price-Hunt to ask questions and advised that should it be required a written response would be provided to Steve within 7 working days. Following Steve's questions Martina Doolan advised that attempts to answer the questions

would be made, with further information to be provided following the meeting where required.

In answer to the questions, Martina Doolan advised that:

- The observation made that it was believed that all referrals to the Information Commissioner's Officer should be recorded was acknowledged. However, such referrals may be included and further information would be provided to Steve following the meeting.
- With regard to the Subject Access Requests, the improvements observed in retrieving relevant information, increasing from 29% in 2020 to 39% in 2021, was largely attributable to how technology was being used. This remained in its infancy, with a number of pilots having been carried out to date, and it was expected that further improvements would be realised as progress was made.
- There was tribunal process, with the ability to refer a matter to the First Tier Tribunal. Martina advised that further information would be provided to Steve following the meeting.

Gary Taylor re-assured Members that if it was not possible to respond to individual's request within 30 days, the Service would notify the individual and provide a rationale as to why.

Resolved:

1. That it be agreed that the Annual Report of the Senior Information Risk Owner (SIRO) be approved.
2. That it be agreed that the Chair of the Committee would discuss the matter with the Chair of the Authority for the proposal to discuss the cyber security threat faced at Fire Authority or Policy Planning Forum to make all members aware.
3. That it be agreed that further details on referrals to the Information Commissioner's Officer be provided to Steven Price-Hunt following the Committee Meeting.

58/22 **Internal Audit Charter – Annual Review**

Peter Farrow, Internal Auditor, presented the Internal Audit Charter – Annual Review report that outlined the scope and background and mission of the internal auditors.

The Committee were advised that no changes had been made to the Internal Audit Charter since it was last reviewed and approved by Committee in March 2021.

Resolved:

1. That it be agreed that the existing Internal Audit Charter be reviewed and approved subject to its next annual review.

59/22 **Internal Audit Plan – 2022-2023**

Peter Farrow, Internal Auditor, presented the Internal Audit Plan – 2022-2023 report that outlined the proposed Internal Audit Plan for 2022/23 and a indicative plan covering the period 2023/24 to 2024/25.

The Committee were advised that a fluid approach would be given to the Internal Audit Plan to reflect changes in the risks faced by the service and would be updated periodically to reflect this. Any changes to the plan would be brought to the Audit and Risk Committee for approval. The assessment of assurance need/risk analysis and RAG rating were explained to members. Mike Griffiths confirmed that the plan had been shared with himself and other SET Officers and were in agreement with the plan.

Following queries around the high score given to the payroll pension systems, Peter Farrow re-assured Members that despite the rating, internal auditors had no concerns but as the key financial systems fundamentally dealt with large sums of money and were an essential part of the service, it had been important the rating reflected that.

Following a query around the risk of management of fuel and whether this should be raised from medium to red, given the situation of fuel supplies in the United Kingdom at present, John Mathews re-assured Members that Internal Auditors reviewed the risk in December and determined the risk remained amber but would take Members comments on board. Mike Griffiths also re-assured Members and advised that in recognition of the fuel situation, the Fire Authorities business continuity arrangements had been in place that ensure stations had been in a good place with their fuel supplies and had been regularly monitored.

Resolved:

1. That it be agreed that the Internal Audit Plan for 2022/23 be approved.

60/22 **Internal Audit – Progress Report**

John Mathews, Internal Auditor, presented the Internal Audit – Progress Report that outlined the issues raised from the work undertaken by internal audit so far in the current financial year.

The Committee were advised that the progress report would feed into and informed the Internal Audits overall opinion in the Internal Audit – Annual Report that would be provided at the year end. The assessment of assurance was explained to members. As per appendix 1, substantial rating had been provided on the majority of completed auditable areas of work. those in progress had been:

- Risk Management
- Governance
- Accounts receivable

Since the publication of this report, Internal Audits had circulated a Governance Report for Officers to review.

The Committee were advised that, as per appendix 1, the following issues that arose were:

- Workforce planning
- Fixed asset Accounting/Asset management
- Accounts payable
- Budgetary control

The workforce planning issues were outlined and the committee were advised that a plan had been devised with the Fire Authority and a follow up review would take place as part of the internal audit plan for 2022-23. It was agreed that an update on this be provided at the next Audit and Risk Committee meeting.

Resolved:

1. That it be agreed that the Internal Audit Progress Report be noted.

2. That it be agreed that an update regarding the Fire Authorities plan and the workforce planning issues be provided at the next Audit and Risk Committee meeting.

61/22 **Informing the Audit Risk Assessment 2021-2022**

Avtar Sohail, Grant Thornton – External Auditor, presented the Informing the Audit Risk Assessment 2021-2022 report that provided an update on the progress of the external auditor in delivering their responsibilities.

The Committee were advised that as part of the risk assessment conducted by external auditors required management to provide information following external auditors' queries, as per appendix 1 of the report. The information provided by management had been in line with expectations and therefore nothing required additional consideration from the Committee.

Resolved:

1. That it be agreed that the Informing the Audit Risk Assessment – West Midlands Fire & Rescue Authority 2021/22, be noted.

62/22 **Auditor Annual Report 2020-2021**

Avtar Sohail, Grant Thornton – External Auditor, presented the Informing the Auditor Annual Report 2020-2021 report that outlined the findings of the external audit work undertaken for the audit year 2020-2021.

The Committee were advised that the Auditor Annual Report would replace the Audit Letter previously provided to the Committee moving forward. Following the change to the approach to value for money, the main areas of work highlighted, as per appendix 1, were:

- Financial sustainability
- Governance
- Improving economy, efficiency and effectiveness
- Covid-19 arrangements
- Opinion on the financial statements

The Committee were advised that there had been no significant weaknesses that required the Committees attention, that good governance practices had been in place and therefore a clean audit opinion had been given.

Following queries around the external auditors timescales, Avtar Sohail advised Members that as a result of the audit market fluctuating and higher demand on auditors, the deadline for the submission of statement of accounts had been extended from July to September, as done in the previous year. Grant Thornton were hopeful to meet this deadline however, had been dependent upon its findings.

Resolved:

1. That it be agreed that the Auditor's Annual Report (AAR) 2020/21 on the West Midlands Fire and Rescue Authority be noted.

63/22 **Update on Topical, Legal and Regulatory Issues (Verbal Report)**

Mike Griffiths, (WMFS) Section 151 Officer, advised the Committee there were no updates on Topical, Legal and Regulatory Issues.

64/22 **Audit and Risk Committee Work Plan 2021-2022**

Kirsty Tuffin, Democratic Services Officer, presented the Audit and Risk Committee Work Plan for 2021-2022 that outlined the planned agenda items for future scheduled Audit and Risk Committee meetings.

The Committee were advised that as per the agenda pack, the Fraud Awareness Training and the Private Meeting with Internal Auditors had been scheduled to take place following the exclusion of the press and public. Members were advised that a separate private meeting invite had been circulated and Members would be asked to join via the link circulated when appropriate.

Resolved:

1. That it be agreed that the Audit and Risk Committee Work Plan 2021-2022 be noted.

65/22 **Fraud Awareness Training**

Phillip Tromans, Internal Audit, provided Members of the Committee with training on Fraud Awareness.

Resolved:

1. That it be agreed that the training on fraud awareness be noted.

66/22 **Private Meeting with Internal Auditors**

Members of the Committee met with Peter Farrow, Internal Auditor, and John Mathews, Internal Auditor to raise any concerns they may have. No concerns were raised.

Resolved:

1. That it be agreed that the private meeting with internal auditors be noted.

The meeting closed at 12:53 hours.

Kirsty Tuffin
Strategic Hub
0121 380 6906
Kirsty.tuffin@wmfs.net

WEST MIDLANDS FIRE AND RESCUE AUTHORITY**AUDIT AND RISK COMMITTEE****6 JUNE 2022****1. REQUEST FOR A DECISION ON ACTION TO BE TAKEN IN RESPECT OF IMMEDIATE DETRIMENT CASES UNDER THE MCCLOUD/SERGEANT RULING**

Report of the Chief Fire Officer.

2. PURPOSE OF REPORT

That the Committee consider the additional information received since the decision was taken by the Audit and Risk Committee, (in its role as Scheme Manager for the Firefighters' Pension Schemes) on 6 December 2021 to pause the payment of Immediate Detriment cases and determine whether the pause should remain in place or be lifted.

3. RECOMMENDATION

The Committee, in its role as Scheme Manager, consider whether to:

a) continue with the current pause on Immediate Detriment cases

or

b) resume making payments on Immediate Detriment cases.

4. BACKGROUND

- 4.1 On 7 December 2020, the Audit and Risk Committee, in its role as Scheme Manager for the Firefighters' Pension Schemes, took the decision to instruct the scheme administrator to act upon guidance issued by the Home Office in August 2020 to make

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payment to Immediate Detriment cases.

- 4.2 West Midlands Fire Service began making payment to affected members, who retired from service on or after 1 February 2021. Whilst payments were being made, there were still a number of outstanding technical questions being considered nationally.
- 4.3 In October 2021, the Local Government Association (LGA) and the Fire Brigades' Union (FBU) signed a Memorandum of Understanding which provided a more substantial framework for the processing of cases.
- 4.4 On 29 November 2021, the Home Office withdrew their guidance. The key reason for withdrawal of the guidance was uncertainty on the power of Section 61 of the Equalities Act 2010 to support correction of Immediate Detriment cases before the new legislation was in place, with specific reference to tax relief on the contributions that a member would need to make to reinstate their membership of the 1992 Pension scheme. They further felt that there was a significant risk to scheme members that HMRC may reclaim any tax relief which had been given in this situation (Appendix 1).
- 4.5 The withdrawal guidance quoted further concerns from Her Majesty's (HM) Treasury and the covering letter from the Home Office outlined the funding position and confirmed that Services would not be provided with additional funding for costs associated with Immediate Detriment, which are paid outside of the pension account. This means that, were Services to try and compensate members for lost tax or pension outside of the regulations, they would not be funded, and this would come from operational budgets only.
- 4.6 At the Audit and Risk Committee meeting on the 6 December 2021, a verbal update was received, advising of the withdrawal of the Home Office guidance and the associated legal and financial issues this raised. As a result of this update, the decision was taken to pause the payment of Immediate Detriment cases (Appendix 2).
- 4.7 There is no question that eligible members are entitled to receive a choice of legacy or reformed benefits for the period

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between 1 April 2015 and 31 March 2022, nor is there any doubt that this will be available. Section 2 of the Public Service Pensions and Judicial Offices Act 2022, which came into place in April 2022, has the effect that on the coming into force of the secondary regulations, which must be enacted by 1 October 2023, members will be reverted to their legacy schemes for the remedy period. Those who have retired before the coming into force of the secondary regulations will be treated as 'Immediate Choice' members under sections 6 to 9 of the Act 2022 and given a choice of benefits to receive.

- 4.8 The LGA and FBU have produced a document providing a range of benefit illustrations based on different scheme memberships, scenarios and salary payments to help explain the impact of the 2015 Remedy on individual member benefits. The document is attached as Appendix 3
- 4.9 As indicated in Paragraph 4.2, Immediate Detriment payments were being made by the Authority prior to 7 December 2021 based on the legal considerations leading up to that date alongside guidance for making payments provided by the Home Office. The removal of the Home Office guidance and the legal and financial risks and uncertainties associated with making payments prior to 1 October 2023 has resulted in changes to the basis of making Immediate Detriment payments, which requires appropriate consideration in terms of the ongoing arrangements relating to this matter.
- 4.10 In an attempt to support the Fire Sector, the Chair of the Firefighters' Pensions (England) Scheme Advisory Board wrote on 17 December 2021 to HM Treasury asking for further clarification on the tax issues highlighted by the Home Office (Appendix 4).
- 4.11 HM Treasury responded to this letter on 23 March 2022 (Appendix 5) providing the requested detail. This letter reinforced the uncertainty cited by the Home Office, specifically around the following areas.
 - I) Tax relief on member contributions
 - II) Payment of benefits from the 2015 scheme

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- III) New or increased lump sum payments
- IV) Annual allowance tax charges
- V) Lifetime allowance tax charges

- 4.12 Their letter confirmed that, “the Government’s view remains that processing Immediate Detriment cases before all the necessary legislation is in place, could give rise to significant consequences for schemes and members, although that ultimately is a decision for individual Scheme Managers”.
- 4.13 Alongside the above, whilst recognising that it is a separate pension scheme, the National Police Chiefs’ Council (NPCC) Pension Team took further legal advice on the impact for their scheme. In an NPCC letter dated 22 March 2022 (Appendix 5) it stated that whilst the written legal advice was still pending, “counsel’s view was unequivocally that Scheme Managers should not be implementing immediate detriment at this time, as there is no legal mechanism to pay without undue risks to both members and the force”.
- 4.14 The Public Service Pensions and Judicial Offices Bill has now received royal assent and has been made into an Act, The Public Service Pensions and Judicial Offices Act 2022. Part 1, Chapter 1 of the Act will come into force no later than 1 October 2023 and will remedy the discrimination between 1 April 2015 and 31 March 2022, by moving members back to the legacy scheme for the remedy period. The Act will be supported in due course by Treasury directions which specify certain aspects such as the rate of interest to apply to payments owed and due.
- 4.15 Secondary regulation amendments to the Firefighters’ Pension Schemes will be required that are in keeping with the primary legislation. It is the responsibility of Home Office to draft and lay these regulations by 1 October 2023. Section 11 of the Finance Act 2022 requires treasury to make changes to the Finance Act 2004, in connection with the discrimination rectification provisions. It is expected these will be retrospective from 1 April 2022, however they are not yet available, and drafts are expected in Autumn of 2022.

- 4.16 The HM Treasury letter dated 22 March 2022, referred to earlier in this report, referenced a set of principles which appear to relate to clauses within the Public Service Pensions and Judicial Offices Act 2022 and its interaction with section 61 of the Equality Act. The clauses, which may allow for some progress on this matter are due to come into law from late May 2022. It is therefore possible but in no way certain, that the Home Office may issue updated guidance later in the year. This view is based on initial reading of the legislation, and there is no guarantee that the Home Office will take any action.
- 4.17 On behalf of the Fire Sector and in discussions with the FBU, the LGA is exploring whether any adjustments can be made to the framework that was agreed on Immediate Detriment, to assist FRAs in being able to process Immediate Detriment cases under that framework. As an outcome of these discussions a joint letter was sent to the Home Office and HM Treasury from the FBU and the LGA, seeking a resolution on immediate detriment issues (Appendix 7). In addition, the NFCC and LGA are also seeking clarity to enable cases to be progressed. Clarity has not yet been provided but Officers have been involved in work with NFCC and LGA colleagues to develop an option to make payments to affected members prior to 23rd October 2023 which could be adopted by the sector. Whilst this would not remove all of the risks and uncertainties, it would provide a consistent framework across the sector and potentially identify a lower scale of financial exposure if cases were progressed.
- 4.18 Whilst the options referenced in the 2 paragraphs immediately above may enable some progress to be made prior to October 2023, it remains that both NPCC and LGA legal opinion has been very clear that significant risk would be faced by both members and the Service's operational account, by making payments with no clear legal mechanism.

5. EQUALITY IMPACT ASSESSMENT

- 5.1 The legal duty on the Service in relation to an Equality Impact Assessment is to give due consideration to the impact of any policy decision as it affects those with protected characteristics. This due consideration is in the form of advantages and disadvantages for affected Scheme Members.

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- 5.2 In relation to this report, the protected characteristic of age is engaged for Scheme Members and has been since the 'Sargeant' Court of Appeal decision.
- 5.3 If the Committee decide to process Immediate Detriment claims and lift the current 'pause', the disadvantage to affected Scheme Members is reduced. However, there may likely be ongoing financial disadvantage to affected Scheme Members in the absence of clarity on the tax implications for Scheme Members because the relevant legislation will not be introduced by the Treasury until October 2023.

6. LEGAL IMPLICATIONS

- 6.1 The Service is committed to upholding the Equality Act 2010 and seeks to avoid discrimination in the work place.
- 6.2 If Employment Tribunal claims are received from affected Scheme Members, the Service will seek a 'stay' or 'suspension' of these claims until the legislation clarifying the tax treatment of Immediate Detriment claims comes into force in October 2023. These ET claims would be for ongoing disadvantage by affected Scheme Members. It is likely the Employment Tribunal would agree to this approach of a 'stay'.
- 6.3 As set out within the Background to this report, legal advice was previously secured by the LGA – this advice did not provide the appropriate level of assurance needed for employers to progress all Immediate Detriment claims.
- 6.4 Shortly afterward, the Home Office withdrew its guidance note that was previously relied on by employers based on the:
- i) lack of assurance within section 61 of the Equality Act 2010 providing flexibility for Scheme Managers to resolve Immediate Detriment claims and
 - ii) a lack of legislative safeguards from the Treasury against additional costs and tax burdens on affected Scheme Members and employers.

Further, the Home Office has issued clear guidance that Immediate Detriment claims should not be processed until legislation is in place in October 2023 – this legislation will clarify the tax implications for affected Scheme Members. These key matters resulted in the Fire Authority initiating a ‘pause’ in the processing of Immediate Detriment claims.

- 6.5 In light of the above circumstances, no mechanism is considered to exist in order to pay affected Scheme Members without undue risk to them in relation to additional tax burden and costs (in advance of the October 2023 legislation). This has been set out in the HM Treasury letter dated 23 March 2022 as follows:

“The fundamental difficulty is that retrospectively changing pension entitlement through section 61 of the Equality Act 2010 cannot mitigate all of the consequences that arise from that. Legislation is therefore needed to address these consequences, particularly in respect of the complicated interplay with the tax system which is dependent on changing facts”; and

“In some situations, processing cases without the full remedy legislation, including on tax, could lead to disadvantageous outcomes. The Public Services and Judicial Offices Act addresses some of these issues, but others will need to be addressed through secondary legislation, the Finance Act 2022 and tax regulations.”

- 6.6 It is open to the Committee to decide to attempt to resolve the ongoing disadvantage being suffered by affected Scheme Members by lifting the current pause and processing Immediate Detriment payments. Any such decision to lift the ‘pause’ will need to be balanced against the uncertainties relating to this matter and the associated difficulty in accurately forecasting the financial liability the WMFRA will incur in advance of the Finance Act 2022 and tax regulations due in October 2023.

7. FINANCIAL IMPLICATIONS

- 7.1 The Authority has 37 pensioners who are affected by this situation, and it is predicted that approximately a further 100 members will retire before the new regulations are in place.

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- 7.2 Because of the October 2023 timeline, it is recognised that there is the potential for legal cases to be taken against the Authority if payments are not made for Immediate Detriment cases prior to that date. At this stage, the cost of legal action is estimated at circa £25K. Whilst it is recognised the payment of legal costs would be something the Authority would wish to avoid, if possible, provision is made to meet potential legal costs as part of the Authority's budget setting process and so funding is in place to meet these costs should they arise.
- 7.3 An exercise has been undertaken to forecast the potential scale of the financial risk if the Authority were to proceed with remedy prior to legislation being in place and/or further clarity being provided in relation to potential arrangements prior to October 2023. The scale of impact has been estimated at circa £2 million based predominantly on the tax related issues associated with pension contributions but it must be highlighted that there are significant legal and financial uncertainties relating to this matter and so a high degree of caution should be applied to this indicative figure. It is feasible that making payments with no clear legal mechanism in place together with the associated tax issues that could arise in advance of retrospective legislation may mean the scale of potential financial risk significantly exceeds the £2M figure, given all the uncertainties around this matter and the range of assumptions that can be used to calculate the scale of potential financial exposure.
- 7.4 The indicated costs and associated risks referenced in the above paragraph would not materialise if remedy payments were made following all relevant regulations being in place and/or any clarity in the meantime providing the ability to proceed with Immediate Detriment payments. No funding is in place to meet costs of this nature and so General Balances would need to be used if payments were made at this stage.

BACKGROUND PAPERS

- FPS Bulletin 37 – September 2020
- Public Service Pension Schemes: changes to the transitional arrangements to the 2015 schemes consultation
- Statement UIN HCWS380
- Home Office Guidance – McCloud/Sargeant ruling – Guidance on treatment of 'Immediate Detriment' cases – Issue date: 21 August 2020
- 'Immediate Detriment Report' Audit and Risk Committee meeting 7 December 2020
- Memorandum of Understanding between LGA and FBU 8 October 2021

The contact name for this report is Gary Taylor, telephone number 0121 380 6006.

PHIL LOACH
CHIEF FIRE OFFICER

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Ref. AU/A&R/2022/June/11005221

APPENDIX 1

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Processing immediate detriment cases – November 2021

This note sets out HM Treasury's best assessment at this point on the advisability of processing immediate detriment cases before new legislation to enact the McCloud remedy is in place, and the implications of this assessment for the Home Office guidance on processing immediate detriment cases published in August 2020 and revised in June 2021.

Background

Before the McCloud legislation is in place, any corrections to individuals' pension arrangements depend on an interpretation of how section 61 Equality Act 2010 would operate.

The government made clear in its July 2020 consultation and February 2021 consultation response that it accepts that members who moved to the reformed pension schemes on or after 1 April 2015 and have subsequently retired already have an entitlement to be treated as a member of their legacy scheme for the remedy period if they wish. This is based on the view that section 61 Equality Act 2010 permits pension scheme regulations to be read as though discriminatory provisions do not apply, allowing members in this position to be treated as a member of their legacy scheme.

It was initially thought that section 61 would be sufficient to allow the position of unprotected individuals due to retire before the deferred choice underpin is implemented ('pipeline' immediate detriment cases), who wished to receive legacy scheme benefits, to be corrected before the McCloud Bill, scheme regulations and relevant tax legislation came into force. This was reflected in the position set out in the July 2020 consultation document, which stated that the government would work with schemes to give members of reformed schemes due to retire before 2022 a choice of benefits, where this was administratively possible. It was acknowledged that there were still some policy and administrative issues to work through, and the consultation document noted the complexity involved and that systems changes may be required.

Consistent with that, the Home Office guidance document originally published in August 2020 was the best attempt possible at that time to set out a pathway for processing pipeline cases ahead of legislation. The document was produced in response to specific requests from the Firefighters' Scheme Advisory Board and in recognition of the particular pressures affecting the locally administered schemes. In producing the document, the complexity of these issues became increasingly apparent. The guidance did not therefore cover cases where individuals had already retired ('rectification' cases). Home Office and HMT were also clear that the document contained gaps in respect of pipeline cases, and that cases may need to be revisited, though the belief at the time was that it provided a basis to process at least some pipeline immediate detriment cases.

The February 2021 consultation response also reflected this position and acknowledged the particular complexities associated with rectification cases. The updated version of the Home Office guidance document published this year following further discussions with the sector was an attempt to provide more detail in some areas where this was possible, and to correct areas where thinking had moved on as a result of the further work that had been done. Both of these guidance documents were produced in good faith based on the best information available at the time, and it was made clear that there were still gaps and uncertainties.

Current assessment

The further work done by HMT and HMRC on drafting the remedy in the McCloud Bill (i.e. the Public Service Pensions and Judicial Offices Bill) has made it clear that these gaps and uncertainties are considerably greater than was previously thought. In some situations, it now appears that section 61

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may not give all the powers required to operate the remedy smoothly and predictably, without generating significant uncertainty for schemes, and risking significant second or third adjustments for individuals.

Because of this, HMT's current view is now that immediate detriment cases, including those yet to retire, cannot be processed before legislation is in place without considerable risk, uncertainty and administrative burdens for individuals, schemes and employers.

The fundamental issue is that to support correction of immediate detriment cases before new legislation is in place, section 61's impact on some fairly obscure aspects of the McCloud remedy needs to be understood. Any such interpretation of how section 61 comes into play on these points is novel and contestable, and actions taken on the basis of it are risky.

This risk has become more apparent over time, as HMT and HMRC have worked through the McCloud remedy and its tax consequences in more detail. On some of these points, the effect of section 61 would only be known for certain if it is tested in a court of law. This means schemes face significant uncertainty on how to proceed.

For example, where an individual's situation is corrected before legislation is in place, analysis at this point suggests it is not certain that section 61 will allow contributions paid in the past to reformed schemes to have been paid, as a matter of fact, into legacy schemes. This could call into question certain aspects of the remedy, including those contributions' tax relievable status. That could mean that the individuals in question will owe tax on contributions made in the past to their reformed scheme. This issue could affect all individuals who have made contributions into their reformed scheme – not just those for whom an adjustment in the amounts of contributions is required. Schemes and employers could then face difficult decisions over how to deal with those past contributions, plus significant administrative burdens as they attempted to fully unwind historic situations. Some individual members could lose out – potentially temporarily, but to a significant degree if tax is owed on past contributions but compensation for tax relief on contributions now being made into the legacy scheme is not available until the full remedy is in place. Individuals may also face significant second, and sometimes third, corrections once legislation is in place, as some of these problems are corrected.

Other areas of uncertainty exist and based on the experience so far of preparing the McCloud remedy, it is reasonable to conclude that further issues could emerge as work continues on the detailed McCloud remedy for changes to tax legislation and through scheme regulations.

The legislation the government is putting in place, through the McCloud Bill and tax legislation, and through the scheme regulations changes, aims to address uncertainties to deliver proportionate and reasonable results which are robust to further challenge on the grounds of discrimination, in line with the policy set out in the consultation and response documents. It is HMT's view at this point, based on the analysis as it currently stands, that cases cannot be smoothly and predictably processed until this legislation is in place and that there are risks and uncertainties for schemes and for individuals if cases are processed ahead of that.

Therefore HMT and Home office do not advise that schemes process pipeline immediate detriment cases before the legislation is in place, given the uncertainty of how to proceed on some elements, and the significant risk of generating unintended tax consequences that may, to a greater or lesser extent, then need to be reversed once legislation is in force.

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It is of course still up to schemes to choose to process cases or not based on their own assessment of the competing legal risks, but at this stage it is not possible to give any guarantees that the remedy and its tax consequences will work as intended for everyone, before the legislation is in place.

Implications for the Home Office guidance

Whilst section 61 permits individuals affected to be treated as members of their legacy scheme, given the uncertainty around how it operates on some of the detailed elements of the McCloud remedy, HMT no longer views the current version of the Home Office guidance as accurately representing the situation. Unfortunately, that uncertainty also means the guidance cannot be revised to give schemes a clear way forward on how to process these cases that is certain to be correct. Home Office have therefore taken the difficult decision to withdraw this guidance.

It is also important to note that if schemes process cases and run up against tax issues which it is not straightforward to resolve – because the situation is either ambiguous under current rules due to uncertainty about how section 61 acts on some elements, or the current rules generate unwelcome tax outcomes – they will have to operate within the existing tax legislation and HMRC will not be able to help resolve those issues. This may mean that individuals could face unwanted tax bills and/or corrections to their tax affairs, which may then need to be corrected again once the legislation is in place.

For cases that have already been dealt with, or are in the process of being dealt with, the new legislation will give powers intended to allow schemes to put these individuals into the correct position, drawing on the provisions of the McCloud Bill. However, this could entail significant second or third corrections and so HMT would not advise that schemes continue to process cases on the assumption these provisions will mean a smooth and predictable experience for themselves and for members.

APPENDIX 2

EXTRACT OF MINUTES OF AUDIT AND RISK COMMITTEE **6TH DECEMBER 2021**

Update on Topical, Legal and Regulatory Issues (Verbal Report)

Paul Gwynn, Payroll and Pensions Manager, provided a verbal update to Members of the Committee on the position with Immediate Detriment. The Committee were advised that since the last Audit and Risk Committee that took place on 27 September 2021, the revised guidance issued from the Home Office on Immediate Detriment had been withdrawn, with immediate effect.

The Committee were advised that as a result of this withdrawal and lack of guidance there would be a risk to the Service both legally and financially if it continued with its implementation. It was hoped that guidance would be issued from the Local Government Association and National Fire Chief Council (NFCC) the week commencing 13 December 2021. Following the withdrawal of the Home Office Guidance, the service had sought legal advice, corresponded with other Fire Services and the NFCC and recommended to Committee that that the Authority:

Paused and reviewed the criteria for processing Immediate Detriment affected pension claims. For clarity, this meant not agreeing to settle any new retirement notifications in line with the previously agreed guidance from Audit and Risk Committee. This pause would allow the Authority to consider:

1. Pending legal advice from the LGA (Local Government Association) and NFCC (National Fire Chief Council).
2. Any further guidance from the Home Office and/or the Treasury.
3. Continue to process any current retirements in line with the agreed process at the time. For clarity, this meant all pension claims that are currently being processed (including current retrospective claims).

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4. Not process any new retrospective retirement pension claims related to Immediate Detriment until point 1 above is resolved.

Satinder Sahota, Monitoring Officer for the Authority, advised that the service needed to identify the scope on potential legal challenges that could be received. It was agreed that Satinder Sahota would work with Members of the finance team to identify (if any) the tax implications associated with the above recommendation.

Resolved:

1. That it be agreed that the paused and reviewed the criteria for processing Immediate Detriment affected pension claims.
2. That it be agreed that any current retirements continued to be processed in line with the agreed process at the time. For clarity, this meant all pension claims that are currently being processed (including current retrospective claims).
3. That it be agreed that Satinder Sahota would work with Members of the finance team to identify (if any) the tax implications associated with the above recommendation.

APPENDIX 3



McCloud/ Sargeant - Pensions Remedy Benefit illustrations

About this communication

This communication follows the fact checker produced in February 2022, which aims to answer some recurring questions that members have about the 2015 Remedy. You can find the fact checker at fpsmember.org/2015-remedy/2015-remedy-your-questions-answered

This communication provides a range of benefit illustrations based on different scheme memberships, scenarios and salary profiles. The range of benefit illustrations should help explain the impact of the 2015 Remedy on members' benefits. This communication does not constitute advice for members but is intended to provide information on how benefits are calculated under the 2015 Remedy.

Before we get into the benefit illustrations, let's remind ourselves of the 2015 Remedy and its impact.

Reminder of the 2015 Remedy

The 2015 Remedy is the official term used to describe the upcoming changes within the Firefighters' Pension Schemes. The changes will remove the age discrimination that has been judged to have taken place since 2015.

The changes brought about by the 2015 Remedy will mean that:

- From 1 April 2022, all active members of the Firefighters' Pension Schemes will build up benefits in the FPS 2015 (sometimes referred to as the 2015 CARE scheme).
- If you are affected by the 2015 Remedy, any service built up in the FPS 2015 between 1 April 2015 and 31 March 2022 (the 'remedy period') will be converted to service in your former final salary scheme. Benefits in the FPS 2015 during the remedy period are called '**reformed benefits**' and benefits in the relevant final salary scheme are known as '**legacy benefits**'.
- As the contribution rates are different for each of the schemes, you may owe extra contributions when your service is converted, or money may be due to you for overpaid contributions.
- At retirement, you will need to make a decision about whether to take your legacy or reformed benefits for the remedy period. This is often referred to as the 'deferred choice underpin'.

- As part of this decision, you will need to take into account any readjustment of contributions needed.
- **Any change to your contributions will also include adjustments for tax relief and interest. For this reason, we have not included member contributions within the illustrations.**
- Members who were previously taper-protected and moved into the FPS 2015 after 1 April 2015 will have to make a choice for legacy or reformed benefits for the whole of the remedy period.

For more information about the 2015 Remedy, including whether you are affected, go to fpsmember.org/2015-remedy/2015-remedy-your-questions-answered

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Ref. AU/A&R/2022/June/11005221

Introduction to the benefit illustrations

The differences between the legacy and reformed schemes mean the set of benefits that is best for you depends on your personal circumstances and preferences, including things you may not yet know, such as how your salary changes in the future and when you will retire.

To improve members' understanding, we have produced a selection of benefit illustrations using different scenarios and salary profiles for a set of example members in service across all the final salary schemes. This shows the total benefits these example members would be entitled to if they retired at key retirement milestones, comparing the position of the member should they choose legacy or reformed benefits for the remedy period at that time. The benefit illustrations show the pension and maximum cash lump sum amounts at different retirement ages. The detailed calculations used to arrive at these figures are available at fpmember.org/sites/default/files/2015-Remedy-benefit-illustrations-full-calculations.xlsx

Please note these benefit illustrations are for information only. You do not need to take any immediate action. It's only at retirement that you will need to make a decision as to whether to take your legacy or reformed benefits.

Every year, you are sent an annual benefit statement from your FPS administrator. Once the pension regulations are in place and the administration systems have been updated, administrators can start work on updating these benefit statements to show your entitlement for both legacy and reformed benefits. This will help you to have a clearer understanding of the benefits available leading up to your retirement.

You'll also receive benefit illustrations for the legacy and reformed benefits at retirement. This will allow you to choose the most beneficial option at a time when you have the most certainty over what you are entitled to.

The benefit illustrations

We've produced benefit illustrations for five different member profiles:

1. [FPS 1992 – member achieved less than 30 years' pensionable service before 1 April 2022](#)
2. [FPS 1992 – member achieved 30 years' pensionable service before 1 April 2022](#)
3. [FPS 2006 – full-time member](#)
4. [FPS 2006 – part-time/retained member](#)
5. [FPS 2006 for special members \(RDS modified\)](#)

Each benefit illustration will show two salary profiles/ career progressions:

- A member who remains at firefighter level throughout their career.
- A member who progresses from firefighter to watch manager throughout their career.

We can't produce an illustration to match every member's personal circumstances. You should therefore read the illustration that is closest to your circumstances – you don't need to read every illustration if you don't want to.

How do I know which legacy scheme I belong to?

If you joined the Firefighters' Pension Scheme:

- Before 6 April 2006, you will be a member of the **FPS 1992**.
- On or after 6 April 2006 but before 1 April 2015, you will be a member of the **FPS 2006**.
- If you are a retained firefighter with service between 1 July 2000 and 5 April 2006, you may be a **special member** of the **FPS 2006**.

The information provided here has been prepared for, and in collaboration with, the Firefighters' Pensions' (England) Scheme Advisory Board (SAB) by Barnett Waddingham LLP. Barnett Waddingham LLP is authorised and regulated by the Financial Conduct Authority. The SAB includes representatives of the Fire Brigades Union (FBU), the Fire Officers' Association (FOA), the Fire Leaders Association (FLA) and the Fire and Rescue Services Association (FRSA). This communication complies with Technical Actuarial Standard 100: Principles for Technical Actuarial Work (TAS 100).

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1. FPS 1992 – member achieved less than 30 years' pensionable service before 1 April 2022

Example member profile details:

Member profile	
Date of birth	31 March 1977
Age at 31 March 2022	45 years
Previous final salary scheme	FPS 1992
Joined scheme at age	25 years
Pensionable service at 31 March 2022	20 years
Salary at 31 March 2015	£29,000
Salary at age 50	£34,161
Salary at age 55	£36,801
Salary at age 60	£39,645
Full or part time	Full time

How is pension in the FPS 1992 calculated?

The FPS 1992 is a final salary scheme. Pensions are worked out based on scheme membership, pay and a formula contained in the scheme rules.

FPS 1992 pension is calculated as follows:

$$\begin{aligned} & \left(\text{Total pensionable service up to 20 years} + \text{total pensionable service over 20 years} \times 2 \right) \text{ limited to 40 years} \quad / \quad 60 \\ & \times \quad \left(\begin{array}{l} \text{Pensionable service in the FPS 1992 scheme} \\ \text{before transition to the FPS 2015 scheme} \end{array} \right) \quad / \quad \left(\begin{array}{l} \text{Total pensionable service in the FPS 1992 and FPS} \\ \text{2015 schemes subject to a maximum of 30 years} \end{array} \right) \\ & \times \quad \text{Average Pensionable Pay} \\ & = \quad \text{Annual pension} \end{aligned}$$

The formula above includes protection for those who were expected to earn double accrual if they had remained in the FPS 1992. An adjustment is included to pro rata the expected double accrual benefit if the member had stayed in the FPS 1992, by the service built up in the FPS 1992 before moving to the FPS 2015. An example is given at fpsmember.org/fps-2015/double-accrual-guarantee

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How is pension in the 2015 CARE calculated?

The FPS 2015 is a Career Average Revalued Earnings (CARE) scheme. Pensions are worked out based on a proportion of pay for each year of membership and added to your pension account.

The FPS 2015 pension builds up year on year with an amount added to your account calculated as follows:

Pensionable pay	/	59.7	=	Pension added to your account for the year
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Then, on 1 April each year, the accumulated pension is revalued in line with average weekly earnings until retirement. An example is provided at fpsmember.org/fps-2015/how-my-pension-worked-out

Example 1

The following example shows the annual pension and maximum cash lump sum entitlement for a member who remains at firefighter level throughout their career. It shows the benefits available from age 50 when the member is first able to take their FPS 1992 pension (age 50 with at least 25 years' pensionable service) until age 60 (when the FPS 2015 pension can be taken unreduced).

The examples assume that:

- The member chooses to exchange the maximum pension possible for cash at retirement.
- Salary increases for the member and the revaluation increase for the FPS 2015 pension are the same (1.5% p.a.).
- The accrual (build-up) rate for the FPS 2015 remains at 1/59.7.
- The commutation factors (rates used to exchange pension for cash) for the FPS 1992 are as at the date of publication of this communication.
- The early retirement factors for the FPS 2015 are as at the date of publication of this communication.

Assumed retirement age	Scheme	Legacy benefits (FPS 1992 benefits up to 31 March 2022 and FPS 2015 benefits from 1 April 2022 to retirement)			Reformed benefits (FPS 1992 benefits up to 31 March 2015 and FPS 2015 benefits from 1 April 2015 to retirement)		
		Annual pension £	Cash lump sum £	Deferred pension £	Annual pension £	Cash lump sum £	Deferred pension £
50	FPS 1992	12,383	30,744	-	8,049	19,984	-
50	FPS 2015	-	-	2,861*	-	-	6,866*
50	Total	12,383	30,744	2,861*	8,049	19,984	6,866*
55	FPS 1992	12,267	89,548	-	7,973	58,206	-
55	FPS 2015	3,638	14,554	-	6,185	24,741	-
55	Total	15,905	104,102	-	14,159	82,948	-
60	FPS 1992	13,215	85,456	-	8,590	55,547	-
60	FPS 2015	7,471	29,883	-	10,957	43,828	-
60	Total	20,686	115,339	-	19,547	99,375	-

*FPS 2015 benefits cannot be paid before age 55 so would be held as a deferred pension.

The detailed calculations used to arrive at these figures are available at fpsmember.org/sites/default/files/2015-Remedy-benefit-illustrations-full-calculations.xlsx There could be some rounding differences.

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Annual pension amounts

- In the example above, the total pension amounts if the legacy benefits are chosen are greater than if the reformed benefits are chosen at all retirement ages. The reason for this is that the legacy option pension amounts include a greater proportion of FPS 1992 benefits, which are based on double accrual for pensionable service greater than 20 years (subject to a maximum of 30 years), as protected by the double accrual guarantee.
- The FPS 1992 pension can be taken at age 50 with at least 25 years' pensionable service.
- The FPS 2015 pension cannot be taken before age 55. This means that if the member chooses to retire before age 55, their FPS 2015 pension will be deferred until age 55 (or later if the member wishes).
- The FPS 2015 has a normal pension age of 60 for active members and State Pension age for deferred members. If the FPS 2015 pension is taken before normal pension age, the pension will be reduced to reflect the fact that it will be paid for longer than expected.
- For active members, an early retirement reduction of 21% is applied to the FPS 2015 pension at age 55. The reduction is lowered by 4-5% each year until there is no reduction applied at age 60. See fpsmember.org/fps-2015/when-can-i-retire for more information. The early retirement reduction factors for deferred members are higher.
- There is a significant increase in the cash lump sum amount at age 55. There are two main reasons for this:
 - In the case of this member, the limit on the maximum lump sum that can be taken for the FPS 1992 benefits increases significantly. Members who retire under the age of 55 and have less than 30 years' service receive a lump sum which is capped at 2.25 times their annual pension. This restriction is removed at age 55 or on completing 30 years' service (if sooner). Thereafter, a maximum of one quarter (25%) of FPS 1992 pension can be exchanged for a cash lump sum.
 - The FPS 2015 pension comes into payment with the maximum one quarter (25%) assumed to be exchanged for a cash lump sum.
- Please note that the age-related commutation factors for the FPS 1992 decrease as the member ages (to reflect the fact that the pension is expected to be paid for a shorter period) but remain fixed at 12 for all ages in the FPS 2015.
- The illustrations do not take account of any tax charge that may be applied due to exceeding the HMRC limit on tax-free cash. The limit is most likely to be exceeded if the commutation factor is greater than 20.
- For more information please visit fpsmember.org/fps-1992/how-much-lump-sum-can-i-take

Cash lump sum amounts

- In the example, the legacy option cash lump sums are also greater than the reformed cash lump sums at all retirement ages shown. There are two main reasons for this:
 - There is more of the legacy pension to exchange for a cash lump sum; and
 - The commutation factors for the FPS 1992 are higher, meaning that the member receives more cash lump sum per £1 of annual pension given up. For example, at age 55, the age-related commutation factor for the FPS 1992 is 21.9 while the FPS 2015 commutation factor is 12. This means that the member receives £21.90 cash for each £1 of FPS 1992 pension given up compared to £12 cash for each £1 of FPS 2015 pension given up.

Employee contributions

On choosing the legacy or the reformed benefits there may be additional contributions payable by the member, or perhaps a refund, depending on the difference between the contributions already paid and those associated with the chosen benefits.

Individual circumstances

In most cases, the legacy option for former FPS 1992 members would provide higher benefits than the reformed option. However, it should be noted that your choice of whether to receive legacy or reformed benefits for the remedy period will depend on your individual circumstances.

For example, for simplicity we have kept average pensionable salary for the FPS 1992 and pensionable pay for the FPS 2015 the same for this benefit illustration, though it may be the case your pensionable pay in the FPS 2015 includes additional elements that contribute towards a higher pension.

Furthermore, FPS 2015 pension already earned is increased each year in line with average weekly earnings. If average weekly earnings are higher than salary increases over a period of time, this may lead to higher reformed benefits. For this to happen, a member would need to receive salary increases (including any promotional increases) below the national average by a significant amount over a prolonged period of time.

If a member is promoted over the course of the remedy period and to retirement, any increases to the member's salary will increase both the legacy and reformed benefits, however, it is likely that any promotional increases will tend to increase legacy benefits more than reformed benefits. This is illustrated in example 2 below.

This is because the FPS 1992 benefits are based on final salary at retirement. As a final salary scheme, the

FPS 1992 treats the member as though they earned the higher final salary in all years of service. However, the FPS 2015 takes account of salaries earned in any particular year and only future years are affected when there is a promotional salary increase.

You may also want to take account of other considerations at retirement such as death benefits payable under both the FPS 1992 and FPS 2015 schemes. For example, survivor benefits are only paid from the FPS 1992 to married or civil partners while the FPS 2015 provides a pension to unmarried partners. The FPS 2015 also provides a pension guarantee whereas the FPS 1992 does not. You can find more information at fpsmember.org

You'll receive benefit illustrations for your legacy and reformed benefits at retirement. This will allow you to choose the most beneficial option at a time when you have the most certainty over what you are entitled to.

Example 2

This example is based on the same criteria as the previous example but assumes that the member is promoted over the course of the remedy period and to retirement. This is to show the effect that promotional salary increases can have on the difference between the legacy and reformed benefits.

We have assumed that a Firefighter (competent) at 1 April 2015 will receive the following promotions and additional increases to salary:

Position	Date of promotion	Age at promotion	Increase applied
Crew manager (development)	1 April 2019	42	6.3%
Crew manager (competent)	1 April 2021	44	4.3%
Watch manager (development)	1 April 2026	49	2.2%
Watch manager (competent A)	1 April 2028	51	2.8%
Watch manager (competent B)	1 April 2031	54	6.5%

Using the promotional increases on the previous page the recalculated benefit illustrations are given below:

Assumed retirement age	Scheme	Legacy benefits (FPS 1992 benefits up to 31 March 2022 and FPS 2015 benefits from 1 April 2022 to retirement)			Reformed benefits (FPS 1992 benefits up to 31 March 2015 and FPS 2015 benefits from 1 April 2015 to retirement)		
		Annual pension £	Cash lump sum £	Deferred pension £	Annual pension £	Cash lump sum £	Deferred pension £
50	FPS 1992	14,026	34,823	-	9,117	22,635	-
50	FPS 2015	-	-	3,186*	-	-	7,325*
50	Total	14,026	34,823	3,186*	9,117	22,635	7,325*
55	FPS 1992	15,208	111,016	-	9,885	72,160	-
55	FPS 2015	4,159	16,638	-	6,792	27,166	-
55	Total	19,367	127,654	-	16,677	99,327	-
60	FPS 1992	16,383	105,943	-	10,649	68,863	-
60	FPS 2015	8,781	35,123	-	12,384	49,535	-
60	Total	25,164	141,067	-	23,033	118,399	-

*FPS 2015 benefits cannot be paid before age 55 so would be held as a deferred pension.

The detailed calculations used to arrive at these figures are available at fpsmember.org/sites/default/files/2015-Remedy-benefit-illustrations-full-calculations.xlsx There could be some rounding differences.

Annual pension amounts

As expected, both the legacy and reformed benefits are higher than in the first example with the additional promotional increases.

However, the total pension amounts if the legacy option are chosen have shown a greater increase in benefits than the reformed option. The reason for this is that the FPS 1992 benefits are based on final salary at retirement.

As a final salary scheme, the FPS 1992 treats the member as though they earned the higher final salary in all years of service. However, the FPS 2015 takes account of salaries earned in any particular year and only future years are affected when there is a promotional salary increase.

Cash lump sum amounts

The legacy cash lump sums have increased faster than the reformed cash lump sums due to higher available pension amounts to exchange for cash and higher commutation factors.

Individual circumstances

The effect of promotional increases will depend on your own career path, both in terms of number of promotions and when they occur. It is more than likely that any promotional increases will tend to increase legacy benefits more than reformed benefits due to the reasons given above.

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2. FPS 1992 – member achieved 30 years' pensionable service before 1 April 2022

Example member profile details:

Member profile	
Date of birth	31 March 1972
Age at 31 March 2022	50 years
Previous final salary scheme	FPS 1992
Joined scheme at age	20 years
Pensionable service at 31 March 2022	30 years
Salary at 31 March 2015	£29,000
Salary at age 50	£31,710
Salary at age 55	£34,161
Salary at age 60	£36,801
Full or part time	Full time

How is pension in the FPS 1992 calculated?

The FPS 1992 is a final salary scheme. Pensions are worked out based on scheme membership, pay and a formula contained in the scheme rules.

FPS 1992 pension is calculated as follows:

(Total pensionable service up to 20 years + total pensionable service over 20 years x 2) limited to 40 years		/	60
X	Pensionable service in the FPS 1992 scheme before transition to the FPS 2015 scheme	/	Total pensionable service in the FPS 1992 and FPS 2015 schemes subject to a maximum of 30 years
X	Average Pensionable Pay		
=	Annual pension		

The formula above includes protection for those who were expected to earn double accrual if they had remained in the FPS 1992. An adjustment is included to pro rata the expected double accrual benefit if the member had stayed in the FPS 1992, by the service built up in the FPS 1992 before moving to the FPS 2015. An example is given at fpsmember.org/fps-2015/double-accrual-guarantee

For the legacy benefits, this example member has reached the maximum possible pensionable service of 30 years in the FPS 1992 and so the double accrual guarantee no longer applies.

For the reformed benefits, the double accrual guarantee continues to apply when taking into account FPS 1992 as the member is assumed to move into the FPS 2015 on 1 April 2015.

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How is pension in the FPS 2015 calculated?

The FPS 2015 is a Career Average Revalued Earnings (CARE) scheme. Pensions are worked out based on a proportion of pay for each year of membership and added to your pension account.

The FPS 2015 pension builds up year on year with an amount added to your account calculated as follows:

Pensionable pay	/	59.7	=	Pension added to your account for the year
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Then, on 1 April each year, the accumulated pension is revalued in line with average weekly earnings until retirement. An example is provided at fpsmember.org/fps-2015/how-my-pension-worked-out

Example 1

The following example shows the annual pension and maximum cash lump sum entitlement for a member who remains at firefighter level throughout their career. It shows the benefits available from age 50 when the member is first able to take their FPS 1992 pension (age 50 with at least 25 years' pensionable service) until age 60 (when the FPS 2015 pension can be taken unreduced).

The examples assume that:

- The member chooses to exchange the maximum pension possible for cash at retirement.
- Salary increases for the member and the revaluation increase for the FPS 2015 pension are the same (1.5% p.a.).
- The accrual (build-up) rate for the FPS 2015 remains at 1/59.7.
- The commutation factors (rates used to exchange pension for cash) for the FPS 1992 are as at the date of publication of this communication.
- The early retirement factors for the FPS 2015 are as at the date of publication of this communication.

Assumed retirement age	Scheme	Legacy benefits (FPS 1992 benefits up to 31 March 2022 and FPS 2015 benefits from 1 April 2022 to retirement)			Reformed benefits (FPS 1992 benefits up to 31 March 2015 and FPS 2015 benefits from 1 April 2015 to retirement)		
		Annual pension £	Cash lump sum £	Deferred pension £	Annual pension £	Cash lump sum £	Deferred pension £
50	FPS 1992	15,855	126,839	-	12,155	97,244	-
50	FPS 2015	-	-	-	-	-	3,718*
50	Total	15,855	126,839	-	12,155	97,244	3,718*
55	FPS 1992	17,080	124,686	-	13,095	95,593	-
55	FPS 2015	1,689	6,755	-	4,053	16,212	-
55	Total	18,769	131,441	-	17,148	111,804	-
60	FPS 1992	18,400	118,989	-	14,107	91,225	-
60	FPS 2015	4,623	18,493	-	7,859	31,438	-
60	Total	23,023	137,481	-	21,966	122,662	-

*FPS 2015 benefits cannot be paid before age 55 so would be held as a deferred pension.

The detailed calculations used to arrive at these figures are available at fpsmember.org/sites/default/files/2015-Remedy-benefit-illustrations-full-calculations.xlsx There could be some rounding differences.

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Annual pension amounts

- In the example above, the total pension amounts if the legacy benefits are chosen are greater than if the reformed benefits are chosen at all retirement ages. The reason for this is that the legacy option pension amounts include a greater proportion of FPS 1992 benefits, which are based on double accrual for pensionable service greater than 20 years (subject to a maximum of 30 years), as protected by the double accrual guarantee.
- The FPS 2015 pension cannot be taken before age 55. This means if the member chooses to retire before age 55, their FPS 2015 pension will be deferred until age 55 (or later if the member wishes).
- The FPS 2015 has a normal pension age of 60 for active members and State Pension age for deferred members. If the FPS 2015 pension is taken before normal pension age, the pension will be reduced to reflect the fact that it will be paid for longer than expected.
- For active members, an early retirement reduction of 21% is applied to the FPS 2015 pension at age 55. The reduction is lowered by 4-5% each year until there is no reduction applied at age 60. See fpsmember.org/fps-2015/when-can-i-retire for more information. The early retirement reduction factors for deferred members are higher.

Cash lump sum amounts

- In the example, the legacy option cash lump sums are also greater than the reformed cash lump sums at all retirement ages shown. There are two main reasons for this:
 - There is more of the legacy pension to exchange for a cash lump sum; and
 - The commutation factors for the FPS 1992 are higher meaning that the member receives more cash lump sum per £1 of annual pension given up. For example, at age 55, the age-related commutation factor for the FPS 1992 is 21.9 while the FPS 2015 commutation factor is 12. This means that the member receives £21.90 cash for each £1 of FPS 1992 pension given up compared to £12 cash for each £1 of FPS 2015 pension given up.
- Please note that the age-related commutation factors for the FPS 1992 decrease as the member ages (to reflect the fact that the pension is expected to be paid for a shorter period) but remain fixed at 12 for all ages in the FPS 2015.

- The illustrations do not take account of any tax charge that may be applied due to exceeding the HMRC limit on tax-free cash. The limit is most likely to be exceeded if the commutation factor is greater than 20.
- For more information please visit fpsmember.org/fps-1992/how-much-lump-sum-can-i-take

Employee contributions

On choosing the legacy or the reformed benefits there may be additional contributions payable by the member, or perhaps a refund, depending on the difference between the contributions already paid and those associated with the chosen benefits.

Individual circumstances

In most cases, the legacy option for former FPS 1992 members would provide higher benefits than the reformed option. However, it should be noted that your choice of whether to receive legacy or reformed benefits for the remedy period will depend on your individual circumstances.

For example, for simplicity we have kept average pensionable salary for the FPS 1992 and pensionable pay for the FPS 2015 the same for this benefit illustration though it may be the case your pensionable pay in the FPS 2015 includes additional elements that contribute towards a higher pension.

Furthermore, FPS 2015 pension already earned is increased each year in line with average weekly earnings. If average weekly earnings are higher than salary increases over a period of time, this may lead to higher reformed benefits. For this to happen, a member would need to receive salary increases (including any promotional increases) below the national average by a significant amount over a prolonged period of time.

If the member is promoted over the course of the remedy period and to retirement, any increases to the member's salary will increase both the legacy and reformed benefits, however, it is likely that any promotional increases will tend to increase legacy benefits more than reformed benefits. This is illustrated in example 2 on the next page.

This is because the FPS 1992 benefits are based on final salary at retirement. As a final salary scheme, the FPS 1992 treats the member as though they earned the higher final salary in all years of service.

However, the FPS 2015 takes account of salaries earned in any particular year and only future years are affected when there is a promotional salary increase.

You may also want to take account of other considerations at retirement such as death benefits payable under both the FPS 1992 and FPS 2015 schemes. For example, survivor benefits are only paid from the FPS 1992 to married or civil partner while the FPS 2015 provides a pension to unmarried partners.

The FPS 2015 also provides a pension guarantee whereas the FPS 1992 does not. You can find more information at fpsmember.org.

You'll receive benefit illustrations for your legacy and reformed benefits at retirement. This will allow you to choose the most beneficial option at a time when you have the most certainty over what you are entitled to.

Example 2

This example is based on the same criteria as the previous example but assumes that the member is promoted over the course of the remedy period and to retirement. This is to show the effect that promotional salary increases can have on the difference between the legacy and reformed benefits.

We have assumed that a Firefighter (competent) at 1 April 2015 will receive the following promotions and additional increases to salary:

Position	Date of promotion	Age at promotion	Increase applied
Crew manager (development)	1 April 2019	47	6.3%
Crew manager (competent)	1 April 2021	49	4.3%
Watch manager (development)	1 April 2026	54	2.2%
Watch manager (competent A)	1 April 2028	56	2.8%
Watch manager (competent B)	1 April 2031	59	6.5%

Using the above promotional increases the recalculated benefit illustrations are given below:

Assumed retirement age	Scheme	Legacy benefits (FPS 1992 benefits up to 31 March 2022 and 2015 FPS 2015 benefits from 1 April 2022 to retirement)			Reformed benefits (FPS 1992 benefits up to 31 March 2015 and 2015 FPS 2015 benefits from 1 April 2015 to retirement)		
		Annual pension £	Cash lump sum £	Deferred pension £	Annual pension £	Cash lump sum £	Deferred pension £
50	FPS 1992	17,577	140,619	-	13,476	107,808	-
50	FPS 2015	-	-	-	-	-	3,842*
50	Total	17,577	140,619	-	13,476	107,808	3,842*
55	FPS 1992	19,346	141,225	-	14,832	108,272	-
55	FPS 2015	1,880	7,521	-	4,324	17,294	-
55	Total	21,226	148,746	-	19,155	125,567	-
60	FPS 1992	22,811	147,514	-	17,489	113,094	-
60	FPS 2015	5,285	21,141	-	8,630	34,519	-
60	Total	28,097	168,655	-	26,118	147,613	-

*FPS 2015 benefits cannot be paid before age 55 so would be held as a deferred pension.

The detailed calculations used to arrive at these figures are available at fpsmember.org/sites/default/files/2015-Remedy-benefit-illustrations-full-calculations.xlsx. There could be some rounding differences.

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Annual pension amounts

As expected, both the legacy and reformed benefits are higher than in the previous example with the additional promotional increases.

However, the total pension amounts if the legacy option are chosen have shown a greater increase in benefits than the reformed option. The reason for this is that the FPS 1992 benefits are based on final salary at retirement.

As a final salary scheme, the FPS 1992 treats the member as though they earned the higher final salary in all years of service. However, the FPS 2015 takes account of salaries earned in any particular year and only future years are affected when there is a promotional salary increase.

Cash lump sum amounts

The legacy cash lump sums have increased faster than the reformed cash lump sums due to higher available pension amounts to exchange for cash and higher commutation factors.

Individual circumstances

The effect of promotional increases will depend on your own career path, both in terms of number of promotions and when they occur. It is more than likely that any promotional increases will tend to increase legacy benefits more than reformed benefits due to the reasons given above.



3. FPS 2006 – full-time member

Example member profile details:

Member profile	
Date of birth	31 March 1982
Age at 31 March 2022	40 years
Previous final salary scheme	FPS 2006
Joined scheme at age	25 years
Pensionable service at 31 March 2022	15 years
Salary at 31 March 2015	£29,000
Salary at age 55	£39,645
Salary at age 60	£42,709
Full or part time	Full time

How is pension in the FPS 2006 calculated?

The FPS 2006 is a final salary scheme. Pensions are worked out based on scheme membership, pay and a formula contained in the scheme rules.

FPS 2006 pension is calculated as follows:

Pensionable service	X	Average Pensionable Pay	/	60	=	Annual pension
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How is pension in the FPS 2015 calculated?

The FPS 2015 is a Career Average Revalued Earnings (CARE) scheme. Pensions are worked out based on a proportion of pay for each year of membership and added to your pension account.

The FPS 2015 pension build ups year on year with an amount added to your account calculated as follows:

Pensionable service	/	59.7	=	Pension added to your account for the year
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Then, on 1 April each year, the accumulated pension is revalued in line with average weekly earnings until retirement. An example is provided at psmember.org/fps-2015/how-my-pension-worked-out

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Ref. AU/A&R/2022/June/11005221

Example 1

The following example shows the annual pension and maximum cash lump sum entitlement for a member who remains at firefighter level throughout their career. It shows the benefits available from age 55 (when the member is first able to take their FPS 2006 and FPS 2015 benefits) until age 60 (when the same benefits can be taken unreduced).

The examples assume that:

- The member chooses to exchange the maximum pension possible for cash at retirement.
- Salary increases for the member and the revaluation increase for the FPS 2015 pension are the same (1.5% p.a.).
- The accrual (build-up) rate for the FPS 2015 remains at 1/59.7.
- The early retirement factors in the FPS 2006 and FPS 2015 schemes are as at the date of publication of this communication.

Assumed retirement age	Scheme	Legacy benefits (FPS 2006 benefits up to 31 March 2022 and FPS 2015 benefits from 1 April 2022 to retirement)		Reformed benefits (FPS 2006 benefits up to 31 March 2015 and FPS 2015 benefits from 1 April 2015 to retirement)	
		Annual pension £	Cash lump sum £	Annual pension £	Cash lump sum £
55	FPS 2006	4,467	17,870	2,383	9,531
55	FPS 2015	5,879	23,518	8,623	34,493
55	Total	10,347	41,388	11,006	44,023
60	FPS 2006	8,008	32,031	4,271	17,083
60	FPS 2015	10,731	42,923	14,487	57,946
60	Total	18,739	74,955	18,757	75,030

The detailed calculations used to arrive at these figures are available at fpsmember.org/sites/default/files/2015-Remedy-benefit-illustrations-full-calculations.xlsx. There could be some rounding differences.

Annual pension amounts

- In the example above, the total pension amounts if the reformed benefits are chosen are slightly more than if legacy benefits are chosen at all retirement ages. The main reasons for this are that the legacy option includes a greater proportion of FPS 2006 benefits which have a greater early retirement reduction, and the FPS 2015 builds up benefits faster due to the better accrual rate (1/59.7 v 1/60).
- For active members, the normal retirement age for both the FPS 2006 and FPS 2015 schemes is 60, so if the member retires before then their pension will be reduced to reflect the fact that it will be paid for longer than expected.
- However, to retire early in the FPS 2006 you have to first leave service to become a deferred member and your benefits are then reduced in relation to the deferred normal retirement age, which is 65. This will result in a bigger reduction than in the FPS 2015 as the reduction is based on the member receiving a pension for a longer period before the normal retirement age. See fpsmember.org/fps-2006/when-can-i-retire and fpsmember.org/fps-2015/when-can-i-retire for more information.
- At age 60, the pension and cash lump sums are very similar due to the FPS 2006 and FPS 2015 schemes no longer having any early retirement reductions applied.

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Cash lump sum amounts

- In the example, the reformed cash lump sums are also slightly higher than the legacy cash lump sums at all retirement ages shown. This is mainly because there is more of the reformed pension to exchange for a cash lump sum.
- The commutation factor for both the FPS 2006 and FPS 2015 is 12. This means for every £1 of annual pension given up the member will receive £12 as a cash lump sum.

Employee contributions

On choosing the legacy or the reformed benefits there may be additional contributions payable by the member, or perhaps a refund, depending on the difference between the contributions already paid and those associated with the chosen benefits.

Individual circumstances

In most cases, the reformed option for former FPS 2006 members would provide higher benefits than the legacy option. However, it should be noted that your choice of whether to receive legacy or reformed benefits for the remedy period will very much depend on your individual circumstances.

FPS 2015 pension earned is increased each year in line with average weekly earnings. How the member's salary increases compare to average weekly earnings may determine which option provides the higher benefits. For example, for simplicity we have kept average pensionable salary for the FPS 2006 and pensionable pay for the FPS 2015 the same for this benefit illustration. However, if average weekly earnings are such that they are greater than salary increases for the same period, then the reformed option would provide more benefits than illustrated above. Alternatively, if salary increases were greater than average weekly earnings then the legacy option may provide higher benefits. This is illustrated in example 2 below.

It's worth noting, however, that the timing of the increases is important. A few large percentage increases to the FPS 2015 pension when it is relatively small may not offset the increase in FPS 2006 due to a large increase to salary. For example, a large promotional increase close to retirement could lead to a large increase to the final salary FPS 2006 pension and in turn, the legacy benefits option may be more attractive.

You'll receive benefit illustrations for your legacy and reformed benefits at retirement. This will allow you to choose the most beneficial option at a time when you have the most certainty over what you are entitled to.

Example 2

This example is based on the same criteria as the previous example but assumes that the member is promoted over the course of the remedy period and to retirement. This is to show the effect that promotional salary increases can have on the difference between the legacy and reformed benefits.

We have assumed that a Firefighter (competent) at 1 April 2015 will receive the following promotions and additional increases to salary:

Position	Date of promotion	Age at promotion	Increase applied
Crew manager (development)	1 April 2019	37	6.3%
Crew manager (competent)	1 April 2021	39	4.3%
Watch manager (development)	1 April 2026	44	2.2%
Watch manager (competent A)	1 April 2028	46	2.8%
Watch manager (competent B)	1 April 2031	49	6.5%

Using the above promotional increases the recalculated benefit illustrations are given below:

Assumed retirement age	Scheme	Legacy benefits (FPS 2006 benefits up to 31 March 2022 and FPS 2015 benefits from 1 April 2022 to retirement)		Reformed benefits (FPS 2006 benefits up to 31 March 2015 and FPS 2015 benefits from 1 April 2015 to retirement)	
		Annual pension £	Cash lump sum £	Annual pension £	Cash lump sum £
55	FPS 2006	5,538	22,154	2,954	11,815
55	FPS 2015	6,911	27,642	9,746	38,984
55	Total	12,449	49,796	12,700	50,800
60	FPS 2006	9,928	39,710	5,295	21,179
60	FPS 2015	12,785	51,141	16,667	66,667
60	Total	22,713	90,852	21,962	87,846

The detailed calculations used to arrive at these figures are available at fpsmember.org/sites/default/files/2015-Remedy-benefit-illustrations-full-calculations.xlsx There could be some rounding differences.

Annual pension amounts

As expected, both the legacy and reformed benefits are higher than in the previous example with the additional promotional increases.

- The reformed benefits are still greater at age 55 due to the greater early retirement reductions in the FPS 2006.
- The legacy benefits, however, are now greater than the reformed benefits at age 60. The reason for this is that the FPS 2006 benefits are based on final salary at retirement and the promotional increases have offset the faster rate of build-up of pension in the FPS 2015.

As a final salary scheme, the FPS 2006 treats the member as though they earned the higher final salary in all years of service. However, the FPS 2015 takes account of salaries earned in any particular year and only future years are affected when there is a promotional salary increase.

Cash lump sum amounts

The cash lump sums under both options have increased as expected though the legacy option cash lump sum is now greater at age 60 due to the higher available pension amount to exchange for cash.

Individual circumstances

The choice between legacy or reformed benefits for former FPS 2006 members is not clear cut and will very much depend on your individual career path and how salary increases compare to FPS 2015 revaluation increases (which are in line with average weekly earnings).

As we can see in the examples above, the reformed benefits may provide a higher annual pension and cash lump sum for those who remain in the same role, while the legacy benefits may be more attractive if the member experiences high salary increases, especially later in their career.

You'll receive benefit illustrations for the legacy and reformed benefits at retirement. This will allow you to choose the most beneficial option at a time when you have the most certainty over what you are entitled to.



4. FPS 2006 – part-time/ retained member

Example member profile details:

Member profile	
Date of birth	31 March 1982
Age at 31 March 2022	40 years
Previous final salary scheme	FPS 2006
Joined scheme at age	25 years
Pensionable service at 31 March 2022	4.5 years
Salary at 31 March 2015	£29,000
Salary at age 55	£39,645
Salary at age 60	£42,709
Full or part time	Part time
Part-time hours	30%

How is pension in the FPS 2006 calculated?

The FPS 2006 is a final salary scheme. Pensions are worked out based on scheme membership, pay and a formula contained in the scheme rules.

FPS 2006 pension is calculated as follows:

Pensionable service	X	Average Pensionable Pay	/	60	=	Annual pension
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For part-time members, the part-time element is captured in the pensionable service and the full-time equivalent salary is used as average pensionable pay. For example, if a member works 30% over 10 years then they will earn 3 years' pensionable service.

How is pension in the FPS 2015 calculated?

The FPS 2015 is a Career Average Revalued Earnings (CARE) scheme. Pensions are worked out based on a proportion of pay for each year of membership and added to your pension account.

The FPS 2015 pension builds up year on year with an amount added to your account calculated as follows:

Pensionable Pay	/	59.7	=	Pension added to your account for the year
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Then, on 1 April each year, the accumulated pension is revalued in line with average weekly earnings until retirement. An example is provided at fpsmember.org/fps-2015/how-my-pension-worked-out

In the FPS 2015, pensionable pay already includes the adjustment for part timers. For example, if a member's salary is £29,000 and they work 30% of the time then the pension earned for that year is $£29,000 \times 0.30 / 59.7 = £145.73$.

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Example 1

The following example shows the annual pension and maximum cash lump sum entitlement for a part-time member who remains at firefighter level throughout their career. It shows the annual pension and cash lump sum entitlement from age 55 (when the member is first able to take their FPS 2006 and FPS 2015 benefits) until age 60 (when the same benefits can be taken unreduced).

The examples assume that:

- The member's part-time hours remain at 30% throughout.
- The member chooses to exchange the maximum pension possible for cash at retirement.
- Salary increases for the member and the revaluation increase for the FPS 2015 pension are the same (1.5% p.a.).
- The accrual (build-up) rate for the FPS 2015 remains at 1/59.7.
- The early retirement factors in the FPS 2006 and FPS 2015 schemes are as at the date of publication of this communication.

Assumed retirement age	Scheme	Legacy benefits (FPS 2006 benefits up to 31 March 2022 and FPS 2015 benefits from 1 April 2022 to retirement)		Reformed benefits (FPS 2006 benefits up to 31 March 2015 and FPS 2015 benefits from 1 April 2015 to retirement)	
		Annual pension £	Cash lump sum £	Annual pension £	Cash lump sum £
55	FPS 2006	1,340	5,361	715	2,859
55	FPS 2015	1,764	7,055	2,587	10,348
55	Total	3,104	12,416	3,302	13,207
60	FPS 2006	2,402	9,609	1,281	5,125
60	FPS 2015	3,219	12,877	4,346	17,384
60	Total	5,622	22,486	5,627	22,509

The detailed calculations used to arrive at these figures are available at fposmember.org/sites/default/files/2015-Remedy-benefit-illustrations-full-calculations.xlsx. There could be some rounding differences.

Annual pension amounts

- In the example above, the total pension amounts if the reformed benefits are chosen are slightly more than if legacy benefits are chosen at all retirement ages. The main reasons for this are that the legacy option includes a greater proportion of the FPS 2006 benefits which have a greater early retirement reduction and the FPS 2015 builds up benefits faster due to the better accrual rate (1/59.7 v 1/60).
- For active members, the normal retirement age for both the FPS 2006 and FPS 2015 schemes is 60, so if the member retires before then their pension will be reduced to reflect the fact that it will be paid for longer than expected.
- However, to retire early in the FPS 2006 you have to first leave service to become a deferred member and your benefits are then reduced in relation to the deferred normal retirement age which is 65. This will result in a bigger reduction than in the FPS 2015 as the reduction is based on the member receiving a pension for a longer period before the normal retirement age. See fposmember.org/fps-2006/when-can-i-retire and fposmember.org/fps-2015/when-can-i-retire for more information.
- At age 60, the pension and cash lump sums are very similar due to the FPS 2006 and FPS 2015 schemes no longer having any early retirement reductions applied.

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Cash lump sum amounts

- In the example, the reformed cash lump sums are also slightly higher than the legacy cash lump sums at all retirement ages shown. This is mainly because there is more of the reformed pension to exchange for a cash lump sum.
- The commutation factor for both the FPS 2006 and FPS 2015 is 12. This means for every £1 of annual pension given up the member will receive £12 as a cash lump sum.

Employee contributions

On choosing the legacy or the reformed benefits there may be additional contributions payable by the member, or perhaps a refund, depending on the difference between the contributions already paid and those associated with the chosen benefits.

Individual circumstances

In most cases, the reformed option for former FPS 2006 members would provide higher benefits than the legacy option. However, it should be noted that your choice of whether to receive legacy or reformed benefits for the remedy period will very much depend on your individual circumstances.

FPS 2015 pension earned is increased each year in line with average weekly earnings. How the member's salary increases compare to average weekly earnings may determine which option provides the higher benefits. For example, for simplicity we have kept average pensionable salary for the FPS 1992 and pensionable pay for the FPS 2015 the same for this benefit illustration. However, if average weekly earnings are such that they are greater than salary increases for the same period, then the reformed option would provide more benefits than illustrated above. Alternatively, if salary increases were greater than average weekly earnings then the legacy option may provide higher benefits. This is illustrated in example 2 below.

It's worth noting however, that the timing of the increases is important. A few large percentage increases to the FPS 2015 pension when it is relatively small may not offset the increase in FPS 2006 due to a large increase to salary. For example, a large promotional increase close to retirement could lead to a large increase to the final salary FPS 2006 pension and in turn, the legacy benefits option may be more attractive.

You'll receive benefit illustrations for the legacy and reformed benefits at retirement. This will allow you to choose the most beneficial option at a time when you have the most certainty over what you are entitled to.

Example 2

This example is based on the same criteria as the previous example but assumes that the member is promoted over the course of the remedy period and to retirement. This is to show the effect that promotional salary increases can have on the difference between the legacy and reformed benefits.

We have assumed that a Firefighter (competent) at 1 April 2015 will receive the following promotions and additional increases to salary:

Position	Date of promotion	Age at promotion	Increase applied
Crew manager (development)	1 April 2019	37	6.3%
Crew manager (competent)	1 April 2021	39	4.3%
Watch manager (development)	1 April 2026	44	2.2%
Watch manager (competent A)	1 April 2028	46	2.8%
Watch manager (competent B)	1 April 2031	49	6.5%

Using the above promotional increases the recalculated benefit illustrations are given below:

Assumed retirement age	Scheme	Legacy benefits (FPS 2006 benefits up to 31 March 2022 and FPS 2015 benefits from 1 April 2022 to retirement)		Reformed benefits (FPS 2006 benefits up to 31 March 2015 and FPS 2015 benefits from 1 April 2015 to retirement)	
		Annual pension £	Cash lump sum £	Annual pension £	Cash lump sum £
55	FPS 2006	1,662	6,646	886	3,545
55	FPS 2015	2,073	8,293	2,924	11,695
55	Total	3,735	14,939	3,810	15,240
60	FPS 2006	2,978	11,913	1,588	6,354
60	FPS 2015	3,836	15,342	5,000	20,000
60	Total	6,814	27,256	6,588	26,354

The detailed calculations used to arrive at these figures are available at fpsmember.org/sites/default/files/2015-Remedy-benefit-illustrations-full-calculations.xlsx. There could be some rounding differences.

Annual pension amounts

As expected, both the legacy and reformed benefits are higher than in the previous example with the additional promotional increases.

- The reformed benefits are still greater at age 55 due to the greater early retirement reductions in the FPS 2006.
- The legacy benefits, however, are now greater than the reformed benefits at age 60. The reason for this is that the FPS 2006 benefits are based on final salary at retirement and the promotional increases have offset the faster rate of build-up of pension in the FPS 2015.

As a final salary scheme, the FPS 2006 treats the member as though they earned the higher final salary in all years of service. However, the FPS 2015 takes account of salaries earned in any particular year and only future years are affected when there is a promotional salary increase.

Cash lump sum amounts

The cash lump sums under both options have increased as expected though the legacy option cash lump sum is now greater at age 60 due to the larger available pension amount to exchange for cash.

Individual circumstances

The choice between legacy or reformed benefits for former FPS 2006 members is not clear cut and will very much depend on your individual career path and how salary increases compare to FPS 2015 revaluation increases (which are in line with average weekly earnings).

As we can see in the examples above, the reformed benefits may provide a higher annual pension and cash lump sum for those who remain in the same role, while the legacy benefits may be more attractive if the member experiences high salary increases, especially later in their career.

You'll receive benefit illustrations for the legacy and reformed benefits at retirement. This will allow you to choose the most beneficial option at a time when you have the most certainty over what you are entitled to.



5. FPS 2006 for special members (RDS modified)

Example member profile details:

Member profile	
Date of birth	31 March 1977
Age at 31 March 2022	45 years
Previous final salary scheme	Special members in the FPS 2006
Joined scheme at age	25 years
Pensionable service at 31 March 2022	6 years
Salary at 31 March 2015	£29,000
Salary at age 55	£36,801
Salary at age 60	£39,645
Full or part time	Part time
Part-time hours	30%

How is pension for special members in the FPS 2006 calculated?

The scheme for special members in the FPS 2006 is a final salary scheme. Pensions are worked out based on scheme membership, pay and a formula contained in the scheme rules.

The FPS 2006 pension for special members is calculated as follows:

Pensionable service	X	Average Pensionable Pay	/	45	=	Annual pension
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For part-time members, the part-time element is captured in the pensionable service and the full-time equivalent salary is used as average pensionable pay. For example, if a member works 30% over 10 years then they will earn 3 years' pensionable service.

How is pension in the FPS 2015 calculated?

The FPS 2015 is a Career Average Revalued Earnings (CARE) scheme. Pensions are worked out based on a proportion of pay for each year of membership and added to your pension account.

The FPS 2015 pension builds up year on year with an amount added to your account calculated as follows:

Pensionable Pay	/	59.7	=	Pension added to your account for the year
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Then, on 1 April each year, the accumulated pension is revalued in line with average weekly earnings until retirement. An example is provided at fpsmember.org/fps-2015/how-my-pension-worked-out

In the FPS 2015, pensionable pay already includes the adjustment for part timers. For example, if a member's salary is £29,000 and they work 30% of the time then the pension earned for that year is £29,000 x 0.3 / 59.7 = £145.73.

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Ref. AU/A&R/2022/June/11005221

Example 1

The following example shows the annual pension and maximum cash lump sum entitlement for a special member who remains at firefighter level throughout their career. It shows the annual pension and cash lump sum entitlement from age 55 (when the special member is first able to take their FPS 2006 and FPS 2015 benefits) until age 60 (when the FPS 2015 benefits can be taken unreduced).

The examples assume that:

- The member's part-time hours remain at 30% throughout.
- The special member chooses to exchange the maximum pension possible for cash at retirement.
- Salary increases for the member and the revaluation increase for the FPS 2015 pension are the same (1.5% p.a.).
- The accrual (build-up) rate for the FPS 2015 remains at 1/59.7.
- The early retirement factors for the FPS 2015 are as at the publication date of this communication.

Assumed retirement age	Scheme	Legacy benefits (FPS 2006 benefits up to 31 March 2022 and FPS 2015 benefits from 1 April 2022 to retirement)		Reformed benefits (FPS 2006 benefits up to 31 March 2015 and FPS 2015 benefits from 1 April 2015 to retirement)	
		Annual pension £	Cash lump sum £	Annual pension £	Cash lump sum £
55	FPS 2006*	3,680	25,515	2,392	16,585
55	FPS 2015	1,092	4,366	1,856	7,422
55	Total	4,772	29,881	4,248	24,007
60	FPS 2006*	3,964	24,976	2,577	16,234
60	FPS 2015	2,241	8,965	3,287	13,148
60	Total	6,206	33,941	5,864	29,383

*For special members

The detailed calculations used to arrive at these figures are available at fpsmember.org/sites/default/files/2015-Remedy-benefit-illustrations-full-calculations.xlsx. There could be some rounding differences.

Annual pension amounts

- In the example above, the total pension amounts if the legacy benefits are chosen are greater than if the reformed benefits are chosen at all retirement ages. The reason for this is that the legacy option pension amounts include a greater proportion of FPS 2006 special members benefits, which are based on a better rate of accrual, meaning more pension benefits are built up for each year of pensionable service.
- FPS 2006 special members have a normal pension age of 55. Benefits cannot be taken earlier than this.
- The FPS 2015 has a normal pension age of 60 for active members and State Pension age for deferred members. If the FPS 2015 pension is taken before normal pension age, the pension will be reduced to reflect the fact that it will be paid for longer than expected.
- For active members, an early retirement reduction of 21% is applied to the FPS 2015 pension at age 55. The reduction is lowered by 4.5% each year until there is no reduction applied at age 60. See fpsmember.org/fps-2015/when-can-i-retire for more information. The early retirement reduction factors for deferred members are higher.

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Cash lump sum amounts

- In the example above, the legacy option cash lump sums are also greater than the reformed option cash lump sums at all retirement ages shown. There are two main reasons for this:
 - There is more of the legacy pension to exchange for a cash lump sum; and
 - The commutation factors for FPS 2006 special members are higher, meaning that the member receives more cash lump sum per £1 of annual pension given up. For example, at age 55, the age-related commutation factor for FPS 2006 special members is 20.8 while the FPS 2015 commutation factor is 12. This means that the member receives £20.80 cash for each £1 of FPS 2006 special members' pension given up compared to £12 cash for each £1 of FPS 2015 pension given up.
- Please note that the age-related commutation factors for special members of the FPS 2006 decrease as the member ages (to reflect the fact that the pension is expected to be paid for a shorter period), but remain fixed at 12 for all ages in the FPS 2015.
- The illustrations do not take account of any tax charge that may be applied due to exceeding the HMRC limit on tax-free cash. The limit is most likely to be exceeded if the commutation factor is greater than 20.
- For more information please visit fpsmember.org/fps-2006-special-members/how-much-lump-sum-can-i-take

Employee contributions

On choosing the legacy or the reformed benefits there may be additional contributions payable by the member, or perhaps a refund, depending on the difference between the contributions already paid and those associated with the chosen benefits.

Individual circumstances

In most cases, the legacy option for former special members of FPS 2006 would provide higher benefits than the reformed option. However, it should be noted that your choice of whether to receive legacy or reformed benefits for the remedy period will depend on your individual circumstances.

For example, for simplicity we have kept average pensionable salary for special members of the FPS 2006 and pensionable pay for the FPS 2015 the same for this benefit illustration, though it may be the case that your pensionable pay in the FPS 2015 includes additional elements that contribute towards a higher pension.

Furthermore, FPS 2015 pension already earned is increased each year in line with average weekly earnings. If average weekly earnings are higher than salary increases over a period of time, this may lead to higher reformed benefits. For this to happen, a member would need to receive salary increases (including any promotional increases) below the national average by a significant amount over a prolonged period of time.

If a member is promoted over the course of the remedy period and to retirement, any increases to the member's salary will increase both the legacy and reformed benefits, however, it is likely that any promotional increases will tend to increase legacy benefits more than reformed benefits. This is illustrated in example 2 on the next page.

This is because the FPS 2006 special member benefits are based on final salary at retirement. As a final salary scheme, the FPS 2006 treats the member as though they earned the higher final salary in all years of service. However, the FPS 2015 scheme takes account of salaries earned in any particular year and only future years are affected when there is a promotional salary increase.

You'll receive benefit illustrations for your legacy and reformed benefits at retirement. This will allow you to choose the most beneficial option at a time when you have the most certainty over what you are entitled to.

Example 2

This example is based on the same criteria as the previous example but assumes that the example member is promoted over the course of the remedy period and to retirement. This is to show the effect that promotional salary increases can have on the difference between the legacy and reformed benefits.

We have assumed that a Firefighter (competent) at 1 April 2015 will receive the following promotions and additional increases to salary:

Position	Date of promotion	Age at promotion	Increase applied
Crew manager (development)	1 April 2019	42	6.3%
Crew manager (competent)	1 April 2021	44	4.3%
Watch manager (development)	1 April 2026	49	2.2%
Watch manager (competent A)	1 April 2028	51	2.8%
Watch manager (competent B)	1 April 2031	54	6.5%

Using the above promotional increases the recalculated benefit illustrations are given below:

Assumed retirement age	Scheme	Legacy benefits (FPS 2006 benefits up to 31 March 2022 and FPS 2015 benefits from 1 April 2022 to retirement)		Reformed benefits (FPS 2006 benefits up to 31 March 2015 and FPS 2015 benefits from 1 April 2015 to retirement)	
		Annual pension £	Cash lump sum £	Annual pension £	Cash lump sum £
55	FPS 2006*	4,562	31,632	2,965	20,561
55	FPS 2015	1,248	4,991	2,037	8,150
55	Total	5,810	36,623	5,003	28,711
60	FPS 2006*	4,915	30,964	3,195	20,126
60	FPS 2015	2,634	10,537	3,715	14,861
60	Total	7,549	41,501	6,910	34,987

The detailed calculations used to arrive at these figures are available at fposmember.org/sites/default/files/2015-Remedy-benefit-illustrations-full-calculations.xlsx There could be some rounding differences.

Annual pension amounts

As expected, both the legacy and reformed benefits are higher than in the previous example with the additional promotional increases.

However, the total pension amounts if the legacy option are chosen have shown a greater increase in benefits than the reformed option. The reason for this is that the FPS 2006 special scheme benefits are based on final salary at retirement and promotional increases have offset the faster build-up of pension in the FPS 2015.

As a final salary scheme, the FPS 2006 special members scheme treats the member as though they earned the higher final salary in all years of service. However, the FPS 2015 takes account of salaries earned in any particular year and only future years are affected when there is a promotional salary increase.

Cash lump sum amounts

The legacy cash lump sums have increased faster than the reformed cash lump sums due to higher available pension amounts to exchange for cash and higher commutation factors.

Individual circumstances

The effect of promotional increases will depend on your own career path, both in terms of number of promotions and when they occur. It is more than likely that any promotional increases will tend to increase legacy benefits more than reformed benefits due to the reasons given above.

APPENDIX 4



HM Treasury
The Correspondence and Enquiry Unit
1 Horse Guards Road
Westminster
London
SW1A 2HQ

Sent by email to the Chief Secretary to the Treasury - The Rt Hon Simon Clarke MP
at public.enquiries@hmtreasury.gov.uk

Cc: The Home Office Police Workforce and Professionalism Unit

Published on www.fpsboard.org and www.fpsregs.org

17 December 2021

Dear Sirs

I am writing to you as Chair of the Firefighters' Pensions (England) Scheme Advisory Board (the SAB) in connection with your note, Processing immediate detriment cases – November 2021. This note sets out HM Treasury's best assessment at this point on the advisability of processing immediate detriment cases before new legislation to enact the McCloud remedy is in place, and the implications of this assessment for the Home Office guidance on processing immediate detriment cases published in August 2020 and revised in June 2021.

You will be aware that on 29 November 2021, the Home Office withdrew its informal and non-statutory guidance on processing certain kinds of immediate detriment case ahead of legislation, with immediate effect. This decision was based on the above guidance note from HMT and the Home Office stated that, although the decision remains for scheme managers to make, it does not advise schemes to process any immediate detriment cases before legislation is in place, given the risk and uncertainty of correcting benefits before the PSPJO Bill, scheme regulations and relevant tax legislation come into force.

At our most recent SAB meeting, held on 9 December, we discussed the position as a result of these developments, given our remit to provide advice to scheme managers and local pension boards in relation to the effective and efficient administration and management of this scheme. The SAB would like to be able to fulfil this role by helping the scheme managers to understand better the nature of the risk and uncertainties mentioned in your note.

The scheme managers are the Fire and Rescue Authorities (FRAs) who, as you will be aware, recently considered the extent of their powers. This consideration took the form of an appeal under Schedule 22 of the Equality Act 2010, in which the FRAs

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argued that they were required to follow the pensions regulations and so by law they had no choice but to implement the transitional protections which have now been established as being discriminatory. On 12 February 2021, the Employment Appeal Tribunal (EAT) gave its judgment on the FRAs appeal which was that FRAs could not rely on the Schedule 22 defence. Effectively, the EAT held that the FRAs in their capacity as scheme manager could have decided not to follow the discriminatory legislation and in fact should have done so by refusing to treat firefighters as having transferred into the 2015 scheme. This is because it held that Section 61 prohibits FRAs from acting in a manner which discriminates on the grounds of age, and it prioritises that obligation over other provisions in the pension scheme which would oblige the FRAs to act in that way. In addition, the EAT held that, under Section 62 of the Equality Act 2010, the FRAs have vested in them the power to pass a resolution making non-discrimination alterations to the scheme of which they are managers.

Legal cases concerning immediate detriment issues were brought in the High Court against two FRAs; the claimants were supported by the FBU. It was apparent similar issues would arise more widely across the sector. The FBU was clear that matters for affected individuals needed to be resolved sooner rather than later and it would, if necessary, support further legal cases.

The SAB understands that, with that in mind, the LGA and the FBU commenced discussions to identify a mutually acceptable Framework, setting out a mechanism for handling immediate detriment cases, to assist all parties prior to completion and implementation of the remedying legislation. Agreement was reached on a Memorandum of Understanding and Framework on 8 October 2021.

Whilst the withdrawal of the Home Office Guidance does not fundamentally alter the position of the Framework, as the MoU is separate from, and is not subject to or dependent on, any guidance issued in relation to immediate detriment before the legislation comes into force, understandably it is a cause of concern to FRAs who are considering adopting or who have adopted the MoU. This is particularly the case given the statements made with regard to funding of immediate detriment cases processed in the interim period between the guidance being withdrawn and the retrospective elements of remedy being effective.

FRAs may now be in the untenable position of having to choose to either process immediate detriment cases at what you have termed to be significant financial risk with unknown consequences for the authority and the member or facing potential legal action if they follow the latest government advice. As noted earlier, the SAB is keen to try to assist the FRAs in being able to analyse these risks and to take an informed decision on them. With over 40 FRAs involved in the English Scheme there is clearly a risk to the overall governance of this public sector scheme if the various managers get their own legal opinions and adopt different practices.

It was therefore agreed that I should write to you to request more information about the benefit risks and uncertainties that you have identified in general about relying on Section 61 (and we assume also Section 62) to remedy the benefits in advance of the retrospective regulations, so that we can consider whether these are relevant in the case of the Firefighters' Pension Schemes. You have indicated that there are some obscure areas of the McCloud remedy where Section 61's impact is not clear.

Whilst we understand that Section 61 may not override some of the taxation impacts where payments are deemed unauthorised, we do not understand for example, the problem you have quoted regarding the payment of contributions to the reformed vs legacy scheme. Contributions to fire schemes all fall into one notional account in this regard and under the EAT's interpretation of the FRA's powers to make resolutions, I might expect that either both contributions and benefits could be determined to have been both paid and earned in the legacy scheme respectively or if this were not the case that the managers could resolve to accept a notional transfer of the contribution for the purposes of remedying the discrimination. Whilst we understand that your legal advice on this issue is privileged, it would be helpful to understand the alternative legal arguments and more about the problems that might be encountered.

It would also be useful to understand whether the risks and uncertainties that have now been identified are likely to be mitigated, at least in part, once the Finance (No.2) Bill is enacted in April 2022 or whether you anticipate that the risk will only be significantly reduced once all remedying legislation is in force; expected to be October 2023 for the FPS, as indicated to me by the Home Office

In particular, we have been informed that members would prefer to see benefits remedied sooner rather than later even though they are already aware of the risk that the tax position may take a little time to sort with potentially iterations of calculations.

I look forward to hearing from you with what I hope will be a more detailed explanation of the risks so that the SAB is able to fulfil its brief. You will appreciate the urgency of this request given the competing challenges and legal risks that FRAs are facing, therefore your early attention would be welcome.

Kind regards



Joanne Livingstone

APPENDIX 5



Joanne Livingstone
Chair, Firefighters' Pensions (England) Scheme Advisory Board
By email

23 March 2022

Dear Joanne

Thank you for your letter of 17 December to HM Treasury regarding the processing of immediate detriment (ID) cases in the Firefighters' pension scheme. I apologise for the delay in replying.

You have asked for more detail on the factors behind the withdrawal of the Home Office's informal and non-statutory guidance on processing certain ID cases, and in particular the risks and uncertainties of relying on Section 61 of the Equality Act to remedy benefits in advance of retrospective regulations.

I appreciate that this is a difficult situation for scheme managers in the Firefighters scheme, for the reasons you have set out, and the SAB's understandable desire to have the best information possible to inform future discussions. I will therefore set out these issues in detail.

The fundamental difficulty is that retrospectively changing pension entitlement through section 61 of the Equality Act 2010 cannot mitigate all of the consequences that arise from that. Legislation is therefore needed to address these consequences, particularly in respect of the complicated interplay with the tax system which is dependent on changing facts. The tax system requires certainty about the nature of payments made to and from pension schemes in the past in order to operate predictably and to produce proportionate results.

In some situations, processing cases without the full remedy legislation, including on tax, could lead to disadvantageous outcomes. The Public Services and Judicial Offices Act addresses some of these issues but others will need to be addressed through secondary legislation, the Finance Act 2022 and tax regulations. Legislation is also necessary to allow compensation to be paid by scheme managers, for example where an individual has overpaid tax beyond the usual statutory time limits for claiming it back.

I will now set out some of the detail of the specific tax issues that may arise and will be dealt with through legislation:

1. Tax relief on contributions for members who paid contributions to the reformed scheme.
 - If section 61 was used so that these members never left the legacy scheme for the remedy period, the effect would be that amounts deducted from their earnings and paid as pension contributions to the reformed scheme were paid incorrectly, because they were not a member of that scheme. This matters for tax purposes because only active members of a scheme are entitled to tax relief on their contributions.

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- Tax relief can be given at the point the contributions are paid, and the legacy scheme and reformed scheme are two separate registered pension schemes. It is unclear what effect section 61 has on the contributions that were paid to the reformed scheme; it is not certain that section 61 means they can be assumed to have been paid to the legacy scheme. If section 61 can't be interpreted in that way, there is a separation of the members' contributions and the service, which mean that members were not entitled to the tax relief they received on their pension contributions (as they were not active members).
- Employers would therefore need to correct their RTI submissions for the relevant tax years to remove the tax relief that was given incorrectly. This would probably require the contributions to be returned by the scheme to the employer and then for the employer to pay them to the correct scheme, which would give tax relief at that point, but this may not equal the tax relief that members were entitled to previously. In addition, any contributions payable by or due to be returned to the member in respect of the tax years 2015-15 to 2021-22 because differences in contribution rates will also impact on their tax position, meaning that those who submit self assessment returns will need to contact HMRC to amend the information they declared previously.
- The provisions to address this are made in the PSP&JO Act, which will require commencement through scheme regulations, and in forthcoming legislation to allow tax relief to apply to contributions made during the remedy period years and for any contributions corrections to be made without the need for correcting RTI submissions.
- The combination of the PSP&JO Act, scheme regulations and tax regulations will alleviate the administrative burdens on the member, the scheme and the employer but if ID cases were processed prior to those statutory changes, existing legislation will apply. The full amount of historic contributions to a scheme where the individual is not a member would be taxable and a tax charge will be due as a result, that may not equal the tax relief the individual will be entitled to when the contributions are made to the correct scheme. So individuals in this situation may still need to have their position revised when the provisions of the PSP&JO Act are brought in.

2. Payment of benefits to date.

- Where an ID case is processed before legislation, there is uncertainty as to the status of payments that have been made from the Reformed Scheme to an individual who, according to section 61, is not a member of that scheme. It is not clear whether under section 61 the amounts paid would be assumed to have been paid by the legacy scheme. There is a risk that if the amount that was paid as a tax-free lump sum is seen as being paid from the reformed scheme, it would be taxable because it does not meet the conditions to be paid tax free as the individual is a member of the legacy scheme. Once commenced through scheme regulations, provisions in the PSP&JO Act will have the effect of treating pension benefits arising from remediable service paid out of the Reformed Scheme as having been paid out of the Legacy Scheme, clarifying the section 61 position.

3. New or increased lump sum payments.

- There could also be issues where the operation of section 61 Equality Act 2010 means that an individual has not been paid sufficient lump sum under the legacy scheme, because any further lump sum payment will be tax free only if the pension supporting the lump sum started no more than 12 months prior to the adjustment. If it is outside this time limit the adjusted lump sum would also be an unauthorised payment and an unauthorised payments charge would apply before tax legislation is in place to address this.

4. Annual allowance tax charge.

- An individual's liability for an annual allowance tax charge is calculated by deducting their pension value at the start of the year from the value at the end of the year in that pension scheme. If ID cases were processed using section 61 this could lead to a situation where those values were incorrectly reported because the member was recorded as building up service in the Reformed Scheme instead of the Legacy Scheme.
- This could lead to considerable difficulties where the Reformed Scheme had reported and paid an individual's annual allowance charge. The whole payment would need to be unwound as there would be no basis for the Reformed Scheme to pay the individual's tax charge as they were not a member of the scheme. The scheme would have to adjust the return on which they originally paid the charge (which may also have an administrative impact on the scheme in relation to any tax they have paid subsequently as tax is paid on a scheme basis). The individual would then owe their annual allowance charge and interest for late payment. Similarly, any overpaid annual allowance charges for out of scope years would need to be compensated, and as set out above, in advance of legislation there are no provisions in place to enable this.

5. Lifetime Allowance Charge

- Issues might arise with respect to lifetime allowance charges paid by the reformed scheme in relation to a member who, as a result of the operation of section 61, was always a member of the legacy scheme. The reformed scheme would need to claim a refund of the tax paid (where they were in time to do so), adjusting the return on which they originally paid the charge (which may also have an administrative impact on the scheme).
- The legacy scheme would now be liable to pay (i) any lifetime allowance charges in relation to that member's rights, and, (ii) any benefits payable under those rights. It is unclear what effect section 61 would have on the benefits that have been paid to the individual, whether it follows that these benefits must have been paid by the legacy scheme or the reformed scheme made payments to individuals who were not members. Depending on the interpretation of the operation of section 61 in relation to pension benefits already paid, the legacy scheme may be liable to pay benefits including amounts already paid by the reformed scheme. Legislation will be required to address these issues.
- In addition, if a member has paid their lifetime allowance charge themselves and section 61 provides that they were a member of their legacy scheme, where this provides for a lower charge, they can notify HMRC to claim for the overpayment. However, where the charge was paid for a year beyond the usual statutory time limits for correction of tax, compensation for this would not be available until the full remedy legislation is in place.

I hope that this gives you further insight into the tax issues that are likely to arise where ID cases are dealt with prior to legislation being in place and assists in future SAB discussions.

I would also note that, in addition to these tax issues, there are also other aspects of the remedy that remain to be determined and/or consulted upon on a scheme specific basis, such as how interest is to be calculated and paid on amounts that are owed to the scheme or by the scheme to a member or the specifics of rights of appeal.

For all of these reasons, the Government's view remains that processing immediate detriment cases before all of the necessary legislation is in place could give rise to significant consequences for schemes and members, although that ultimately is a decision for individual scheme managers. I also

recognise that this places scheme managers in a difficult position and we will continue to work with Home Office colleagues and others to explore any mitigations, where this is possible.

Finally, I would like to thank you for the Scheme Advisory Board's continued constructive engagement in helping to resolve the complex and difficult issues necessary to design and implement a legislative remedy.

Yours sincerely,

Henry Elks
Deputy Director
Workforce Pay and Pensions Team
HM Treasury

APPENDIX 6

Security Classification/FoI 2000	Official
FoI Requests on rationale	Yes
Author	Clair Alcock
Force/organisation	NPCC Pensions Team
NPCC Coordination Committee	Workforce
Date created	22 March 2022



To: Chief Constables

22 March 2022

Immediate Detriment Update

I am writing to provide an important update on the matter of Immediate Detriment and recommend that forces review their current policy to reflect the latest Counsel opinion that we have received that clearly advises forces not to be applying Immediate Detriment prior to legislation being in place. NPCC Pensions team met with Counsel on 15th March and received oral opinion and subsequently their advice is not to proceed with any Immediate Detriment cases. Full written advice will be circulated when it has been received.

Background

In February 2021 the government published its consultation response on how it intended to remove the discrimination identified by the courts in the 2015 pension reforms through legislation and changes to pension regulations. The key provisions of the McCloud remedy were to move all members to the 2015 scheme from 1 April 2022 and allow eligible members the choice of having either legacy or reform benefits for the remedy Period (1 April 2015 to 31 March 2022). Legislation is needed in three main areas:

1. The Public Service Pensions and Judicial Offices Bill has now received royal assent and has been made into an act [The Public Service Pensions and Judicial Offices Act 2022](#) (PSPJO). This means that all legacy schemes will now be closed to future accrual and all service from 1st April 2022 will be accrued in the 2015 scheme.

Part 1, Chapter 1 of the Act will come into force no later than 1 October 2023¹ and will remedy the discrimination between 1 April 2015 and 31 March 2022 by moving members back to the legacy scheme for the remedy period². The Act will be supported in due course by Treasury directions which specify certain aspects such as the rate of interest to apply to payments owed and due.

2. Secondary regulation amendments to the Police Pension Schemes will be required that are in keeping with the primary legislation. It is the responsibility of Home Office to draft and lay these regulations by 1 October 2023 and a three-month consultation is expected in late summer/autumn this year.
3. [Section 11 of the Finance Act 2022](#) requires treasury to make changes to the Finance Act 2004 in connection with the discrimination rectification provisions. It is expected these will be

¹ [Part 4, Section 131, Para 2](#)

² [Part 1, Section 2](#)

National Police Chiefs' Council (NPCC) 1st Floor, 10 Victoria Street, London SW1H 0NN



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retrospective from 1 April 2022, however they are not yet available, and drafts are expected in summer/autumn of 2022.

Immediate Detriment

Immediate Detriment provides officers retiring with 2015 Scheme membership in advance of remedy legislation the option to take their legacy pension for the 2015-2022 period. This has been a complicated issue for scheme managers to deal with, trying to balance the moral duty of providing members with the pension they are entitled to against the limitations provided by the current legislation which relies solely on section 61 and 62 of the Equality Act which requires scheme managers to not discriminate.

Until now those members of the 1987 legacy scheme reaching retirement age have been fully protected, so Immediate Detriment affected only a few members leaving before 30 years' service with an entitlement to an immediate pension (including ill health cases).

From April 2022, most 'normal' retirements will be members with an element of their service in the 2015 scheme. This 2015 element will increase as time goes on, reflecting the tapered protection arrangements which have been found discriminatory, so those retiring at 30 years' service late in 2022 are likely to have 29 years' 1987 membership plus 1 year's 2015 membership.

There is no question that eligible members are entitled to receive a choice of legacy or reformed benefits for the period between 1 April 2015 and 31 March 2022, nor is there any doubt that this will be available. [Section 2](#) of the PSPJO Act 2022 has the effect that on the coming into force of the secondary regulations which must be enacted by 1 October 2023, members will be reverted to their legacy schemes for the remedy period. Those who have retired or died before the coming into force of the secondary regulations will be treated as 'Immediate Choice' members under sections 6 to 9³ and given a choice of benefits to receive.

However, government are responsible for implementing the legislation, and the pace of those changes is led by the treasury, and not within the gift of NPCC or individual police forces to change.

Home Office Guidance

In August 2020 guidance was issued to scheme managers⁴ by the Home Office which had been prepared by Her Majesties Treasury (HMT) and set out guidelines for making Immediate Detriment payments in certain areas. The NPCC took legal advice on that guidance at the time shared with scheme managers which raised concerns on the limitation of relying on section 61 of the Equality Act to extinguish 2015 scheme benefits.

Although the guidance was informal only, it offered a pathway for some forces to offer Immediate Detriment and it was left to individual scheme managers to determine their approach using the Home Office guidance to minimise the adverse consequences of acting in advance of Remedy legislation.

³ [Public Service Pensions and Judicial Offices Act 2022 \(legislation.gov.uk\)](#)

⁴ Subsequently updated in June 2021

However, on 29 November 2021 the Home Office and HMT withdrew the guidance⁵. Without replicating the guidance in full the key reason for withdrawal of the guidance was uncertainty on the power of section 61 to support correction of immediate detriment cases before the new legislation is in place.

The particular concern cited in the document is the power of section 61 to deem contributions having been made under the relevant legacy scheme instead of the 2015 scheme under which they were made. The effect of that is to make the tax relief that members would have received on the 2015 contributions unlawful, because in fact you are deeming them not to have been members of that scheme. This poses a significant risk to members that HMRC will claw back all the tax relief received by them on making pension contributions during 1 April 2015 to 31 March 2022.

The withdrawal guidance quoted further concerns from HMT and in a covering letter Home Office outlined the funding position and confirmed that forces would not be provided with additional funding for costs associated with Immediate Detriment which are paid outside of the pension account. This means that, were forces to try and compensate members for lost tax or pension outside of the regulations, they would not be funded and this would come from operational budgets only.

Legal Advice March 2022

The NPCC Pension Team has now taken further legal advice on the impact of the withdrawal of the guidance, and in particular HMT's comments on the power of section 61.

The written legal advice will be provided in due course, however it is imperative that the view of Counsel is shared with scheme managers as soon as possible, so they can take heed of it.

Counsel's view was unequivocally that scheme managers should not be implementing immediate detriment at this time as there is no legal mechanism to pay without undue risks to both members and the force.

That represents a change in the previous view, which advised that there were some risks but recognised the HMT guidance and cautioned to be very careful of making payments. With the withdrawal of the guidance that takes away any 'safety net' the force may have relied upon to mitigate the risks of implementing Immediate Detriment.

We understand that this will be disappointing to Chief Constables who are now placed in this extremely difficult position that may result in further representations from staff associations who are keen to see that their members receive remedy as soon as possible. Unfortunately, we have found ourselves in the position where we are prevented from applying Immediate Detriment due to government timelines in laying regulations. Counsel has been very clear that significant risk would be faced by both members and the force operational account by making payments with no clear legal mechanism.

⁵ [Police pension schemes: processing immediate detriment cases - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/police-pension-schemes-processing-immediate-detriment-cases)

Along with the written legal advice that we will share with scheme managers, the pension team will also draft communications to members that can be used to explain the position that forces have been forced into, this will highlight that benefits will be rectified by the forthcoming remedy and how forces may support members understanding of their retirement benefits in advance of that legislation.

This letter has been copied to both Home Office and staff associations who we are continuing to have constructive conversations with regarding the pace of the legislative change that is needed to rectify benefits and the impact that has on the workforce.

If you have any questions, please let me know.

Yours sincerely



Jeremy Vaughan
Chief Constable South Wales Police
NPCC Pay and Conditions Lead

Copies to

Peter Spreadbury, Home Office
PSA
CPOSA
Police Federation

APPENDIX 7



Henry Elks
Deputy Director
Workforce Pay and Pensions Team
HM Treasury
henry.elks@hmtreasury.gov.uk

Peter Spreadbury
Deputy Director
Public Safety Group
Home Office
peter.spreadbury@homeoffice.gov.uk

4 April 2022

BY EMAIL ONLY

Dear Messrs Elks and Spreadbury,

Firefighters Pension Scheme - Age discrimination remedy

This letter is submitted jointly by the Local Government Association (LGA) on behalf of Fire and Rescue Authorities (FRAs), and by the Fire Brigades Union (FBU) on behalf of their members.

We cannot express strongly enough our continued frustration at the government's failure, as expressed by HM Treasury and Home Office, to support FRAs in ensuring affected FPS members are placed in the position required by the Court of Appeal in December 2018 (McCloud/Sargeant), prior to implementation of remedy legislation. Affected members are those who have, or are, taking benefits prior to the implementation of remedy legislation and therefore could face an immediate detriment.

As you are aware from discussions beforehand and correspondence with the LGA, we agreed a framework in October 2021 designed to make payments to FPS members in scope of remedy within existing legal powers on the basis that it would mitigate or avoid an immediate detriment to such members, therefore avoiding the need for continued legal action by those members.

Since that time we have seen the withdrawal of the Home Office Guidance and the position of HM Treasury, as expressed in the accompanying note, of opposing any possible solution for scheme members other than waiting for final regulations in October 2023. This has left FRA's in a position of uncertainty and affected scheme members are actively preparing legal action once again.

Should such action commence, that would again mean a separate set of proceedings running in parallel to the proceedings currently before the Employment

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Ref. AU/A&R/2022/June/11005221

Tribunal, and also wholly avoidable legal costs to FRA's (and ultimately the taxpayer).

We accept that there are, as set out in the HMT note, significant difficulties in making *some* payments, in particular those connected with contributions until the tax position becomes clear and we would be happy to discuss with you how best to make progress in this area. The Claimants in any new proceedings will claim that they are entitled to damages that place them in the same position, net of any tax, that they would have found themselves in if there had been no discriminatory treatment (as did the Claimants in the proceedings that have already been issued and settled). If we assume that the court determines the claim in favour of the Claimants and grants the relief sought, at best, from the FRAs' perspective, that would mean having to pay compensation in respect of any additional tax charges and then spending very considerable administrative time and expense seeking recovery of the tax paid from HRMC. At worst it would mean paying compensation in respect of the tax and not being able to recover it.

We do not however see any issues with the immediate payment of pension arrears or arrears of lump sum for those within 12 months of leaving and would be grateful for your support in making such payments, in particular, by confirming that such payments will be treated no differently from payments of pension outside of the scope of remedy with regard to funding.

Furthermore, with the Finance No 2 Bill gaining Royal Assent it is entirely within the gift of HM Treasury to bring forward regulations to authorise the payment of lump sum arrears beyond 12 months of leaving and we would ask that this is progressed as soon as possible.

Finally, your stance in respect of the position of members who receive payments prior to the implementation of the remedy legislation not being able to be regularised by remedy legislation is unhelpful. Although we can appreciate your desire to be prudent in not providing 'carte blanche' for unreasonable payments, the provisions of both the Public Service Pensions and Judicial Offices Act and the Finance Act 2022 appear to provide more than adequate flexibility to ensure the regularisation of scheme members benefiting from a considered approach to immediate detriment cases.

None of us wish to see taxpayer money being wasted on legal actions which will no doubt merely confirm a scheme member's right to payments in line with the Court of Appeal's judgment. We stand ready to meet with you at any time to discuss how this regrettable situation can be avoided.

Yours sincerely,



Jo Donnelly
Local Government Association



Matt Wrack
Fire Brigades Union

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Ref. AU/A&R/2022/June/11005221

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND RISK COMMITTEE

6 JUNE 2022

1. **CORPORATE RISK UPDATE**

Report of the Chief Fire Officer.

RECOMMENDED

- 1.1 THAT Audit and Risk Committee approve the Corporate Risk Summaries (Quarter 3, 2021/22, Appendix 1 and Quarter 4, 2021/22, Appendix 2) and note the management of Corporate Risk through and emerging from the Business Continuity arrangements.

2. **PURPOSE OF REPORT**

- 2.1 This update covers a six-month period and is provided to ensure Members remain informed about all aspects relating to the management of the Authority's Corporate Risks. It covers Quarter 3, 2021/22 and Quarter 4, 2021/22.

3. **BACKGROUND**

- 3.1 This report includes the Corporate Risk Summary for Quarter 3, 2021/22 and Quarter 4, 2021/22. In addition, it provides an update on the management of Corporate Risk through and emerging from the Business Continuity arrangements which were put in place in March 2020.
- 3.2 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 Annual Plan'. Currently, the Service maintains 8 Corporate Risks, some of which have more than one element.
- 3.3 Each Corporate Risk is assigned to a risk owner, who is a member of the Strategic Enabling Team (SET). The risk owner has the

overall responsibility for monitoring and reviewing the progress being made in managing the risk.

- 3.4 To enable for effective risk management, the risk owner reviews and assesses each Corporate Risk monthly. A report is subsequently submitted to SET on a quarterly basis.

The review and the estimated risk rating undertaken is based on likelihood x impact. The likelihood is a measure of probability of a given risk occurring using a scale of 1 (low) to 4 (high). The impact is a measure of the severity or loss should the risk occur again, using a scale of 1 (low) to 4 (high).

LIKELIHOOD	4				
	3				
	2				
	1				
		1	2	3	4
		IMPACT			

- 3.5 In undertaking a review of the Corporate Risks, the risk owner reviews the Corporate Risks and in doing so considers the following:-

- The direction of travel of the risk
- The overall confidence that the risk owner has in the risk being realised
- The current risk scores (Likelihood and Impact)
- Any issues that have emerged during the previous month
- Any forthcoming issues that may be likely to emerge that could affect the risk
- Any changes to the control measures that are in place which are designed to reduce the likelihood of the risk realisation or its impact should the risk be realised
- Additional control measures currently implemented to further reduce the likelihood or impact

- Any interdependencies with other Corporate Risks
 - The recommended risk score rating
- 3.6 As part of the review the risk owner has considered the risk score and rating and updated the summary sheet. The risk owner has provided assurance that the control measures identified are still effective in the management of the risk and identified whether any new risk events or controls have been implemented or are required.
- 3.7 Where ongoing additional controls are being implemented, risk owners have confirmed the progress in implementing such controls.
- 3.8 Work is currently taking place to move Corporate Risk from an isolated Excel document to being incorporated into a 'One Risk Management Approach' for the Service. The Audit & Risk Committee will be fully briefed as this work progresses.
- 3.9 **Increase/decrease in Overall Corporate Risk Score**
- 3.9.1 During Quarter 3, October 2021, Corporate Risk 7.1 increased its risk score to Likelihood 4, Impact 3, providing an overall risk score of 12, 'Limited Assurance'. This was from a previous risk score of Likelihood 3 x Impact 3, providing a risk score of 9 'Satisfactory Assurance'. This increase was due to the risk owner having reduced confidence in the 'Voluntary Additional Shifts' (VAS) system due to issues in delays in procuring the replacement system.
- 3.9.2 In addition, in December of Quarter 3, Corporate Risk 5.1 increased its risk score to Likelihood 3 and Impact 4 and overall score of 12 'Limited Assurance'. The previous score had been Likelihood 2 and Impact 4, giving an overall score of 8, 'Satisfactory Assurance'. This was due to the Omicron variant and the number of absences over the Christmas/New Year holiday period. The highest number saw 198 Covid related absences. This had a significant impact on staffing and the number of appliances available for incidents.

3.9.3 At the end of Quarter 4, (March 2022), Corporate Risk 7.1 and 5.1 remain with a risk score of 12 and 'Limited Assurance'.

3.9.4 There has been no decrease in the overall risk scores during Quarter 3 and 4 2021/22.

3.10 **Quarter 3, 2021/22 (October, November, and December)**
Quarter 4, 2021/22 (January, February, and March)

The Corporate Risk Summary for Quarter 3 (December), 2021/22 is attached as Appendix 1 and Quarter 4 (March) 2021/22 is Appendix 2. It provides the confidence levels of the risk management activity in respect of the Authority's 8 Corporate Risks. It should be noted that some risks have more than one element, providing an update on 14 elements of the risks. The following is the status at the end of Quarter 4 (March 2022).

- Corporate Risks 1.2, 2.1, 2.2, 2.3, 4.1, 8.1 and 8.2 have been awarded a green confidence (substantial) opinion, which is the highest level that can be awarded.
- Corporate Risks 3.1, 3.2, 5.1 and 7.2 have been awarded an amber (satisfactory) confidence opinion. In all cases, work is in progress to enable for a green rating to be attained.
- Corporate Risk 5.2, 6.1 and 7.1 have been awarded a red (limited) confidence opinion, due to the inadequacy of key internal controls being in place.

3.11 **Corporate Risk Statement Summary**

3.11.1 **Corporate Risk 1.2, External (Political and Legislative Environment)**

The risk owner reported the following during Quarters 3 and 4:-

The levelling up white paper has now been considered by West Midlands Combined Authority (WMCA) and this has led to the development of 20 workstreams within the Combined Authority. West Midlands Fire Service (WMFS) have been engaged through this process and the following workstreams have been identified as relevant to the delivery of our strategy, or workstreams which the Service can add value to; these include:-

Crime and Community Safety, Health, Housing, Regeneration and Planning, Transport, Funding and Homelessness prevention.

3.11.2 Corporate Risk 2.1, People (Positive staff engagement)

The risk owner reported the following during Quarters 3 and 4:-

An issue has been identified with a disciplinary investigation for gross misconduct that has taken six months for a conclusion to be reached. The outcome was that there was 'no case to answer'. A review of the Disciplinary and Grievance policy and procedure will be carried out following this outcome.

3.11.3 Corporate Risk 2.2, People (Insufficient or ineffective employees)

The risk owner reported the following during Quarters 3 and 4:-

There is a plan in place to support Resilience Officers competence, (and resolve a cause for concern that was raised) this has been communicated to Resilience Officers. The plan is to create a sustainable way to support findings of Station Peer Assessments (SPA) and continue the work that the SPA team have carried out.

3.11.4 Corporate Risk 2.3, People (Safe and healthy workplace)

The risk owner reported the following during Quarters 3 and 4:-

The Service is exploring new ways of delivering Health & Safety training to the workforce as the provision through an external provider was paused during the Covid period.

3.11.5 Corporate Risk 3.1, Prevention (Engagement with vulnerable members of the community)

The risk owner reported the following during Quarters 3 and 4:-

The supply and stocks of smoke alarms is improving significantly although the 'Hearing Impaired' alarm supply remains a challenge, primarily because they require two microchips. Although microchips for detectors from WMFS suppliers are

manufactured in Texas and China, the neon gas and the palladium used in production may be affected by the war in Ukraine. The 'lead' times for some component parts are as long as 64 weeks and costs have increased significantly although the costs of the draft forecasted orders for 2022/23 currently still remain within budget, however, there is a risk that prices may increase again.

3.11.6 Corporate Risk 3.2, Prevention (Partnership arrangements)

The risk owner reported the following during Quarters 3 and 4:-

The ongoing Covid infection rates resulting in hospitalisation rates have impacted the pace of recovery for partnership activity.

3.11.7 Corporate Risk 4.1, Protection

The risk owner reported the following during Quarters 3 and 4:-

The Representative bodies position on the changes to how the Service mobilises to Automatic Fire Alarms based on the Community Risk Management Plan (CRMP) proposal is currently in consultation with the Fire Brigades' Union (FBU) and the Fire Officers' Association (FOA).

3.11.8 Corporate Risk 5.1, Response (Operational)

The risk owner reported the following during Quarters 3 and 4:-

Blue light fits for Flexi Duty Officers have been paused due to near hits and issues being raised by the Officers. This has resulted in approximately 20 blue light responders who utilise personal vehicles no longer having blue lights fitted. This impacts on the response times for Flexi Duty Officers.

3.11.9 Corporate Risk 5.2, Response (Fire Control)

The risk owner reported the following during Quarters 3 and 4:-

Staffing within Fire Control is being impacted by absences and these are being managed through a variety of approaches. This will be included in the review of Fire Control that began in May 2022.

3.11.10 Corporate Risk 6.1, Business Continuity & Preparedness

The risk owner reported the following during Quarters 3 and 4:-

The continued disruption to the supply of raw materials (due to the Russia/Ukraine conflict) may lead to knock-on effects across the Fire Sector. However, current assessments have not identified any risks or issues. These disruptions, coupled with the increased fuel and energy costs, are likely to lead to the increased costs of goods and services.

The protest group 'Just Stop Oil' are planning to arrange further protests, with the potential for forecourts to be targeted. Regional fuel stock levels are below acceptable levels of depletion; however, this has not impacted WMFS at present.

3.11.11 Corporate Risk 7.1, Digital and Data (Provide and support ICT)

The risk owner reported the following during Quarters 3 and 4:-

The NCSC (National Cyber Security Centre) has advised that all UK organisations are to act in response to the current situation in and around the Ukrainian conflict with Russia. Cyberattacks will be on the increase through Phishing e-mails.

The Home Office have notified that the 'Airwave' contract will be extended until 2026, however, there are some potential impacts to the existing radios which are old, and replacements are becoming hard to source.

The Service is experiencing ongoing supply chain issues for IT hardware.

3.11.12 Corporate Risk 7.2, Digital and Data (Management of information)

The risk owner reported the following during Quarters 3 and 4:-

Updates have been made to the 'Management of Information' Policy, the changes include the use of tools to extract data and to provide a greater understanding of the scope of disclosable information.

3.11.13 **Corporate Risk 8.1, Finance & Assets (Funding)**

The risk owner reported the following during Quarters 3 and 4:-

The situation in Ukraine/Russia is anticipated to further impact supply chains and result in delays to a range of products/services. It is also expected there will be associated inflationary impacts on a number of commodities resulting in price increases, therefore causing budget pressures.

The outcome of a 2-year Comprehensive Spending Review (CSR) for 2023/24 is anticipated in December 2022. Also, the potential ongoing impact of COVID and any other elements of the Ridership Factor above next year's budget assumptions would lead to cost pressures. In addition, it is anticipated that there will be pay award pressures generally in 2022/23 due primarily to cost of living increases.

3.11.14 **Corporate Risk 8.2, Finance & Assets (Financial management)**

The risk owner reported the following during Quarters 3 and 4:-

The Service is vigilant that there may be potential future ICT security breaches. In addition, the ongoing possibility of inappropriate acts by employees.

- 3.12 Corporate Risks will continue to be submitted to the SET meetings on a quarterly basis and reported into the Audit and Risk Committee every six months.

4. **EQUALITY IMPACT ASSESSMENT**

- 4.1 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**

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

6. **FINANCIAL IMPLICATIONS**

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

7. **ENVIRONMENTAL IMPLICATIONS**

7.1 There are no environmental implications.

BACKGROUND PAPERS

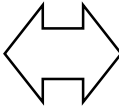

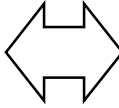
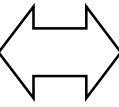
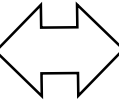
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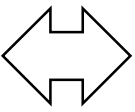
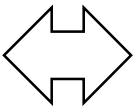
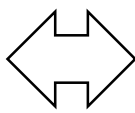
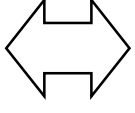
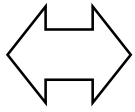
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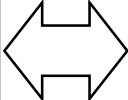
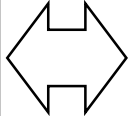
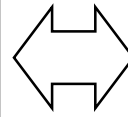
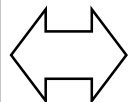
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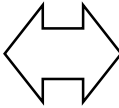

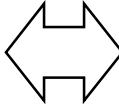
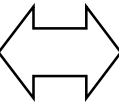
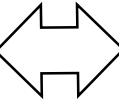
The contact for this report is Assistant Chief Fire Officer, Gary Taylor,
Strategic Enabler – Process, telephone number 0121 380 6914.

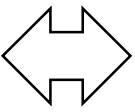
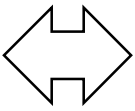
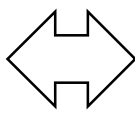
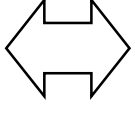
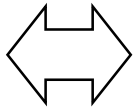
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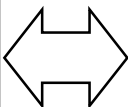
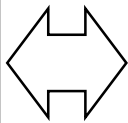
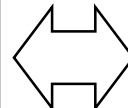
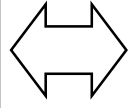
<u>Business Continuity - Corporate Risk</u>					<u>Mar-22</u>		
No.	Outcome of Risk Realisation	Risk Owner	Direction of Travel	Overall Confidence	Likelihood	Impact	Risk Score
CR1	External (Political and Legislative) Environment	SE Strategic Hub - Richard Stanton					
1.2	The Fire Authority is unable to positively position itself within public service reform to sustain and create new services resulting in reduced confidence, credibility and/or reputational damage.	Richard Stanton			2	3	6
CR2	People	SE People - Simon Barry					
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.	Shirley Haines			2	3	6
2.2	The Fire Authority is unable to deliver its Service Delivery Model effectively, as a result of insufficient or ineffective employees, throughout the organisation, resulting in reduced confidence and credibility; and increased reputational damage.	Juliet Malone			2	3	6
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.	Alex Shapland/ John Ashton			2	3	6
CR3	Delivery of Services - Prevention	SE Prevention - Pete Wilson					
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.	Pete Wilson			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.	Pete Wilson			2	2	4
CR4	Delivery of Services - Protection	SE Protection - Steve Ball					
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.	Steve Ball			2	2	4
CR5	Delivery of Services – Response	SE Response - Martin Ward-White					
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.	Martin Ward-White			3	4	12
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.	Karen Gowreesunker			4	3	12
CR6	Business Continuity & Preparedness	SE Organisational Preparedness - Sam Burton					
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.	Sam Burton			3	4	12
CR7	Digital and Data	SE Digital & Data - Kash Singh					

7.1	The Fire Authority is unable to provide and maintain an effective digital and data provision to support the delivery of core functions, resulting in significant disruption to the organisation's functionality, reduced confidence, credibility, reputational damage and external scrutiny.	Kash Singh			4	3	12
7.2	The Fire Authority is unable to provide effective management and security of organisational information and documentation including the receipt, storage, sharing and transfer of information and data, resulting in reputational damage, litigation, substantial fines and external scrutiny.	Kash Singh			3	3	9
CR8	Finance & Assets	SE Finance and Resources - Mike Griffiths					
8.1	The Fire Authority is unable to deliver its statutory responsibilities, predominantly through the Service Delivery Model, due to insufficient funds, resulting in external scrutiny and intervention; reduced confidence and credibility; and increased reputational damage.	Mike Griffiths			3	3	9
8.2	The Fire Authority is unable to deliver effective financial management arrangements, due to misuse of funds, resulting in external scrutiny, intervention and litigation.	Mike Griffiths			2	3	6

<u>Business Continuity - Corporate Risk</u>					<u>Mar-22</u>		
No.	Outcome of Risk Realisation	Risk Owner	Direction of Travel	Overall Confidence	Likelihood	Impact	Risk Score
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CR2	People	SE People - Simon Barry					
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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.	Alex Shapland/ John Ashton			2	3	6
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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.	Pete Wilson			3	3	9

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CR5	Delivery of Services – Response	SE Response - Martin Ward-White					
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.	Martin Ward-White			3	4	12
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.	Karen Gowreesunker			4	3	12
CR6	Business Continuity & Preparedness	SE Organisational Preparedness - Sam Burton					
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.	Sam Burton			3	4	12
CR7	Digital and Data	SE Digital & Data - Kash Singh					

7.1	The Fire Authority is unable to provide and maintain an effective digital and data provision to support the delivery of core functions, resulting in significant disruption to the organisation's functionality, reduced confidence, credibility, reputational damage and external scrutiny.	Kash Singh			4	3	12
7.2	The Fire Authority is unable to provide effective management and security of organisational information and documentation including the receipt, storage, sharing and transfer of information and data, resulting in reputational damage, litigation, substantial fines and external scrutiny.	Kash Singh			3	3	9
CR8	Finance & Assets	SE Finance and Resources - Mike Griffiths					
8.1	The Fire Authority is unable to deliver its statutory responsibilities, predominantly through the Service Delivery Model, due to insufficient funds, resulting in external scrutiny and intervention; reduced confidence and credibility; and increased reputational damage.	Mike Griffiths			3	3	9
8.2	The Fire Authority is unable to deliver effective financial management arrangements, due to misuse of funds, resulting in external scrutiny, intervention and litigation.	Mike Griffiths			2	3	6

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND RISK COMMITTEE

6 JUNE 2022

1. CREATION OF ADDITIONAL CORPORATE RISK RELATED TO CYBER SECURITY

Report of the Chief Fire Officer

RECOMMENDED

- 1.1 THAT the Committee note the change to Corporate Risk 7, with the addition of a distinct category for Cyber Risk 7.3 to provide greater focus and assurance in this area.

2. PURPOSE OF REPORT

- 2.1 This report provides the rationale for the inclusion of a separate distinct category within the current Corporate Risk Report related to Cyber Security.

3. BACKGROUND

- 3.1 As advised in the previous Audit and Risk Committee meeting on 21 March 2022 within the Annual Report of the SIRO, cyber security risks are increasing.
- 3.2 The organisation has existing corporate risks related to digital and data that are continually monitored under Corporate Risk 7.1 and 7.2.
- 3.3 Corporate Risk 7.1

The Fire Authority is unable to provide and maintain an effective IT 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.

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.

- 3.4 The digital transformation that the organisation has undertaken has delivered many benefits including increasing reliance on the underlying information systems, infrastructure and data.
- 3.5 Cyber security risk is a significant risk for all organisations locally, nationally, and globally, with risks of accidental data loss, physical system failures and direct malicious cyber-attacks being an area requiring focus.
- 3.6 The National Cyber Security Centre (NCSC) produces a weekly cyber security threat bulletin that evidences the risks to organisations both within the public and private sector.
- 3.7 Since the beginning of the crisis in the Ukraine, the NCSC has advised organisations to take action and strengthen their cyber security defences to improve resilience against the threat of cyber security attacks emanating from Russia.
- 3.8 There is an ongoing need for the organisation to address all aspects of this risk through robust technical solutions and risk management processes, hence this request to create a separate risk within the Corporate Risk Register to govern and manage this important and significant risk.
- 3.9 The proposal is to create Corporate Risk 7.3

The Fire Authority is unable to prevent, respond to or recover from malicious attempts to damage or disrupt devices, services and networks - and the information on them.

4. **EQUALITY IMPACT ASSESSMENT**

- 4.1 This is not required as this report does not impact any positive characteristics.

5. **LEGAL IMPLICATIONS**

- 5.1 It is considered best practice for organisations to follow cyber security risk mitigation advice from the National Cyber Security Centre (NCSC).

6. **FINANCIAL IMPLICATIONS**

- 6.1 There are no financial implications.

7. **ENVIRONMENTAL IMPLICATIONS**

- 7.1 There are no environmental implications.

BACKGROUND PAPERS

[Annual Report of the SIRO](#)

PHIL LOACH
CHIEF FIRE OFFICER

Report to the Audit and Risk Committee

Creation of additional Corporate Risk – 7.3
Cyber Security
Appendix 1

Background

- A&R Committee 21st March 2022
 - Annual SIRO Report
 - Increased cyber security risk
 - Ukraine crisis
 - Commonwealth Games
 - Report Back to Committee
 - Creation of New Risk 7.3 Cyber Security
 - *The Fire Authority is unable to prevent, respond to or recover from malicious attempts to damage or disrupt devices, services and networks - and the information on them.*

External Landscape

- Birmingham hosting Commonwealth Games 2022
- Previous similar events
 - Gold Coast CWG 2018
 - Blocked “about 176,000” potential attacks during the event
 - [News Report](#)
 - Japanese Winter Olympics 2018
 - Cyber Attack during opening ceremony
 - [News report](#)
- Russian/ Ukraine Crisis
 - Cyber attacks before military action
 - [National Cyber Security Centre \(NCSC\) Report](#)
- Requirement for more secure systems
 - Support Digital Transformation
 - Mitigate against loss of systems, data, finance
 - Reputational damage



Areas from CR 7.1.

- 7.1.1

Appropriate cyber security governance processes are not in place

- 7.1.7

Highly privileged accounts are compromised by a common cyberattack.

- 7.1.8

Common cyberattack is undetected

- 7.1.9

The organisation does not have a defined, planned and tested response to cyber security incidents that impact sensitive information or key operational services.

- 7.1.10

The organisation does not have well defined and tested processes in place to ensure the continuity of key operational services in the event of failure or compromise.

Worked Example Content (Move from existing Risk CR 7.1)

- Risk Trigger From CR 7.1.1
 - Appropriate cyber security governance processes are not in place
- Trigger Control Measure
 1. There shall be clear lines of responsibility and accountability to named individuals for the security of sensitive information and key operational services.
 2. There shall be appropriate management policies and processes in place to direct the organisation's overall approach to cyber security.
 3. The organisation shall identify and manage the significant risks to sensitive information and key operational services.
 4. The organisation understands what their key operational services are .
 5. The organisation shall ensure that senior accountable individuals receive appropriate training and guidance on cyber security and risk management and should promote a culture of awareness and education about cyber security across the service.

Example - Effectiveness of Control Measure

- RAG status
- 5. The organisation shall ensure that senior accountable individuals receive appropriate training and guidance on cyber security and risk management and should promote a culture of awareness and education about cyber security across the service.
- Rationale
 - Follow guidance from NCSC for Board members
 - [NCSC - Cyber Security Toolkit for Boards](#)
 - [Cyber Security Toolkits for Boards \(2\)](#)

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND RISK COMMITTEE

6 JUNE 2022

1. **ANNUAL INTERNAL AUDIT REPORT – 2021/22**

Report of the Audit Services Manager.

RECOMMENDED

1.1 THAT the Annual Internal Audit report for 2021/22 be approved.

2. **PURPOSE OF REPORT.**

2.1 This report is submitted for member comment and approval.

3. **BACKGROUND**

3.1 The attached report details the work of the internal audit service undertaken in 2021/22. It provides an opinion on the adequacy and effectiveness of the Authority's governance, risk management and internal control processes.

3.2 The contents of the report also provide one element of the evidence that is required to underpin the Authority's Governance Statement.

3.3 It summarises the audit work undertaken during the year in a tabular format, this includes:

- the areas subject to review during the year (Auditable Area)
- the level of risk to the Authority assigned to each auditable area (high, medium or low)
- the number of recommendations made as a result of each audit review
- details of any other work undertaken outside of the original plan

Finally, it provides a summary of the key control issues that arose during the year.

4. **EQUALITY IMPACT ASSESSMENT**

- 4.1 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**

- 5.1 The Accounts and Audit Regulations Act states that a relevant body must “maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper internal audit practices”.

6. **FINANCIAL IMPLICATIONS**

- 6.1 There are no direct financial implications arising from this report.

7. **BACKGROUND PAPERS**

Annual Internal Audit Report 2021/22.

Peter Farrow
Audit Services Manager, Sandwell MBC

Appendix 1 - Annual Internal Audit Report 2021/22

Audit and Risk Committee
6 June 2022



Section		Page
1	Introduction	3
2	Internal Audit Opinion	4
3	Performance of the Audit Service	5
4	Summary of Work Undertaken and Key Issues Arising	9

1 Introduction

- 1.1 Our internal audit work for the period from 1 April 2021 to 31 March 2022 was carried out in accordance with the approved internal audit plan. The plan was constructed in such a way as to allow us to make a statement on the adequacy and effectiveness of the Authority's governance, risk management and control processes.

In this way, our annual report provides one element of the evidence that underpins the Governance Statement the Authority is required to make within its annual financial statements. This is only one aspect of the assurances available to the Authority as to the adequacy of governance, risk management and control processes. Other sources of assurance on which the Authority may rely could include:

- The work of the External Auditors (currently Grant Thornton)
- The result of any quality accreditation
- The outcome of visits by HMRC
- Other pieces of consultancy or third-party work designed to alert the Authority to areas of improvement
- Other external review agencies

- 1.2 The definition of internal audit, as described in the Public Sector Internal Audit Standards, is set out below:

"Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes."

Overall Assurance

- 1.3 As the providers of internal audit, we are required to provide the Authority with an opinion on the adequacy and effectiveness of the governance, risk management and control processes. In giving our opinion, it should be noted that assurance can never be absolute. The most that internal audit can provide is reasonable assurance that there are no major weaknesses in the Authority's governance, risk management and control processes. In assessing the level of assurance to be given, we have considered:
- All audits undertaken for the year ended 31 March 2022;
 - Any follow-up action taken in respect of audits from previous periods;
 - Any fundamental or significant recommendations not accepted by management and the consequent risks;
 - Any limitations which may have been placed on the scope of internal audit; and
 - The extent to which any resource constraints may impinge on the ability to meet the full audit needs of the Authority.

2 Internal Audit Opinion

- 2.1 We have conducted our audits in accordance with the Public Sector Internal Audit Standards. Within the context of the parameters set out in paragraph 1.3 above, our opinion is as follows:
- 2.2 Based on the work undertaken during the year and the implementation by management of the recommendations made, Internal Audit can provide ***reasonable assurance** that the Fire Authority has an adequate and effective framework of governance, risk management and control.

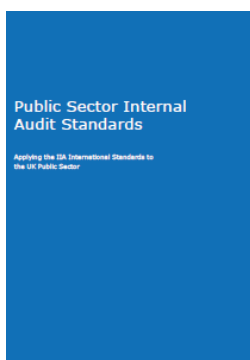
*We are pleased to report that this is an unqualified opinion and the highest level of assurance available to Audit Services. As stated in paragraph 1.3 "In giving our opinion it should be noted that assurance can never be absolute. The most that internal audit can provide is reasonable assurance that there are no major weaknesses in the Authority's governance, risk management and control processes".

Factors Influencing the Opinion and Issues Relevant to the Statement on Internal Control

- 2.3 In reaching this opinion, the following factors were taken into consideration:
- The need for management to plan appropriate and timely action to implement both our and the External Auditor's recommendations.
 - Key areas of significance, identified as a result of our audit work performed in year, are detailed in the Appendix to this report.
- 2.4 The overall opinion can be used by the Authority in the preparation of the Governance Statement.
- 2.5 Internal audit activity is organisationally independent and further details behind the framework within which internal audit operates, can be found in the internal audit charter.

3 Performance of the Audit Service

Compliance with the Public Sector Internal Audit Standards



Our reviews were carried out in accordance with the Public Sector Internal Audit Standards, which specify rules of conduct for objectivity, due professional care and confidentiality.

Customer Satisfaction

Customer satisfaction questionnaires are issued for all audits. From the responses returned, the average scores were as follows:

Question	2021/22
Usefulness of audit	4.4
Value of recommendations	5.0
Usefulness of initial discussions	4.4
Fulfilment of scope & objectives	5.0
Clarity of report	5.0
Accuracy of findings	5.0
Presentation of report	5.0
Time span of audit	4.7
Timeliness of audit report	4.7
Consultation on findings/recommendations	5.0
Helpfulness of auditors	5.0
Overall Satisfaction with Audit Services	4.8

Scores range between 1 = Poor and 5 = very good. We have a target of achieving on average a score of **4 = good**.

Quality Assurance and Improvement Programme

Sandwell Audit Services have a Quality Assurance and Improvement Programme. During the year, the internal audit activity there have been no significant areas of non-conformance or deviations from the standards as set out in the Public Sector Internal Audit Standards.

Staff are recruited, trained and provided with opportunities for continuing professional development. Staff are also supported to undertake relevant professional qualifications. All staff are subject to a formal staff appraisal process, which leads to an identification of training needs. In this way, we ensure that staff are suitably skilled to deliver the internal audit service. This includes the delivery of specialist skills which are provided by staff within the service with the relevant knowledge, skills and experience.

Advice and assistance

Finally, throughout the year we provide ongoing advice and assistance to all areas of the Authority on internal control and related issues, including on the development of an assurance framework.

4 Summary of Work Completed to inform the 2021/22 Internal Audit Opinion

A detailed written report and action plan is prepared and issued for every internal audit review. The responsible officer will be asked to respond to the report by completing and returning the action plan. This response must show what actions have been taken or are planned in relation to each recommendation. If the recommendation is not accepted, this must also be stated. Audit Services are responsible for assessing whether the managers response is adequate.

Where appropriate, each report we issue during the year is given an overall opinion based on the following criteria:

	Level	System Adequacy	Control Application
(positive opinions)	Substantial Assurance	Robust framework of controls ensures objectives are likely to be achieved.	Controls are applied continuously or with minor lapses.
	Reasonable Assurance	Sufficient framework of key controls for objectives to be achieved, but control framework could be stronger.	Controls are applied, but with some lapses.
(negative opinions)	Limited Assurance	Risk of objectives not being achieved due to the absence of key internal controls.	Significant breakdown in the application of controls.
	No Assurance	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified.	The system of governance, risk management and control is inadequate.

This is based upon the number and type of recommendations we make in each report. Each recommendation is categorised in line with the following:

Fundamental	Action is imperative to ensure that the objectives for the area under review are met.
Significant	Requires action to avoid exposure to significant risks in achieving the objectives for the area under review.
Merits attention	Action advised to enhance control or improve operational efficiency.

During the year we made the following number of recommendations:

	2020/21	2021/22
Fundamental	-	-
Significant	7	8
Merits attention	4	4
Total	11	12

The following appendices/tables below list all the reports issued by internal audit during 2021/22, alongside their original Assessment of Assurance Need (AAN) risk score, the number and type of recommendations made, whether those recommendations have been accepted and an overall level of assurance for each review.

Summary of Internal Audit Work Completed for the 2021/22 Internal Audit Opinion

Auditable Area	AAN Rating	Recommendations					Level of Assurance
		Fundamental	Significant	Merits attention	Total	Number accepted	
Data Protection	High	0	1	1	2	2	Substantial
Fire Stations – Management of Fuel	Medium	0	3	1	4	4	Reasonable
Environmental Protection Targets	Medium	0	0	2	2	2	Substantial
Workforce Planning	Medium	0	2	0	2	2	Reasonable
Fixed Asset Accounting	KFS	0	0	0	0	0	Substantial
Accounts Payable	KFS	0	0	0	0	0	Substantial
Budgetary Control	KFS	0	0	0	0	0	Substantial
Accounts Receivable	KFS	0	0	0	0	0	Substantial
Governance	High	0	2	0	2	Draft	Reasonable
Risk Management	High	0	0	0	0	0	Substantial
Payroll	KFS						In progress
TOTAL		0	8	4	12	10	

Key	
KFS	Key Financial System. Generally, this is also a high-risk review.
draft	A draft report has been issued and we are awaiting the management response from the Authority.
N/A	Not applicable.
AAN	Assessment of Assurance Need.
In progress	This review is in progress. To date no issues have arisen that would impact upon our annual audit opinion given in paragraph 2.2.

Key issues arising during the year

The following is a brief overview of the key issues identified during the year.

Data Protection

A review was undertaken to provide assurance that the necessary safeguards were in place to ensure the appropriate use of personal and corporate information. Our review of five subject access requests (SARs) in order to ensure they had been processed within the designated timescales, highlighted that in three cases, there was no documentarian to enable the timescales to be confirmed.

The Authority is currently assessing an automated tool which has the capability to provide a case management functionality and audit trail. As such, the implementation of such a tool should help address this issue.

Management of Fuel

A review was undertaken to provide assurance on compliance with established controls over ordering, receipt and dispensing of fuel at a sample of five stations. The review identified issues relating to:

- Examples were found of fuel orders being placed when the storage tanks were below the specified re-order level.
- Written records relating to fuel deliveries and issues were not always maintained in accordance with the relevant standing order and therefore, not all information was recorded and there were arithmetical errors in the fuel balance figures.
- The issues identified above do increase the risk that fuel levels are not accurately monitored.

A management response has been received and an action plan compiled to address these issues.

Environmental Protection Targets

A review was undertaken to provide assurance on the systems in place to support the Fire Authority in achieving its environmental objectives. No issues of significance were found, and generally sound systems were in place to enable environmental targets to be monitored.

Absence Management Follow-Up

Previously a review of Absence Management had been undertaken as part of the approved Internal Audit Plan for 2020/21. At that time, five significant issues were identified which resulted in the issue of a limited assurance report. An action plan was produced by the Fire Authority to remedy the issues identified and it was stated that the actions would be implemented by the end of April 2021 (4 * actions) and the remaining issue by September 2021.

As part of the 2021/22 Internal Audit Plan, a follow-up review was due to be completed to ensure the matters had been addressed. As at November 2021, the actions had not been addressed and the Fire Authority had set a revised completion date of the first quarter in 2022. As such, we are currently unable to provide further assurance on the matters previously reported upon. We have been advised that the delay in meeting the original completion dates is due to a key member of staff responsible for implementing the actions having left the Fire Authority and that only recently had responsibility been

re-assigned to another officer. We will now undertake the follow-up as part of the 2022/23 Internal Audit Plan.

Workforce Planning

Workforce planning is integral to the operation of the Fire Authority and the delivery of its strategic plan. The purpose of the review was to assess the adequacy of the workforce planning processes and to provide assurance on how well they were embedded within the Fire Authority. In general, the processes in place effectively support the Fire Authority in delivering its strategic plan. The review did identify two issues relating to:

A system of multiple spreadsheets is used to maintain and monitor the staffing establishment. It was identified that process notes had not been established to document the system to be followed to maintain and monitor the various spreadsheets. As such, there was a risk of inconsistencies in approach, or loss of knowledge should key staff be unavailable. They would also be a useful training aid for any new staff.

- The policies which formed part of the appraisal/performance management/appraisal framework had not been reviewed on a regular basis. It is acknowledged that these documents were currently under review by relevant officers, but there was no set timescale for completion.
- Due to issues experienced with the reporting functionality in respect of the new Oracle Fusion system, it had not been possible to produce and publish the performance indicators which are required to support the management of absence within the Fire Authority. As such, there is a risk that absences may not be effectively managed.

The Fire Authority has devised a plan to address these issues. A follow-up review of these issues will be undertaken as part of the Internal Audit Plan for 2022/23.

Governance

The objective of our review of governance for the current year was focussed upon the adoption, adequacy and application of the Local Government Transparency Code and to ensure that the control system in place mitigated risks to the achievement of the Authority's objectives in this area. The review identified two issues where improvements could be made, arising from the following:

- The policies which formed part of the appraisal/performance management/appraisal framework had not been reviewed on a regular basis. It is acknowledged that these documents were currently under review by relevant officers, but there was no set timescale for completion.
- The Whistleblowing policy and Anti-fraud and Corruption policy had also not been subject to a recent review. It was understood that this document is also currently under review, but again there was no set timescale for completion.

This report is at draft stage and we are awaiting a management response to the suggested actions.

Risk Management

An audit of the risk management processes was undertaken to review the management of risk by the authority and to provide assurance that there is a clear understanding of

how risk is to be managed and that risks are identified, recorded and effectively managed. No issues of concern were identified.

Key Financial Systems Reviews

No issues of concern were identified in the following areas:

- **Accounts Receivable**

A review of the accounts receivable system was undertaken to ensure that an effective system was in place for raising invoices and managing debtors. This included the integrity and reliability of charging information recorded in the accounts, the collection of payments and the process to monitor and report the debtor position.

- **Accounts Payable**

A review of the accounts payable system was undertaken to ensure that adequate key controls were in place. Our review focused on the controls designed to prevent, overpayments, fraud and incorrect accounting.

- **Fixed Asset Accounting/Asset Planning**

An audit of fixed asset accounting was undertaken in respect of planned capital expenditure. The review was undertaken to provide assurance that an appropriate process was in place to maintain details of fixed assets and to record them correctly in the accounts.

- **Budgetary Control**

A review of the budgetary control system was undertaken to ensure the Fire Service had established its budget and was managing it appropriately. Our review covered controls over monitoring, reporting, changes to budgets and the process to link budgets to medium and long-term plans.

Other areas of assistance provided

CIPFA – Audit Committee Updates

We continue to present the regular CIPFA Audit Committee Updates to the Audit and Risk Committee.

Internal Audit Plan 2022/23

We submitted the Internal Audit annual plan for 2022/23 to the committee for approval at the March 2022 meeting.

Internal Audit Annual Report 2020/21

We presented the Internal Audit annual report for 2020/21 to the committee for comment and approval at the June 2021 meeting.

Internal Audit Charter

We undertake and present to the committee an annual review of the Internal Audit Charter. The latest version was presented for comment and approval at the March 2022 meeting.

Counter Fraud

We continue to lead on the Cabinet Office's National Fraud Initiative and their other associated fraud related activity (such as the Annual Fraud Survey), on behalf of the Authority and to provide the main point of contact for any investigations into potential fraudulent activity.

Training

We provided training to the committee on "Fraud Awareness". This took place at the meeting held in March 2022.

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND RISK COMMITTEE

6 JUNE 2022

1. GOVERNANCE STATEMENT 2021/22

Joint report of the Chief Fire Officer, Treasurer and Monitoring Officer.

RECOMMENDED

- 1.1 THAT the Committee approves the Governance Statement for 2021/22.

2. PURPOSE OF REPORT

- 2.1 This report is submitted to Members to seek comments and consideration of the Governance Statement for 2021/22.

3. BACKGROUND

- 3.1 West Midlands Fire and Rescue Authority is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for and used economically, efficiently and effectively. The Authority also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 3.2 In discharging this overall responsibility, the Authority is also responsible for putting in place proper arrangements for the governance of its affairs, which includes arrangements for the management of risk.
- 3.3 Every Local Authority has to produce a Governance Statement (see attached Appendix) with its audited Statement of Accounts, which for 2021/22 are due to be made available by the end of November 2022.

- 3.4 The Governance Statement is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness. The Governance Statement is based on an ongoing process designed to identify and prioritise the risks to the achievement of the Authority's policies, aims and objectives to evaluate the likelihood of those risks being realised and the impact should they be realised and to manage them efficiently, effectively and economically.
- 3.5 The Statement is signed by the Chair of the Authority and the Chief Fire Officer who have a responsibility to ensure that the document is supported by reliable evidence and accurately reflects the Authority's internal control environment. The Governance Statement has operated throughout the year ended 31 March 2022 and up to date of the approval of the annual report and accounts.

4. **EQUALITY IMPACT ASSESSMENT**

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

5. **LEGAL IMPLICATIONS**

- 5.1 The Authority has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. As part of this it has to produce a Governance Statement.

6. **FINANCIAL IMPLICATIONS**

- 6.1 There are no direct financial implications arising from this report.

BACKGROUND PAPERS

None.

The contact officer for this report is Deputy Chief Fire Officer Wayne Brown, 0121 380 6907.

PHIL LOACH	MIKE GRIFFITHS	SATINDER SAHOTA
CHIEF FIRE OFFICER	TREASURER	MONITORING OFFICER

APPENDIX 1**ANNUAL GOVERNANCE STATEMENT****1. Scope of Responsibility**

- 1.1 West Midlands Fire and Rescue Authority is responsible for ensuring that its business is conducted in accordance with the law and proper standards, that public money is safeguarded and properly accounted for. The Authority also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 1.2 In discharging this duty, the Authority is also responsible for putting in place proper arrangements for the governance of its affairs which facilitates the effective exercise of the Authority's functions and which includes arrangements for the management of risk.
- 1.3 The Authority has complied with the code of corporate governance which is consistent with the principles of the revised CIPFA/SOLACE Framework 2016 published by CIPFA in association with the International Federation of Accountants (IFAC) – Delivering Good Governance in Local Government. The Authority has also complied with the requirements of CIPFA's statement on the role of the Chief Financial Officer in Local Government. This Annual Governance Statement explains how the Authority has complied with the code and also meets the requirements of Accounts and Audit (England) Regulations 2015, regulation 6 which require the Authority to prepare an Annual Governance Statement.

2. The Purpose of the Governance Framework

- 2.1 The governance framework comprises the systems and processes, culture and values by which the Authority is directed and controlled and its activities through which it accounts to and engages with the community. It enables the Authority to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, value for money services.
- 2.2 The system of internal control is a significant part of the framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and can, therefore, only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of the Authority's policies, aims and objectives, to evaluate the likelihood and potential impact of those risks being realised and the impact should they be realised and to manage them efficiently, effectively and economically.
- 2.3 The governance framework has been in place for the year ended 31st March 2022 and up to the date of the approval of the annual report and statement of accounts.

3. The Governance Framework

The key elements of the systems and processes that comprise the Authority's governance arrangements include the following (adjustments required due to the COVID-19 pandemic are reflected in paragraph 5.11):-

- 3.1 The Authority has produced a Corporate Strategy setting out its objectives and there is regular performance monitoring in which achievement of the Authority's objectives is measured and monitored.
- 3.2 The Authority has established clear channels of communication with the community and stakeholders regarding the production of the Annual Report and consultation on the key priorities of the Service. This also encourages open communication.
- 3.3 The Authority facilitates policy and decision-making via regular Policy Planning Forums and Authority meetings. An Audit and Risk Committee provides independent assurance to the Authority on risk management and internal control and the effectiveness of the arrangements the Authority has for these matters. The constitution of the Committees including the terms of reference is reviewed annually and available on the Internet.
- 3.4 The Authority ensures compliance with established strategies, procedures, laws and regulations – including risk management. The Authority also maintains and reviews regularly its code of conduct and whistle blowing policy. There is a comprehensive induction programme in place and information regarding strategies and procedures are held on the intranet, which continues to be developed. The Authority has a strong Internal Audit function and established protocols for working with External Audit.
- 3.5 West Midlands Fire and Rescue Authority will continue to enhance and strengthen its internal control environment through the review of current policies and procedures.
- 3.6 The Authority has corporate risk management arrangements in place which are supported by an approved Risk Management Strategy enabling Managers and other senior officers to identify, assess and prioritise risks within their own work areas which impact on the ability of the Authority and its services to meet objectives. To consider the effectiveness of the Authority's risk management arrangements is a specific term of reference for the Audit and Risk Committee and risk management is a specific responsibility of both the Chair and Vice Chair.
- 3.7 The Authority's Corporate Risk Register identifies the principal risks to the achievement of the Authority's objectives and assesses the nature and extent of those risks (through assessment of likelihood and impact). The Register identifies risk owners whose responsibility includes the identification of controls and actions to manage them efficiently, effectively and economically.

- 3.8 The Authority ensures the economical, effective and efficient use of resources, and secures continuous improvement in the way in which its functions are exercised, by having regard to a combination of economy, efficiency and effectiveness as required by the Best Value duty. The Authority plans its spending on an established planning cycle for policy development, budget setting and performance management through the business planning process. This ensures that resources are aligned to priorities and secures best value from the resources that are available.
- 3.9 The Chief Financial Officer is a key member of the leadership team, helping to develop and implement the Authority's strategy. The Authority's financial system is an ORACLE based general ledger and management information system, which integrates the general ledger function with those of budgetary control and payments. Financial Regulations and Contract Procedure Rules are approved and regularly reviewed by the Authority. A rigorous system of monthly financial monitoring ensures that any significant budget variances are identified in a timely way, and corrective action initiated.
- 3.10 The Authority's performance management and reporting of performance management continues to be improved with a more focused Corporate Strategy, the setting of priorities and is supported by regular performance monitoring. Corporate performance is reported on a quarterly basis and this process provides officers and Members with the opportunity to share knowledge and understanding about key performance issues affecting services.
- 3.11 The Authority within its committee framework has an Appointment, Standards and Appeals Committee to promote high ethical standards amongst Members. This Committee leads on developing policies and procedures to accompany the Code of Conduct for Members and is responsible for local assessment and review of complaints about members' conduct. The Authority also has a Scrutiny Committee which undertakes performance management functions, informs policy development and holds officers and the authority to account.
- 3.12 The Fire and Rescue National Framework for England sets out a requirement for Fire and Rescue Authorities to publish 'Statements of Assurance'. Specifically, Fire and Rescue Authorities must provide assurance on financial, governance and operational matters and show how they have had due regard to the expectations set out in their integrated risk management plan and the requirements included in this Framework. The Authority has approved the Statement of Assurance which is available on the Service's website.

4. **Review of Effectiveness**

- 4.1 The Authority has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework including the system of internal control. The review of effectiveness is informed by the work of the statutory officers and principal managers of the Authority who have responsibility for the development and maintenance of the governance environment, the internal audit annual report and comments made by the external auditor in their Auditor's Annual Report and other reports.
- 4.2 Section unit business plans contain a variety of performance indicators and targets that are regularly reviewed.
- 4.3 The Authority's political governance arrangements, which are appropriately reviewed by officers, set out the responsibilities of both Members and senior managers. In particular, the Authority has identified the following statutory post holders:-

- Chief Fire Officer
- Treasurer
- Monitoring Officer

In addition to the statutory posts, the post of Clerk to the Authority has been maintained.

- 4.4 The arrangements for the provision of internal audit are contained within the Authority's Financial Regulations. The Treasurer is responsible for ensuring that there is an adequate and effective system of internal audit of the Authority's accounting and other systems of internal control as required by the Accounts and Audit Regulations 2015. The internal audit provision operates in accordance with the CIPFA Code of Practice for Internal Audit in Local Government. The Authority's Audit Plan is prioritised by a combination of the key internal controls, assessment and review on the basis of risk and the Authority's corporate governance arrangements, including risk management. The work is further supplemented by reviews around the main financial systems, scheduled visits to Authority establishments and fraud investigations. Internal Audit leads on promoting a counter-fraud culture within the Authority.
- 4.5 The resulting Audit Plan is discussed and agreed with officers of the Strategic Enabling Team and the Audit and Risk Committee and shared with the Authority's external auditor. Meetings between the internal and external auditor ensure that duplication of effort is avoided. All Authority Audit reports include an assessment of the adequacy of internal control and prioritised action plans to address any areas needing improvement.

- 4.6 The Authority's review of the effectiveness of the system of internal control is informed by:-
- The work undertaken by Internal Audit during the year;
 - The work undertaken by the external auditor reported in their annual audit;
 - Other work undertaken by independent inspection bodies.
- 4.7 From the work undertaken by Internal Audit in 2021/2022 the Internal Audit has given a 'reasonable assurance' that the Authority has adequate and effective governance, risk management and internal control processes. This represents an unqualified opinion and the highest level of assurance available to Audit Services. In giving this opinion it is recognised that assurance can never be absolute. The most that internal audit can provide is reasonable assurance that there are no major weaknesses in the Authority's governance, risk management and control processes.
- 4.8 The Authority is able to confirm that its financial management arrangements conform to the governance requirements of the CIPFA Statement on the Role of the Chief Financial Officer in Local Government.
- 4.9 Audit Services have reported and advised on the implications of the result of the review of effectiveness of the governance framework by the sources noted above and that the arrangements continue to be regarded as fit for purpose in accordance with the Authority's governance framework. The areas to be specifically addressed are outlined in 5.5.

5. Significant governance arrangements within the Authority

- 5.1 West Midlands Fire & Rescue Authority has a legal duty to provide an efficient, safe and effective fire and rescue service. The key priorities are:-
- Prevention – Safer and healthier communities
 - Protection – stronger business communities
 - Response – dealing effectively with emergencies
- 5.2 These formed the basis of the Authority's Annual Plan 2021-24 which set out the outcomes and priorities based on the Community Risk Management Plan and Medium-Term Financial Plan. The five-minute attendance standard lies at the heart of the Service Delivery Model. The model shows how staff provide the core prevention, protection and response services to make the West Midlands safer, stronger and healthier.
- 5.3 Grant Thornton, the Authority's External Auditors, published the Audit Findings Report for its 2020/2021 audit work which reported an unqualified opinion on the financial statements. It also issued an unqualified value for money conclusion stating that the Authority had proper arrangements in all significant respects to ensure it delivered value for money in the use of resources.

5.4 Based on audit work undertaken during the year an Annual Internal Audit Report was presented to the Audit and Risk Committee on 6 June 2022, Audit work which was completed in 2021/2022 included:-

- Data Protection
- Fire Stations – Management of Fuel
- Environmental Protection Targets
- Workforce Planning
- Fixed Asset Accounting
- Accounts Payable
- Budgetary Control
- Accounts Receivable
- Governance
- Risk Management

5.5 As a result of these audits the following was identified as the main issue:-

Data Protection

A review was undertaken to provide assurance that the necessary safeguards were in place to ensure the appropriate use of personal and corporate information. Internal Audits review of five subject access requests (SARs) in order to ensure they had been processed within the designated timescales, highlighted that in three cases, there was no documentarian to enable the timescales to be confirmed.

Management of Fuel

A review was undertaken to provide assurance on compliance with established controls over ordering, receipt and dispensing of fuel at a sample of five stations. The review identified issues relating to:

- Examples were found of fuel orders being placed when the storage tanks were below the specified re-order level.
- Written records relating to fuel deliveries and issues were not always maintained in accordance with the relevant standing order and therefore, not all information was recorded and there were arithmetical errors in the fuel balance figures.
- The issues identified above do increase the risk that fuel levels are not accurately monitored.

Workforce Planning

Workforce planning is integral to the operation of the Fire Authority and the delivery of its strategic plan. The purpose of the review was to assess the adequacy of the workforce planning processes and to provide assurance on how well they were embedded within the Fire Authority. In general, the processes in place effectively support the Fire Authority in delivering its strategic plan. The review did identify two issues relating to:

A system of multiple spreadsheets is used to maintain and monitor the staffing establishment. It was identified that process notes had not been established to

document the system to be followed to maintain and monitor the various spreadsheets. As such, there was a risk of inconsistencies in approach, or loss of knowledge should key staff be unavailable. They would also be a useful training aid for any new staff.

- The policies which formed part of the appraisal/performance management/appraisal framework had not been reviewed on a regular basis. It is acknowledged that these documents were currently under review by relevant officers, but there was no set timescale for completion.
- Due to issues experienced with the reporting functionality in respect of the new Oracle Fusion system, it had not been possible to produce and publish the performance indicators which are required to support the management of absence within the Fire Authority. As such, there is a risk that absences may not be effectively managed.

- 5.6 The issues outlined above, together with any other issues highlighted in the Annual Internal Audit Report have been raised with relevant managers and actions have been taken to achieve improvements.
- 5.7 In February 2021, the Secretary of State for the Ministry for Housing, Communities and Local Government (MHCLG), now the Department for Levelling Up, Housing and Communities (DLUHC) confirmed the Authority's funding settlement for 2021/22 at £53.002M, which was a one-year only settlement.
- 5.8 In December 2021, the Secretary of State for DLUHC announced the provisional settlement for 2022/23 at £53.590m, resulting in a funding increase of £0.588m (1.1%). In addition, it was indicated a new 'one-off' Services Grant would be distributed through the existing Settlement Funding Assessment formula amounting to approximately £2.3M for this Authority (additional national insurance contribution costs of approximately £650k are to be funded from this). The Government also proposed a general Council Tax referendum threshold of 2% for Fire and Rescue Authorities. However, for one year only (2022/23), for the Fire and Rescue Authorities in the lowest charging quartile, there would be flexibility to increase Band D precepts by £5.
- 5.9 The 2022/23 Local Government Finance Settlement was a one year only Settlement, rather than the anticipated three-year Comprehensive Spending Review period. Multi-year settlements are a more effective way of managing resources, aligned to longer term planning and this uncertainty needs to be factored into the Medium-Term Financial Strategy. Every 1% increase/reduction in core funding represents an increase/loss of circa £0.536m funding for the Authority.
- 5.10 In addition, there are ongoing budget uncertainties, particularly Firefighter pension related issues, that have significant funding implications but at this stage still remain unclear in terms of ongoing cost and whether those costs will need to be found by Fire and Rescue Authorities and/or by Government funding. Furthermore, the Service is likely to continue to be directly impacted to some degree by the effects of COVID during 2022/23 together with the linked requirement to invest in the health, safety and wellbeing of all staff. General supply chain issues and the 'cost of living' crisis are also likely to present budget

pressures. Therefore, whilst the Government funding allocation in 2022/23 is higher in cash terms compared to 2021/22, a high level of caution still needs to be applied to future financial years as the funding position remains volatile for the Fire Sector.

5.11 Covid-19 Governance Impact 2021/22

Since March 2020, the Coronavirus pandemic resulted in two nationwide lockdowns and an emergency response, which had impacts on the Authority's "business as usual" during 2020/21 and 2021/22

During both municipal years the Authority invoked Decisions under Matters of Urgency (Section 17.1 Authority Standing Orders) enabling the continuity of decision making by the Chief Fire Officer and Chair of the Authority on items of strategic importance or reverted to hybrid meetings enabling decision making with immediate effect following expiry of temporary legislation (The Local Authorities (Coronavirus) (Flexibility of Local Authority Meetings) (England) Regulations 2020).

During the original phase of the COVID-19 pandemic commencing in March 2020, a Business Continuity Management Team (BCMT) was established which comprised the Strategic Leadership Team and was COVID-19 specific in activity. This was supported by a Business Continuity Planning Team (BCPT) which comprised a cohort of Middle Managers who project managed the response to the pandemic across the Service. This infrastructure continued throughout each response and recovery phase of the pandemic; both were stood down in April 2022 for COVID-19 purposes.

6. Certification

- 6.1 To the best of our knowledge, the governance arrangements, as outlined above have been effectively operating during the year with the exception of those areas identified as requiring improvement. We propose over the coming year to take steps to address the above matters to further enhance our governance arrangements. We are satisfied that these steps will address the need for improvements that were identified during the review of effectiveness and will monitor their implementation and operation as part of our annual review.

Greg Brackenridge
Chair
West Midlands Fire & Rescue Authority

Phil Loach
Chief Fire Officer

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND RISK COMMITTEE

6 JUNE 2022

1. **AUDIT PLAN 2021/2022**

Joint report of the Chief Fire Officer and Treasurer

RECOMMENDED

- 1.1 THAT the Committee approve Grant Thornton's Audit Plan (Appendix A) to enable the delivery of the audit of financial statements and the value for money conclusion 2021/22.

2. **PURPOSE OF REPORT**

- 2.1 The purpose of the report is to seek Committee approval of Grant Thornton's Audit Plan. The plan (Appendix A) sets out the audit work Grant Thornton will undertake in respect of the audit of the Authority's financial statements and the delivery of its value for money conclusion on the Authority's arrangements to secure economy, efficiency and effectiveness.

3. **BACKGROUND**

- 3.1 The Audit Plan 2021/22 sets out the audit work that Grant Thornton propose to undertake and the key deadlines and milestones associated with the delivery of this work. The plan has been developed using a risk-based approach and considers the risks relevant to both the audit of accounting statements and the value for money conclusion.
- 3.2 The Code requires Grant Thornton to consider whether the Authority has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the Value for Money (VFM) conclusion.
- 3.3 The National Audit Office (NAO) has issued guidance for auditors on value for money work for 2021/22. The guidance

states that for local government bodies, auditors are required to give a conclusion on whether the Authority has proper arrangements in place.

- 3.4 The Accounts and Audit Regulations 2015 require that the accounts be submitted to Members for approval by the end of July. However, for 2020/21 and 2021/22 the Regulations were amended by the Accounts and Audit (Amendment) Regulations 2021, with the deadline to publish the audited accounts being pushed back from 31 July to 30 September.
- 3.5 In December 2021, the Department for Levelling Up, Housing and Communities announced a new package of measures to support the improved timeliness of local audit and the ongoing stability of the local audit market. The proposals included extending the published/audited deadline to 30 November 2022 for the 2021/22 accounts, then reverting to 30 September for the next six years.
- 3.6 The plan sets out the key phases and activities for the delivery of the audit work. All reports arising from this audit work will be discussed and agreed with appropriate officers prior to submission to Members.
- 3.7 Representatives from Grant Thornton will be in attendance at the Audit and Risk Committee.

4. **EQUALITY IMPACT ASSESSMENT**

- 4.1 In preparing this report an initial Equality Impact Assessment is not required as the matters contained in this report do not relate to a policy change.

5. **LEGAL IMPLICATIONS**

- 5.1 The production of the Audit Plan complies with the statutory requirements set out within the Local Audit and Accountability Act 2014 and in accordance with the Code of Practice issued by the National Audit Office.

6. **FINANCIAL IMPLICATIONS**

- 6.1 The scale fee for undertaking West Midlands Fire and Rescue Authority's external audit work for 2021/22 is set at £53,800.

BACKGROUND PAPERS

None.

The contact officer for this report is Wayne Brown, Deputy Chief Fire Officer, 0121 380 6907.

PHIL LOACH
CHIEF FIRE OFFICER

MIKE GRIFFITHS
TREASURER

West Midlands Fire & Rescue Authority audit plan

Year ending 31 March 2022

June 2022



Contents



**Your key Grant Thornton
team members are:**

Avtar Sohal

Key Audit Partner
T 0121 232 5240
E Avtar.S.Sohal@uk.gt.com

Harkamal Vaid

Audit Manager
T 0115 697 9365
E Harkamal.S.Vaid@uk.gt.com

Aaron Smallwood

Audit In-charge
T 0121 232 5336
E Aaron.K.Smallwood@uk.gt.com

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Key matters	03	The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit planning process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Authority or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.
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Key matters

Factors

Authority developments

The Authority is forecasting another robust financial performance in year, and looking to the coming year with a balanced budget and required savings plans successfully identified and planned out. The Authority's 2021/22 Council Tax requirement was £45.038. against a revenue budget of £101.764m. Per the most up to date financial data available, the Authority reported a favourable variance of £0.060m against a budget in February 2022.

Recovery from Covid 19 pandemic

The Authority's finance team, management and governance colleagues have adapted well to remote working arrangements. Processes and controls were adapted where required to ensure that base level day to day financial management of the Authority's finance is maintained. The Authority are now working using a hybrid approach with a mix of working remotely and returning to the offices. We will continue to monitor the Authority's adaptations to new ways of working as part of our Value for Money work and will continue to update our audit risk assessment in relation to the financial position throughout our planning and final accounts processing.

Other local developments

During the year, the Authority moved from an externally hosted Oracle Business System financial ledger, to an internally hosted Oracle Fusion ledger. This is a key change to how the Authority records its financial activity and monitors performance. It is important the Authority ensures that its employees use the new system effectively to help ensure that financial activity is recorded. For the purposes of the 2021/22 audit, we have identified this as a significant risk, as the chances that there are errors in the financial recording and reporting increases when a new ledger is implemented by an entity – there is also a risk that data migration may cause challenge in respect of financial reporting for the year. See page 9 for more details.

Our response

- As a firm, we are absolutely committed to audit quality and financial reporting in the local government sector. Our proposed work is set out within the plan and has been agreed with the Strategic Enabler of Finance and Resources. Our proposed fee remains under discussion with our regulator and will be communicated to you separately in due course.
- We will consider your arrangements for managing and reporting your financial resources as part of our work in completing our Value for Money work.
- We continue to deem the possibility of errors in management's estimation process in relation to the valuation of land and buildings to be a significant risk of material misstatement and will focus on the Authority's process of reviewing third party reports – see further details on page 5, along with information on the other significant risks identified (in relation to pensions net liability, management override of controls and implementation of the new ledger).
- We identified a significant audit risk relating to the data migration of the new ledger – refer to page 9. Our IT auditors will review the Authority's process for ensuring the data migration was complete and accurate.
- We will continue to provide you with sector updates via our Audit and Risk Committee updates.

Introduction and headlines

Purpose

This document provides an overview of the planned scope and timing of the statutory audit of West Midlands Fire & Rescue Authority ('the Authority') for those charged with governance.

Respective responsibilities

The National Audit Office ('the NAO') has issued a document entitled Code of Audit Practice ('the Code'). This summarises where the responsibilities of auditors begin and end and what is expected from the audited body. Our respective responsibilities are also set out in the agreed in the Terms of Appointment and Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA), the body responsible for appointing us as auditor of the Authority. We draw your attention to both of these documents.

Scope of our audit

The scope of our audit is set in accordance with the Code and International Standards on Auditing (ISAs) (UK). We are responsible for forming and expressing an opinion on the Authority's financial statements that have been prepared by management with the oversight of those charged with governance (the Audit and Risk committee); and we consider whether there are sufficient arrangements in place at the Authority for securing economy, efficiency and effectiveness in your use of resources. Value for money relates to ensuring that resources are used efficiently to maximise the outcomes that can be achieved.

The audit of the financial statements does not relieve management or the Audit and Risk Committee of your responsibilities. It is the responsibility of the Authority to ensure that proper arrangements are in place for the conduct of its business, and that public money is safeguarded and properly accounted for. We have considered how the Authority is fulfilling these responsibilities.

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

Significant risks

Those risks requiring special audit consideration and procedures to address the likelihood of a material financial statement error have been identified as:

- Management override of controls
- Valuation of land and buildings
- Valuation of net pension fund liability
- Implementation of a new ledger system

We will communicate significant findings on these areas as well as any other significant matters arising from the audit to you in our Audit Findings (ISA 260) Report.

Materiality

We have determined planning materiality to be £2.6m (PY £2.6m) for the Authority, which equates to approximately 2% of your prior year gross expenditure for the year. We are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. Clearly trivial has been set at £0.130m (PY £0.130m).

Value for Money arrangements

As at the planning stage, we have not identified any risks of significant weakness in your arrangements. We will continue to monitor, update and report on our risk assessment throughout the audit process and will advise if we become aware of any emerging risks via our ISA 260 Audit Findings Report.

Please refer to page 13 for further details on our work in this area.

Audit logistics

Our audit planning took place in February – March and our final visit will begin in July. Our key deliverables are this Audit Plan, our Audit Findings Report and Auditor's Annual Report.

Our fee for the audit will be £53,800 and remains under discussion with our regulator as part of a sector wide exercise. As in previous years, the fee remains subject to the Authority delivering a good set of financial statements and working papers.

We have complied with the Financial Reporting Council's Ethical Standard (revised 2019) and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements..

Significant risks identified

Significant risks are defined by ISAs (UK) as risks that, in the judgement of the auditor, require special audit consideration. In identifying risks, audit teams consider the nature of the risk, the potential magnitude of misstatement, and its likelihood. Significant risks are those risks that have a higher risk of material misstatement.

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
The revenue and expenditure cycle includes fraudulent transactions [rebutted]	<p>Under ISA (UK) 240, there is a rebuttable presumed risk that revenue may be misstated due to the improper recognition of revenue.</p> <p>This presumption can be rebutted if the auditor concludes that there is no risk of material misstatement due to fraud relating to revenue recognition.</p> <p>As external auditors in the public sector, we are also required to give regard to Practise Note 10, which interprets the ISA in a public sector context and directs us to consider whether the assumption also applies to expenditure.</p>	<p>Having considered the risk factors set out in ISA 240 and the nature of the revenue streams at the Authority, we have determined that the risk of fraud arising from revenue and expenditure recognition can be rebutted, because:</p> <ul style="list-style-type: none"> - there is little incentive to manipulate revenue and expenditure recognition - opportunities to manipulate revenue and expenditure recognition are very limited; and - the culture and ethical frameworks of local authorities, including West Midlands Fire & Rescue Authority, mean that all forms of fraud are seen as unacceptable. <p>Therefore we do not consider this to be a significant risk for West Midlands Fire & Rescue Authority.</p>
Management over-ride of controls	<p>Under ISA (UK) 240, there is a non-rebuttable presumed risk that management override of controls is present in all entities. The Authority faces external scrutiny of its spending and this could potentially place management under undue pressure in terms of how they report performance.</p> <p>We therefore identified management override of control, in particular journals, management estimates and transactions outside the course of business as a significant risk of material misstatement.</p>	<p>We will:</p> <ul style="list-style-type: none"> • Evaluate the design effectiveness of management controls over journals; • Analyse the journals listing and determine the criteria for selecting high risk unusual journals; • Test unusual journals recorded during the year and after the draft accounts stage for appropriateness and corroboration; • Gain an understanding of the accounting estimates and critical judgements applied by management and consider their reasonableness with regard to corroborative evidence; and • Evaluate the rationale for any changes in accounting policies, estimates or significant unusual transactions.

Significant risks identified

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
Valuation of land and buildings (PPE)	<p>The Authority revalues its land and buildings on an annual basis.</p> <p>This valuation represents a significant estimate by management in the financial statements due to the size of the numbers involved (approximately £124m in the prior period) and the sensitivity of this estimate to changes in key assumptions.</p> <p>We have therefore identified valuation of land and buildings, particularly revaluations and impairments, as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>We will;</p> <ul style="list-style-type: none"> • Evaluate management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation experts and the scope of their work; • Evaluate the competence, capabilities and objectivity of the valuation expert; • Write to the valuer to confirm the basis on which the valuation was carried out to ensure that the requirements of the CIPFA code are met; • Challenge the information and assumptions used by the valuer to assess completeness and consistency with our understanding; • Test revaluations made during the year to see if they had been input correctly into the Authority's balance sheet
Valuation of the pension fund net liability	<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 liability is considered a significant estimate due to the size of the numbers involved (approximately £1,866m as at 31 March 2021, including both the Firefighters' and LGPS schemes) 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 misstatements.</p>	<p>We will:</p> <ul style="list-style-type: none"> • Update 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 evaluate the design of the associated controls; • Evaluate the instructions issued by management to their management expert (an actuary) for this estimate and the scope of the actuary's work; • Assess the competence, capabilities and objectivity of the actuary who carried out the Authority's pension fund valuation; • Assess the accuracy and completeness of the information provided by the Authority to the actuary to estimate the liability; • Test 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; • Undertake 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; and • Obtain assurances from the auditor of West Midlands Pension Fund as to the controls surrounding the validity and accuracy of membership data, contributions data and benefits data sent to the actuary by the pension fund and the fund assets valuation in the pension fund financial statements.

Significant risks identified

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
Implementation of a new ledger system	<p data-bbox="555 304 1272 475">During the year, the Authority moved from an externally hosted Oracle Business System financial ledger, to an internally hosted Oracle Fusion ledger. This required migration of data for the first six months of the financial year from one system to another. The Authority staff will also be using a new ledger during the financial statements closedown and preparation process.</p> <p data-bbox="555 528 1272 639">There is a risk that data migrated between systems is not accurate or complete, and the operation of a new ledger system during the financial statements closedown and preparation process may lead to an increased number of errors or delays.</p>	<p data-bbox="1294 304 1379 328">We will;</p> <ul data-bbox="1294 344 2101 576" style="list-style-type: none"> <li data-bbox="1294 344 2101 400">• Review the Authority's process for ensuring the data migration was complete and accurate; <li data-bbox="1294 408 2101 464">• Perform procedures to determine the design effectiveness of IT general controls of the new ledger system; <li data-bbox="1294 472 2101 528">• Review management's process for the closedown and preparation of the financial statements; and <li data-bbox="1294 536 2101 576">• Additional tests resulting from the above procedures, if required.

Accounting estimates and related disclosures

The Financial Reporting Council issued an updated ISA (UK) 540 (revised): *Auditing Accounting Estimates and Related Disclosures* which includes significant enhancements in respect of the audit risk assessment process for accounting estimates. We identified one recommendation in our 2020/21 audit in relation to the Authority's estimation process for valuation of land and buildings.

Introduction

Under ISA (UK) 540 (Revised December 2018) auditors are required to understand and assess an entity's internal controls over accounting estimates, including:

- The nature and extent of oversight and governance over management's financial reporting process relevant to accounting estimates;
- How management identifies the need for and applies specialised skills or knowledge related to accounting estimates;
- How the entity's risk management process identifies and addresses risks relating to accounting estimates;
- The entity's information system as it relates to accounting estimates;
- The entity's control activities in relation to accounting estimates; and
- How management reviews the outcomes of previous accounting estimates.

As part of this process auditors also need to obtain an understanding of the role of those charged with governance, which is particularly important where the estimates have high estimation uncertainty, or require significant judgement.

Specifically do Audit and Risk Committee members:

- Understand the characteristics of the methods and models used to make the accounting estimates and the risks related to them;
- Oversee management's process for making accounting estimates, including the use of models, and the monitoring activities undertaken by management; and
- Evaluate how management made the accounting estimates?



Accounting estimates and related disclosures

Additional information that will be required

To ensure our compliance with this revised auditing standard, we will be requesting further information from management and those charged with governance during our audit for the year ended 31 March 2022.

Based on our knowledge of the Authority we have identified the following material accounting estimates for which this is likely to apply:

- Valuations of land and buildings
- Depreciation
- Year end provisions and accruals
- Credit loss and impairment allowances
- Valuation of defined benefit net pension fund liabilities
- Fair value estimates

The Authority's Information systems

In respect of the Authority's information systems we are required to consider how management identifies the methods, assumptions and source data used for each material accounting estimate and the need for any changes to these. This includes how management selects, or designs, the methods, assumptions and data to be used and applies the methods used in the valuations.

When the models used include increased complexity or subjectivity, as is the case for many valuation models, auditors need to understand and assess the controls in place over the models and the data included therein. Where adequate controls are not in place we may need to report this as a significant control deficiency and this could affect the amount of detailed substantive testing required during the audit.

If management has changed the method for making an accounting estimate we will need to fully understand management's rationale for this change. Any unexpected changes are likely to raise the audit risk profile of this accounting estimate and may result in the need for additional audit procedures.

We are aware that the Authority uses management experts in deriving some of its more complex estimates (asset valuations and pensions liabilities). However, it is important to note that the use of management experts does not diminish the responsibilities of management and those charged with governance to ensure that:

- All accounting estimates and related disclosures included in the financial statements have been prepared in accordance with the requirements of the financial reporting framework, and are materially accurate;
- There are adequate controls in place at the Authority (and where applicable its service provider or management expert) over the models, assumptions and source data used in the preparation of accounting estimates.



Estimation uncertainty

Under ISA (UK) 540 we are required to consider the following:

- How management understands the degree of estimation uncertainty related to each accounting estimate; and
- How management address this estimation uncertainty when selecting their point estimate.

For example, how management identified and considered alternative, methods, assumptions or source data that would be equally valid under the financial reporting framework, and why these alternatives were rejected in favour of the point estimate used.

The revised standard includes increased emphasis on the importance of the financial statement disclosures. Under ISA (UK) 540 (Revised December 2018), auditors are required to assess whether both the accounting estimates themselves and the related disclosures are reasonable.

Where there is a material uncertainty, that is where there is a significant risk of a material change to the estimated carrying value of an asset or liability within the next year, there needs to be additional disclosures. Note that not all material estimates will have a material uncertainty and it is also possible that an estimate that is not material could have a risk of material uncertainty.

Where there is material estimation uncertainty, we would expect the financial statement disclosures to detail:

- **What the assumptions and uncertainties are;**
- **How sensitive the assets and liabilities are to those assumptions, and why;**
- **The expected resolution of the uncertainty and the range of reasonably possible outcomes for the next financial year; and**
- **An explanation of any changes made to past assumptions if the uncertainty is unresolved.**

Planning enquiries

As part of our planning risk assessment procedures we have made enquiries of management via our Informing the Risk Assessment report which we use as a vehicle for updating our understanding of the Authority's controls framework. We will present this as a separate report and ask that the Committee review and approve the report to ensure we have a consistent understanding of the Authority's arrangements.

Further information

Further details on the requirements of ISA (UK) 540 (Revised December 2018) can be found in the auditing standard on the Financial Reporting Council's website:

[https://www.frc.org.uk/getattachment/0fa69c03-49ec-49ae-a8c9-cc7a2b65382a/ISA-\(UK\)-540_Revised-December-2018_final.pdf](https://www.frc.org.uk/getattachment/0fa69c03-49ec-49ae-a8c9-cc7a2b65382a/ISA-(UK)-540_Revised-December-2018_final.pdf)

Other matters

Other work

In addition to our responsibilities under the Code of Practice, we have a number of other audit responsibilities, as follows:

- We read your Narrative Report and Annual Governance Statement to check that they are consistent with the financial statements on which we give an opinion and our knowledge of the Authority.
- We carry out work to satisfy ourselves that disclosures made in your Annual Governance Statement are in line with requirements set by CIPFA.
- We carry out work on your consolidation schedules for the Whole of Government Accounts process in accordance with NAO group audit instructions.
- We consider our other duties under legislation and the Code, as and when required, including:
 - giving electors the opportunity to raise questions about your 2021/22 financial statements, consider and decide upon any objections received in relation to the 2021/22 financial statements;
 - issuing a report in the public interest or written recommendations to the Authority under section 24 of the Local Audit and Accountability Act 2014 (the Act).
 - application to the court for a declaration that an item of account is contrary to law under section 28 or a judicial review under section 31 of the Act
 - issuing an advisory notice under section 29 of the Act
- We certify completion of our audit.

Other material balances and transactions

Under International Standards on Auditing, "irrespective of the assessed risks of material misstatement, the auditor shall design and perform substantive procedures for each material class of transactions, account balance and disclosure". All other material balances and transaction streams will therefore be audited. However, the procedures will not be as extensive as the procedures adopted for the risks identified in this report.

Materiality

The concept of materiality

Materiality is fundamental to the preparation of the financial statements and the audit process and applies not only to the monetary misstatements but also to disclosure requirements and adherence to acceptable accounting practice and applicable law. Misstatements, including omissions, are considered to be material if they, individually or in the aggregate, could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

Materiality for planning purposes

We have determined financial statement materiality based on a proportion of the gross expenditure of the Authority for the previous financial year. In the prior year we used the same benchmark. Materiality at the planning stage of our audit is £2.6m (PY £2.6m), which equates to approximately 2% of your prior period gross expenditure for the year. We design our procedures to detect errors in specific accounts at a lower level of precision which we have determined to be 2% of total expenditure for Senior Officer Remuneration, owing to the level of sensitivity and public scrutiny in this area.

We reconsider planning materiality if, during the course of our audit engagement, we become aware of facts and circumstances that would have caused us to make a different determination of planning materiality.

Matters we will report to the Audit and Risk Committee

Whilst our audit procedures are designed to identify misstatements which are material to our opinion on the financial statements as a whole, we nevertheless report to the Audit and Risk Committee any unadjusted misstatements of lesser amounts to the extent that these are identified by our audit work. Under ISA 260 (UK) 'Communication with those charged with governance', we are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. ISA 260 (UK) defines 'clearly trivial' as matters that are clearly inconsequential, whether taken individually or in aggregate and whether judged by any quantitative or qualitative criteria. In the context of the Authority, we propose that an individual difference could normally be considered to be clearly trivial if it is less than £0.130m (PY £0.130m).

If management have corrected material misstatements identified during the course of the audit, we will consider whether those corrections should be communicated to the Audit and Risk Committee to assist it in fulfilling its governance responsibilities.

Prior year gross operating costs

£130.547m



■ Prior year gross operating costs

Materiality

£2.6m

Authority financial statements materiality (PY: £2.6m)

£0.130m

Misstatements reported to the Audit and Risk Committee (PY: £0.130m)

Value for Money arrangements

Approach to Value for Money work for 2021/22

The National Audit Office (NAO) issued updated guidance for auditors in April 2020. The Code requires auditors to consider whether the body has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. When reporting on these arrangements, the Code requires auditors to structure their commentary on arrangements under three specified reporting criteria. These are as set out below:



Improving economy, efficiency and effectiveness

Arrangements for improving the way the body delivers its services. This includes arrangements for understanding costs and delivering efficiencies and improving outcomes for service users.



Financial Sustainability

Arrangements for ensuring the body can continue to deliver services. This includes planning resources to ensure adequate finances and maintain sustainable levels of spending over the medium term (3-5 years)



Governance

Arrangements for ensuring that the body makes appropriate decisions in the right way. This includes arrangements for budget setting and management, risk management, and ensuring the body makes decisions based on appropriate information

We have not identified any risks of significant weaknesses from our initial planning work. We will continue our review of your arrangements, including reviewing your Annual Governance Statement, before we issue our auditor's annual report.



Audit logistics and team



Planning and
risk assessment

Audit and Risk
committee
June 2022

Audit Plan



Year end audit
Summer 2022

Audit and Risk
committee
TBC (est November 2022)

Audit Findings
Report/Draft
Auditor's Annual
Report

Audit
opinion

Audit and Risk
committee
TBC (est November 2022)

Auditor's
Annual
Report



Avtar Sohal, Key Audit Partner

Avtar leads our relationship with you and takes overall responsibility for the delivery of a high quality audit, ensuring the highest professional standards are maintained with a commitment to add value to the Authority.



Harkamal Vaid, Audit Manager

As the engagement manager, Harkamal is responsible for overseeing delivery of our service and managing the audit process in respect of the Authority. He will be on hand to answer any queries, whilst ensuring an efficient audit process.



Aaron Smallwood, Audit Incharge

Aaron will work with relevant officers and our operational team to ensure the smooth planning and delivery of the audits. He will oversee the day to day running of the audit and discuss any issues with you during the audit process as well as any questions you may have throughout the year.

Audited body responsibilities

Where audited bodies do not deliver to the timetable agreed, we need to ensure that this does not impact on audit quality or absorb a disproportionate amount of time, thereby disadvantaging other audits. Where the elapsed time to complete an audit exceeds that agreed due to a client not meeting its obligations we will not be able to maintain a team on site. Similarly, where additional resources are needed to complete the audit due to a client not meeting their obligations we are not able to guarantee the delivery of the audit to the agreed timescales. In addition, delayed audits will incur additional audit fees.

Our requirements

To minimise the risk of a delayed audit, you need to ensure that you:

- produce draft financial statements of good quality by the agreed timetable you have agreed with us, including all notes, the Narrative Report and the Annual Governance Statement
- ensure that good quality working papers are available at the start of the audit, in accordance with the working paper requirements schedule that we have shared with you
- ensure that the agreed data reports are available to us at the start of the audit and are reconciled to the values in the accounts, in order to facilitate our selection of items for testing
- ensure that all appropriate staff are available on site throughout (or as otherwise agreed) the planned period of the audit
- respond promptly and adequately to audit queries.

Audit fees

In 2018, PSAA awarded a contract of audit for West Midlands Fire & Rescue Authority to begin with effect from 2018/19. The fee agreed in the contract was £29,750. Since that time, there have been a number of developments, particularly in relation to the revised Code and ISA's which are relevant for the 2021/22 audit.

Across all sectors and firms, the FRC has set out its expectation of improved financial reporting from organisations and the need for auditors to demonstrate increased scepticism and challenge and to undertake additional and more robust testing, as detailed on page 8 in relation to the updated ISA (UK) 540 (revised): Auditing Accounting Estimates and Related Disclosures.

The proposed 2021/22 audit fee includes the additional procedures required for the significant risk of implementing the new ledger and the impact of remote working.

As a firm, we are absolutely committed to meeting the expectations of the FRC with regard to audit quality and public sector financial reporting. We are currently finalising discussions with PSAA in respect of fees for 2021/22. These will then be discussed and agreed with the Strategic Enabler of Finance and Resources.

	Actual Fee 2019/20	Actual Fee 2020/21	Proposed fee 2021/22
West Midlands Fire and Rescue Authority Audit	£45,330	£45,500	£53,800
Total audit fees (excluding VAT)	£45,330	£45,500	£53,800

Assumptions

In setting the above fees, we have assumed that the Authority will:

- prepare a good quality set of financial statements, supported by comprehensive and well presented working papers which are ready at the start of the audit
- provide appropriate analysis, support and evidence to support all critical judgements and significant judgements made during the course of preparing the financial statements
- provide early notice of proposed complex or unusual transactions which could have a material impact on the financial statements.

Relevant professional standards

In preparing our fee estimate, we have had regard to all relevant professional standards, including paragraphs 4.1 and 4.2 of the FRC's [Ethical Standard \(revised 2019\)](#) which stipulate that the Engagement Lead (Key Audit Partner) must set a fee sufficient to enable the resourcing of the audit with partners and staff with appropriate time and skill to deliver an audit to the required professional and Ethical standards.

Independence and non-audit services

Auditor independence

Ethical Standards and ISA (UK) 260 require us to give you timely disclosure of all significant facts and matters that may bear upon the integrity, objectivity and independence of the firm or covered persons, relating to our independence. We encourage you to contact us to discuss these or any other independence issues with us. We will also discuss with you if we make additional significant judgements surrounding independence matters.

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention. We have complied with the Financial Reporting Council's Ethical Standard (Revised 2019) and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements. Further, we have complied with the requirements of the National Audit Office's Auditor Guidance Note 01 issued in May 2020 which sets out supplementary guidance on ethical requirements for auditors of local public bodies. We confirm that we have implemented policies and procedures to meet the requirements of the Ethical Standard. For the purposes of our audit we have made enquiries of all Grant Thornton UK LLP teams providing services to the Authority.

Other services

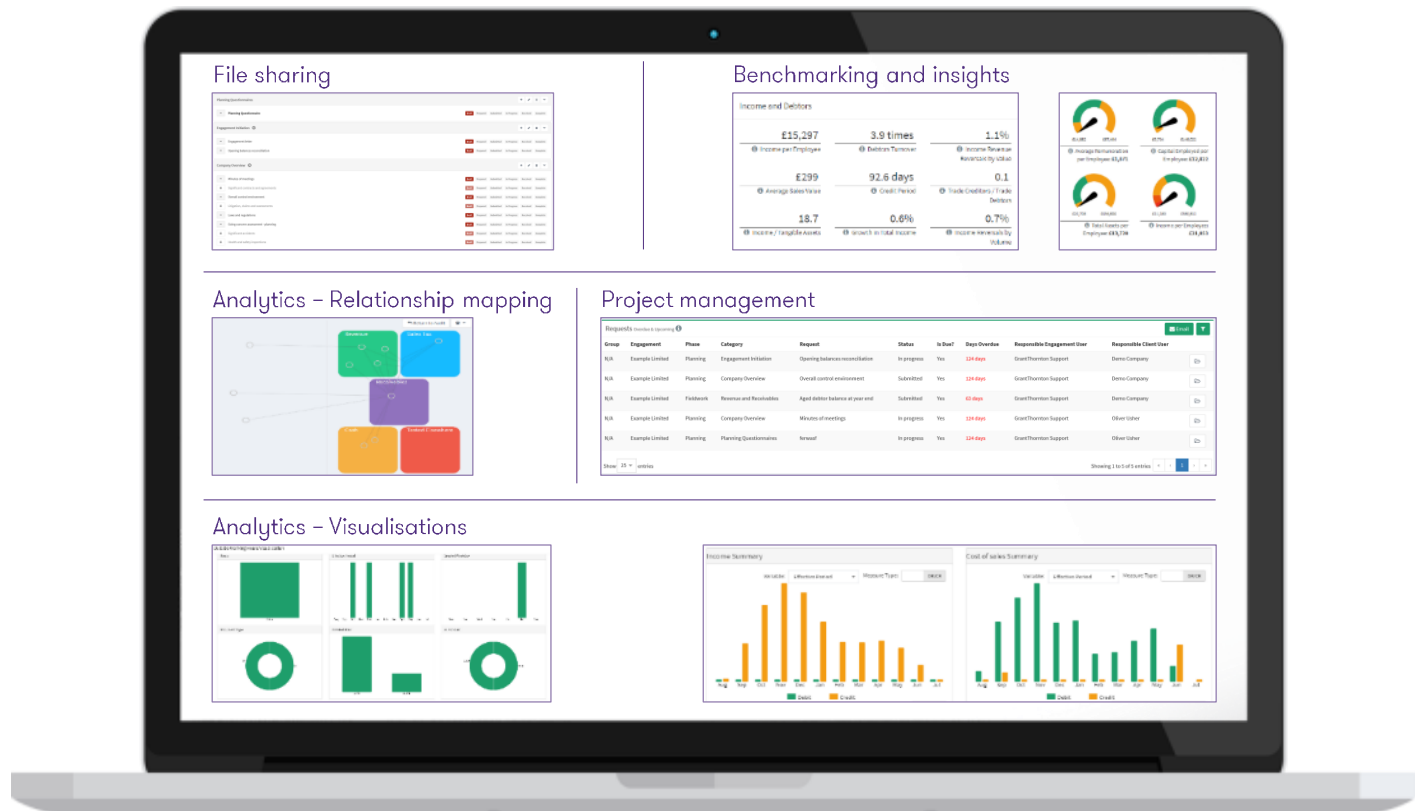
No other services provided by Grant Thornton were identified.

Any changes and full details of all fees charged for audit related and non-audit related services by Grant Thornton UK LLP and by Grant Thornton International Limited network member Firms will be included in our Audit Findings report at the conclusion of the audit.

Our digital audit experience

A key component of our overall audit experience is our comprehensive data analytics tool, which is supported by Inflo Software technology. This tool has a number of key functions within our audit process:

Function	Benefits for you
Data extraction	Providing us with your financial information is made easier
File sharing	An easy-to-use, ISO 27001 certified, purpose-built file sharing tool
Project management	Effective management and oversight of requests and responsibilities
Data analytics	Enhanced assurance from access to complete data populations



Grant Thornton's Analytics solution is supported by Inflo Software technology

Appendix 1: Progress against prior year audit recommendations

Under the auditing standard, we are required to report to you on the Authority's progress against any audit recommendations made in prior periods. We are pleased to note that there were no recommendations raised during the prior year. This is reflective of the robust control environment in place at the Authority.

Appendix 2: IT audit strategy

In accordance with ISA (UK) 315, we are required to obtain an understanding of the information systems relevant to financial reporting to identify and assess the risks of material misstatement. As part of this we obtain an understanding of the controls operating over relevant Information Technology (IT) systems i.e., IT general controls (ITGCs). Our audit will include completing an assessment of the design of ITGCs related to security management; technology acquisition, development and maintenance; and technology infrastructure. Based on the level of assurance required for each IT system the assessment may focus on evaluating key risk areas ('streamlined assessment') or be more in depth ('detailed assessment').

The following IT systems have been judged to be in scope for our audit and based on the planned financial statement audit approach we will perform the indicated level of assessment:

IT system	Audit area	Planned level IT audit assessment
Oracle Business System	Financial reporting	<ul style="list-style-type: none"> Streamlined ITGC design assessment

In addition, due to the significant changes during the period, specifically the new system implementation and data migration, we expect to complete additional audit procedures to address the additional risk of material misstatement identified:

IT system	Event	Relevant risks	Planned IT audit procedures
Oracle Fusion	New system implementation and data migration	Post migration data completeness and accuracy; system functionality operating to design.	<ul style="list-style-type: none"> Obtain an understanding of the process used for new system implementation. Audit of data migration activity and results.

Appendix 3: Significant improvements from the Financial Reporting Council's (FRC) quality inspection

On 29 October, the FRC published its annual report setting out the findings of its review of the work of local auditors. The report summarises the results of the FRC's inspections of twenty audit files for the last financial year. A link to the report is here: [FRC AQR Major Local Audits October 2021](#)

Grant Thornton are one of seven firms which currently delivers local audit work. Of our 330 local government and NHS audits, 87 are currently defined as 'major audits' which fall within the scope of the AQR. This year, the FRC looked at nine of our audits.

Our file review results

The FRC reviewed nine of our audits this year. It graded six files (67%) as 'Good' and requiring no more than limited improvements. No files were graded as requiring significant improvement, representing an impressive year-on-year improvement. The FRC described the improvement in our audit quality as an 'encouraging response by the firm to the quality findings reported in the prior year.' Our Value for Money work continues to be delivered to a high standard, with all of the files reviewed requiring no more than limited improvement. We welcome the FRC findings and conclusions which demonstrate the impressive improvement we have made in audit quality over the past year.

The FRC also identified a number of good practices including effective challenge of management's valuer, use of an auditor's expert to assist with the audit of a highly specialised property valuation, and the extent and timing of involvement by the audit partner on the VFM conclusion.

Our results over the past three years are shown in the table below:

Grade	Number 2018/19	Number 2019/20	Number 2020/21
Good with limited improvements (Grade 1 or 2)	1	1	6
Improvements required (Grade 3)	2	5	3
Significant improvements required (Grade 4)	1	0	0
Total	4	6	9

Our continued commitment to Audit quality and continuous improvement

Our work over the past year has been undertaken during the backdrop of COVID, when the public sector has faced the huge challenge of providing essential services and helping safeguard the public during the pandemic. Our NHS bodies in particular have been at the forefront of the public health crisis. As auditors we have had to show compassion to NHS staff deeply affected by the crisis, whilst staying focused on the principles of good governance and financial management, things which are more important than ever. We are very proud of the way we have worked effectively with audited bodies, demonstrating empathy in our work whilst still upholding the highest audit quality.

Significant improvements from the Financial Reporting Council's (FRC) quality inspection (cont.)

Over the coming year we will make further investments in audit quality including strengthening our quality and technical support functions, and increasing the level of training, support and guidance for our audit teams. We will address the specific improvement recommendations raised by the FRC, including:

- Enhanced training for local auditors on key assumptions within property valuations, and how to demonstrate an increased level of challenge
- Formalising our arrangements for the consideration of complex technical issues by Partner Panels.

As part of our enhanced Value for Money programme, we will focus on identifying the scope for better use of public money, as well as highlighting weaknesses in governance or financial stewardship where we see them.

Conclusion

Local audit plays a critical role in the way public sector audits an society interact, and it depends on the trust and confidence of all those who rely on it. As a firm we're proud to be doing our part to promote good governance, effective stewardship and appropriate use of public funds.

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT & RISK COMMITTEE

6 JUNE 2022

1. MONITORING POLICIES ON RAISING CONCERNS AT WORK – WHISTLE BLOWING STANDING ORDER 2/20 AND REGULATION OF INVESTIGATORY POWERS ACT 2000

Joint report of the Chief Fire Officer and the Monitoring Officer.

RECOMMENDED

- 1.1 THAT the Audit and Risk Committee notes that during the period of 1st April 2019 until 31st March 2020 there were no whistleblowing allegations reported through the Whistle Blowing Policy (SO 2/20).
- 1.2 THAT the Audit and Risk Committee notes that during the period of 1st April 2020 until 31st March 2021 there was 1 whistleblowing allegation that was reported through the Whistle Blowing Policy (SO 2/20).
- 1.3 THAT the Audit and Risk Committee notes that during the period of 1st April 2021 until 31st March 2022 there were no whistleblowing allegations reported through the Whistle Blowing Policy (SO 2/20).
- 1.4 During all three reporting periods from 1st April 2019 – 31st March 2022 There have been no requests to enact the Regulation of Investigatory Powers Act 2000 in West Midlands Fire Service.
- 1.3 THAT the Audit and Risk Committee notes the content of the Whistle Blowing Standing Order 2/20 (attached as Appendix 1) and the Management of Information Framework, Standing Order 1/5, Appendix 4, (attached as Appendix 2).

2. PURPOSE OF REPORT

From 1st April 2019 – 31st March 2020 There are no cases to report.
 From 1st April 2020 – 31st March 2021 There is 1 case to report which went through formal investigation and has now been resolved

and closed and the relevant person has been made aware of this resolution and closure.

From 1st April 2021 – 31st March 2022 There are no cases to report.

- 2.2 This report is submitted to inform the Committee of the monitoring of the referrals under the Whistle Blowing Standing Order 2/20 (attached as Appendix 1) and the use of the Regulation of Investigatory Powers Act under the Management of Information, Standing Order 1/5, Appendix 4, (attached as Appendix 2).

3. **BACKGROUND**

Whistle Blowing

- 3.1 Whistle Blowing Standing Order has been fully consulted on with all relevant parties and is due to be published in 2022 following the presentation of this report. The current Whistle Blowing policy is available to all employees through MESH.
- 3.2 In relation to Whistle Blowing; in May 1996 the Committee on Standards in Public Life stated that “All organisations face the risk of things going wrong or of unknowingly harbouring malpractice. Encouraging a culture of openness within an organisation will help: prevention is better than cure.”
- 3.3 The Public Interest Disclosure Act 1998 sets out a framework for public interest whistle blowing which protects workers from reprisal because they have raised concern about malpractice. Only a disclosure that relates to one of the broad categories of malpractice can qualify for protection under the Act. These include concerns about apparent or perceived whistleblowing allegations.
- 3.4 In addition to employees, the Act covers, for example, workers, contractors, trainees and agency staff. This list is not exhaustive.
- 3.5 To be protected, the person blowing the whistle must believe that their disclosure is “in the public interest”, i.e., disclosure is made in the reasonable belief that there is an issue such as wrongdoing in public office or something that presents a risk to the public that warrants disclosure.
- 3.6 The Committee should note that there has been 1 whistleblowing allegation raised by an employee over the last twelve months using the Whistle Blowing Policy up to 31 March 2021.

3.7 Data Protection

Data Protection Framework sits as Appendix 4 within the Management of Information Standing Order 1/5 (attached as Appendix 2).

3.8 Regulation of Investigatory Powers

The Regulation of Investigatory Powers Act 2000 (RIPA) provides a framework for control and supervision of investigatory powers exercised by public bodies, including local authorities, in order to balance the need to protect privacy of individuals with the need to protect others, particularly in light of the Human Rights Act 1998.

3.9 The Committee should note that the Service has not approved any surveillance under RIPA legislation in the last twelve months up to 31 March 2022.

3.10 The West Midlands Fire Service will continue to raise awareness through training on the Whistle Blowing Policy, Management of Information and RIPA to all of our partners.

4. EQUALITY IMPACT ASSESSMENT

In preparing this report an Equality Impact Assessment is not required, due to the fact that all our policies have Equality Impact Assessments carried out when updating and amending.

5. LEGAL IMPLICATIONS

5.1 Data Protection: depending on the level and or seriousness of a breach of the Data Protection Act 2018 (GDPR), there are various levels of prosecution ranging from enforcement notices, financial penalties and in extreme cases custodial sentences.

5.2 RIPA: if surveillance operations are not carried out in accordance with the safeguards as laid down in RIPA, the evidence obtained may not be admissible in legal proceedings and the Service may be subject of a claim on infringing the human rights of the person under surveillance.

6. **FINANCIAL IMPLICATIONS**

Monetary Penalty notices: fines of up to £500,000 under the Data Protection Act 2018 but rising to 4% of turnover or income circa €20m for serious breaches.

7. **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications arising from this report.

BACKGROUND PAPERS

The Public Interest Disclosure Act 1998 (PIDA)

PHIL LOACH
CHIEF FIRE OFFICER

SATINDER SAHOTA
MONITORING OFFICER TO THE
AUTHORITY

Appendix 1

WEST MIDLANDS FIRE SERVICE

02/20 WHISTLE BLOWING POLICY

Overview of Amendments

1 STRATEGY

Following the Public Interest Disclosure Act (PIDA), which came into force in July 1999 (updated on 1st May 2013 GOV.UK), legal protection is now provided to employees who raise concerns about suspected dangerous or illegal activity that they are aware of through their work. The common term for voicing such concerns is 'whistle blowing'. West Midlands Fire Service (WMFS) wishes to create an open and honest culture with its statutory obligations, detailed in the Act, and ethical standards, detailed in its Core Values. Details on our core values can be found in the Equality & Diversity Policy

2 PURPOSE

The Public Interest Disclosure Act 1998 makes sure that employees, contractors providing services, most agency workers, home workers and trainees on vocational and work experience schemes are legally protected in raising concerns responsibly.

External contractors may encounter wrongdoing that affects WMFS. Therefore, this whistle blowing policy is also open to employees of our contractors.

Whistle blowing is when an employee reports suspected wrongdoing at work. Officially this is called 'making a disclosure in the public interest'

3 RESPONSIBILITIES

3.1 Employee Responsibilities

A whistle blower is an employee, you! You report certain types of wrongdoing. This will usually be something you've seen at work - though not always.

The wrongdoing you disclose must be in the public interest. This means it must affect others, e.g. the general public.

As a whistle blower you're protected by law - you shouldn't be treated unfairly or lose your job because you 'blow the whistle'.

You can raise your concern at any time about an incident that happened in the past, is happening now, or you believe will happen in the near future.

Employees are often the first to realise that there may be something seriously wrong with the organisation that employs them. They may be able to alert the organisation early on to things like fraud, negligence, bribery and health and safety risks. However, they may not express their concerns, because they feel that speaking up would be disloyal to their colleagues or to the organisation. They may also fear harassment or victimisation. In these circumstances they may feel it easier to ignore the concern rather than report what may be no more than a suspicion of malpractice.

The procedures in this order give ways for individuals to raise concerns and receive feedback on any action taken. It makes sure that individuals receive a response and know how to pursue concerns if they are not happy with the response. It gives reassurance that individuals will be protected from possible reprisals or victimisation if they believe they have made a disclosure.

You're protected by law if you report any of the following:

- a criminal offence, eg fraud
- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- the company is breaking the law, e.g. doesn't have the right insurance
- you believe someone is covering up wrongdoing

Complaints that don't count as whistleblowing

Personal grievances (e.g. bullying, harassment, discrimination) aren't covered by whistleblowing law, unless your particular case is in the public interest. Report these under our Grievance Policy 2/2

3.2 Management Responsibilities

The action taken by the Service will depend on the nature of the concern. The matters raised may be investigated internally by an appropriately experienced officer knowledgeable in the area concerned, for example, audit, Line Manager or HR Practitioner.

Alternatively, through the disciplinary process, the matter may be referred to the police, the external auditor or may be the subject of an independent enquiry.

In order to protect individuals and the Service, and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures, for example, unfair discrimination issues, will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for investigation. Members of the SET can seek guidance from the Strategic Enabler - People at any stage in the investigation.

Within 10 working days of a concern being raised, the individual with whom the concern was raised will write to the complainant:

- acknowledging that the concern has been received;
- indicating how the matter is to be dealt with;
- giving an estimate of how long it will take to provide a final response;
- telling the complainant whether any initial enquiries have been made;
- supplying the complainant with information on staff support mechanisms; and
- telling the complainant whether further investigations will take place and if not, why not.

The amount of contact between the officer(s) considering the issues will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, further information will be sought from the complainant in a discreet manner.

When any meeting is arranged, the complainant will have the right to be accompanied by a representative body or a work colleague. The meeting can be held off site if requested.

West Midlands Fire Service will take steps to minimise any difficulties, which may be experienced as a result of raising a concern and provide any appropriate support. For instance, if required to give evidence in disciplinary or criminal proceedings, the Service will advise the complainant of the procedure and give reasonable support. Subject to legal constraints, complainant will receive information about the outcomes of investigations.

Upon completion of the investigation, all documents will be forwarded to the Strategic Enabler People.

3.3 Responsible Officer

The Strategic Enabler - People has overall responsibility for the maintenance and operation of this policy. This officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger the complainant's confidentiality) and will report as necessary to the Service and Fire Authority.

4 PROCEDURES

4.1 How to raise a concern

If the matter relates to any fraudulent or corrupt activity, concerns should be raised in accordance with procedures detailed in the 0122 Anti-Fraud Corruption and Bribery Policy.

If the complainant wishes to raise or discuss any issues which might fall into the above category then the complainant should contact a member of Strategic Enabling Team (SET), the Treasurer or the Clerk to the Fire Authority, who will be required by WMFS to treat the matter in confidence.

Where possible, the complainant should raise their complaint in writing setting out the background and history of the concern giving names, dates and places where possible and the reason why the complainant is particularly concerned about the situation. If the complainant does not feel able to put the concern in writing, then the complainant can discuss the concerns verbally with a member of the SET, or the Treasurer/ 151 Officer or the Clerk to the Fire Authority.

The earlier that the complainant can express the concern and the more detail that can be provided, the easier it will be for the Service to take appropriate and necessary action. Remember:

- the complainant must disclose the information
- the complainant must believe it to be substantially true
- the complainant must not act maliciously or make false allegations
- the complainant must not seek any personal gain

At this stage the complainant will not be expected to prove the allegation but will need to demonstrate to the person contacted that there are sufficient grounds for reasonable suspicion or concern.

The complainant may invite a member of the trade union representative body or a work colleague to be present during any meetings or interviews in connection with the concerns raised.

Where a concern relates to a Brigade Manager or SET Manager, then either the Strategic Enabler People (as Responsible Officer), or Deputy Chief Fire Officer or Chief Fire Officer, as appropriate, should be contacted in the first instance. Satinder Sahota as the Monitoring Officer role for the Fire Authority. The Monitoring Officer may be contacted via email Satinder.sahota@wmfs.net.

The Treasurer to the Fire Authority may be contacted on 0121 380 6919. The Clerk to the Fire Authority may be contacted on 0121 380 6678. Address for the Treasurer and the Clerk to the Fire Authority is: West Midlands Fire Service, 99 Vauxhall Road, Birmingham, B7 4HW.

4.2 Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal the identity of the complainant. However, it is likely that further investigation will be necessary and the complainant maybe required to attend a disciplinary or investigative hearing as a witness at the appropriate time. An employee raises a concern confidentially if they give their name only on condition that it is not

revealed without their consent. A concern is raised anonymously if the employee does not give their name.

4.3 Harassment or Victimisation

West Midlands Fire Service recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the alleged malpractice. The Service will not tolerate harassment or victimisation and will take action to protect the complainant when a concern is raised.

4.4 Untrue Allegations

If the complainant makes an allegation, but it is not confirmed by the investigation, no action will be taken against the complainant. If however the complainant makes an allegation which, upon full investigation, is found to have been malicious or vexatious, disciplinary action will be considered and the protection of the PIDA will be lost.

4.5 Anonymous Allegations

This policy encourages the complainant to put their name to the concerns. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Strategic Enabler - People.

In exercising this discretion, the factors to be taken into account would include the:

- seriousness of the issues raised;
- credibility of the concern; and
- likelihood of confirming the allegation from attributable sources and information provided.

4.6 How the matter can be taken further

This policy is intended to provide the complainant with an avenue to raise concerns within the Service. We hope the complainant will be satisfied with the response. If not, the complainant must indicate this to the Strategic Enabler - People or the Treasurer or Clerk or Monitoring Officer to the Fire Authority.

Legal advice may be sought on any concerns about malpractice. If the employee feels it is right to take the matter outside the Service, the following are possible contacts:

- The complainant's recognised trade union
- Citizens Advice Bureau
- A solicitor
- The Police
- Relevant professional bodies or regulatory organisations, such as Ombudsmen.

Public Concern at Work (www.pcaw.co.uk) is a charity that offers free advice to people concerned about danger or malpractice in the workplace, but who are unsure whether, or how, to raise the matter.

5 CROSS REFERENCES

This Policy makes reference to and complements issues contained in other Policies, namely:

- 0122 Anti-Fraud Corruption and Bribery Policy
- 0201 Disciplinary Procedure

- 0217 Dignity at Work

6 KEY CONSULTEES

Minor changes only have been made to this Order and consultation was not necessary.

7 EQUALITY IMPACT ASSESSMENTS

The initial Equality Impact Assessment raised no issues, so a full impact assessment was not required.

8 OWNERSHIP

This Policy did not require Authority or SET approval.

9 RESPONSIBILITY AND REVIEW/AMENDMENT DETAILS

9.1 Responsible Strategic Enabler Team Member/Department

Strategic Enabler People/People Support Services

9.2 Created/fully reviewed/amended

This Policy has been reviewed, amended by People Support Service July 2018

Appendix 2

DATA PROTECTION ACT 2018

1. Procedures

West Midlands Fire Service fully endorse and adhere to the principles of the Data Protection Act 2018 which incorporates the European Union General Data Protection Regulations (EU GDPR).

The Service regards the lawful and correct treatment of personal information as very important to successful service delivery and to maintain confidence between service users, employees including temporary staff, volunteers and those communities we serve. The Service is committed to respecting all rights of those individuals whose personal data it processes and will ensure personal information will be treated lawfully and correctly in accordance with the legislation. It will adopt best practice as designated by the Information Commissioner's Office where possible.

The Information Commissioner's Office is the data protection regulator and supervisory body for the United Kingdom. Its responsibility is to publish guidance and enforce compliance with the Data Protection Act 2018, Freedom of Information Act 2000, Environmental Information Regulations 2004 and the Privacy and Electronic Communications Regulations 2003.

The Service has defined a number of distinctive roles to manage data protection.

Role Title	Position in the Organisation
Data Protection Officer	Data and Governance Manager
Information Asset Owner (IAO)	SET member from each function responsible for data management within their respective function. Also to be the liaison point for the Data Protection Officer.
Data User	All those that handle data. All individuals have a responsibility to protect the data they use.

Each employee or potential data user will be given such information, instructions and training as is necessary in order to ensure that they are aware of their contractual responsibilities in relation to personal data and so that they are aware that they can, in some cases, be held personally responsible if any personal data is improperly disclosed, destroyed or obtained.

The Data Protection Officer has responsibility to co-ordinate the Service's response to the Data Protection Act 2018 and the Freedom of Information Act 2000, to ensure that the provisions of the legislation are met.

The IAO will have overall responsibility for the personal data kept within their particular department to ensure that such data is maintained in accordance with the principles of the Data Protection Act 2018. This does not absolve Data Users from their responsibility of ensuring that personal data is maintained in accordance with these principles.

1.1 Scope of personal data

Definition of Personal data or information

Is any information held electronically (including all emails) or manually – which relates to a **living** individual who can be identified:

- From the information
- From the information combined with other information which is in the possession of the Service or is likely to come in to the possession of the Service
- Includes any intentions or opinions the Service may have towards the individual

Special Category data

The Data Protection Act 2018 defines special category personal information as information related to:

- Racial or ethnic origin
- Political opinions
- Religious or other similar beliefs
- Membership of trade unions
- Physical or mental health or condition
- Sexual life
- Convictions, proceedings and criminal acts
- Genetics and biometrics

1.2 Employee Personal records

All information held on a Personal Record File (PRF) will be maintained with a high level of confidentiality and only disclosed to those individuals who reasonably require it as part of their duties.

Files that are maintained locally or within the Occupational Health Unit will comply with the same level of confidentiality.

Information held on a Personal Record File will not be kept for longer than is absolutely necessary and documents will be removed and destroyed in a timely manner following the period agreed below.

1.2.1 Computerised Personal Record File

It is the policy of West Midlands Fire Service that one primary Personal Record File will be maintained for each employee. The information in this file will relate to the individual only and will be maintained

by People Support Services (PSS) and the employee in accordance with the Data Protection Act 2018.

Section 3.14.2 details the information that can be held in the Computerised Personal Record File.

1.2.2 Local Personal Record File

It is acknowledged that in order to manage locally, certain items of personal information must be retained locally on station or within sections; these include performance, attendance management, training information and Permits to Work. These files must be maintained in accordance with the Data Protection Act 2018.

A Personal Record File can be maintained at the location of the individual but must only contain the items of information as listed in Section 4.2

These files should be sent back to PSS when the employee ceases employment. If an employee moves temporarily for more than 4 weeks or permanently to another location the file should be forwarded to the other locations clearly marked confidential and addressed to the new line manager. Any movement of files must be conducted under confidential cover in sealed envelopes, with the delivery and receipt recorded.

All information must be kept securely and in confidence.

1.3 Employee Access

1.3.1 Personal record file

All employees under the terms of the Data Protection Act 2018 are entitled to know what personal information the organisation holds about them and how it is being processed..

Every employee has the ability to view and print their electronic personal information file. If inaccurate information is found on the system and the employee does not have the access to amend it, details should be forwarded to the PSS who will make the amendments on their behalf.

Requests to access personal information (including personal record files and occupational health files) that the organisation might hold should be made to the Data Protection Officer at Fire Service Headquarters. If the information contains data about any third parties then the information will be released if it is reasonable to do so in line with the legislation, redacted i.e. personal data removed or a summary of the information provided. The Data Protection Act 2018/1998 gives employees an entitlement to information and not documents.

- If the employee wishes a third party to have access to their information, for example, a legal or trade union representative, this must be included in the request. Representatives will not be given access to an individual's personal file independently without the explicit written consent of the employee concerned.
- If line managers wish to access employees' Personal Record File, the procedure described above must be followed where a reason must be provided for needing to view the file.

1.4 Requests for information

Requests for information in whatever form, for example, paper records, computer records, tapes, and so on, should be forwarded through to the Data Protection Officer.

If a request for information is received in a department, section or on a station it must be date stamped and forwarded immediately for the attention of the Data Protection Officer, Data Management Section, marked 'Confidential - Data Protection Request'. If possible, the request should be sent by e-mail.

The Data Protection Officer will be responsible for recording the request, obtaining the information from the relevant department, charging any appropriate fees and ensuring that the request is answered within the timescale. The timescale for response to requests for information is 30 days.

Requests for the disclosure of personal data related to the 'Transfer of Undertakings (Protection of Employment) Regulations' (TUPE) 2006 are the responsibility of PSS department. These need to be in line with TUPE and Data Protection Act 2018 requirements.

The Data Protection Officer will liaise with the department or station concerned for assistance in providing the information requested. It is imperative that information is provided in a timely manner to ensure that the specified timescales are met.

Requests are sometimes received either in writing or via telephone from third parties to release personal information about employees, in all cases written permission of the individual must be given before this information is released, exception to this will be in certain circumstances where requests are made by statutory bodies for information.

1.4.1 Requests for incident information

The Service receives enquiries from solicitors, loss adjusters, insurance companies and other interested parties for details of fires and other Fire Service activities. The intentions of the enquirer are often unknown or liable to change at a later date.

The Service is not entitled to release information about a data subject to any third party without the data subject's consent; there are a few exceptions, for example, data requested by the police to assist them with criminal investigations. Fire Service reports, in particular the Incident Recording System (IRS) Fire Report, contain information about persons involved in incidents and are therefore not to be released by fire stations.

All such requests must be submitted in writing by the party wishing to obtain the information. This is to be forwarded to the Central Administration team at e-mail address InformationDisclosure@wmfs.net. A fee will usually be charged for this information.

1.4.2 Requests for the release of information for legal proceedings

When the Fire Service is involved in legal proceedings, the Civil Procedure Rules require that all relevant documents shall be disclosed to the other parties involved. This includes all documents which are, **or have been** in the possession, custody or power of the relevant party and which relate to any matter in question between the parties.

A request for such documentation will usually be made by the PSS Section to the relevant section, department or station. This request includes **all** relevant documents, including original or rough notes, and whether they are supportive or potentially damaging, so a thorough search must be made.

In general terms, it is likely that all available documentation is disclosable and therefore, personnel should forward all documents, which will be considered by the Service's advisors before disclosure.

If original documents are forwarded, copies should be taken and preserved by the forwarding party. Where copies of documents are forwarded, care must be taken to ensure the best possible quality copy is obtained.

Stringent time limits are imposed for disclosure of documentation. Hence it is vital that all documents are forwarded, as soon as possible after the request has been made.

As all relevant documentation should be disclosed, it is not possible to provide a definitive list. However, for the purposes of this order, examples include: **all** paper records, written or printed, reports – including IRS and narratives (where provided), internal and external memoranda, accounts, invoices and contracts, any information held on computer or other mode of electronic storage, for example, e-mails, CD-ROM, diagrams, plans, maps, photographs, and videos.

It should be noted that the marking of any disclosable document 'confidential' or 'personal' does not necessarily preclude disclosure in respect of legal proceedings.

The requirements of this standing order emphasise the importance of maintaining comprehensive and accurate filing systems, as the implications of non-disclosure of relevant documents are far reaching.

1.4.3 Requests and exchange of information with the police about employees

On occasions, the Service maybe contacted by police officers, who have either requested personal information about employees, or have notified the Service that employees have been arrested or involved in incidents to which the police have been called. The Fire Service is not a 'notifiable occupation' for disclosing convictions of persons for certain employers.

Therefore, the following procedure will be adopted upon receipt of such requests from the police, or where information is received about individual employees:

- Where the police request information from a station, the officer in charge should only confirm whether an individual is employed at the station
- Any requests for further information about employees should be refused and the requesting police officer referred to the duty principal command officer via Fire Control. The Service will then only release personal details where a serious crime is being investigated or where a warrant has been issued
- Information will only be released after receipt of the police force's standard disclosure form
- Employees are obliged to notify the Service if they have been charged with a criminal offence, (senior officers do not visit police stations if informed by the police that an individual has been detained or questioned whilst off duty). The Service does provide welfare support should individuals require it; this should be discussed with the Line Manager
- Personnel who are being questioned or detained by the Police and who would be unable to report for duty as a result, should request the police to contact Fire Control and inform the duty officer that they will be unable to attend for duty. The duty principal command officer will then be informed and will take appropriate action
- Requests from the police for copies of recordings from Fire Control will be managed and actioned by Fire Control. The procedure is detailed in Fire Control

1.5 Data Protection Breaches

It is important to understand if personal data is not handled correctly, there must be processes in place to contain and recover, assess the ongoing risk, notify appropriate parties of the breach and evaluate and respond to the data protection breach.

These are some examples of security incidents that may lead to the loss or compromise of personal data;

- Loss or theft of data or equipment on which data is stored;
- Inappropriate access controls allowing unauthorized use;
- Equipment failure;
- Human error;
- Unforeseen circumstances such as a fire or flood;
- Hacking attack;
- 'Blagging' offences where information is obtained by deceiving the organisation who holds it

The above are examples of events that may lead to a data protection breach but if you are unsure then please seek further advice from the Data Protection Officer.

1.5.1 Data Protection Breach Process

If you are involved in an incident as defined in the examples above or determined by the Data Protection Officer as a data protection breach, then you must:

1. Contact the ICT Service Desk on 0121 380 6666 to record the event as a data protection breach.
2. The ICT Service Desk will liaise with the Data Protection Officer to determine the course of action to manage the incident.
3. The SIRO and relevant SET members will be notified of incident via an initial report.
4. The Data Protection Officer will manage the incident to conclusion and ensure that a log of the incident and all actions taken is maintained to identify trends or areas of weakness.

5. Post incident, an investigation will be instigated, and the outcomes will be reported to the SIRO and members of SET.

Management reports on data breaches will be sent out periodically to the SIRO and SET to ensure management are aware of potential risks to the authority.

2. Principles of the Data Protection Act 2018

There are 7 key principles under the Data Protection Act 2018

2.1 Principle 1 -processing should be lawful, fair and in a transparent manner fair processing

Personal data shall be processed fairly, lawfully and transparently, in particular, shall not be processed unless one condition of Article 6 of the EU GDPR is met:

Article 6 gives the following conditions for processing personal data:

- The data subject has given their **consent** to the processing;
- The processing is necessary for the performance of **a contract** to which the data subject is party (the employment contract), or for taking steps to enter into such a contract;
- The Data Controller has to process the information in order to comply with non-contractual **legal obligations** (such as Fire Services Act 2004);
- The processing is necessary to **protect the vital interests** of the data subject;
- The processing is necessary for tasks in the **public interest or the exercise of authority vested in WMFS**
- The processing is necessary for the purposes of **legitimate interests** pursued by WMFS

In the case of special category data, this includes; race, ethnic origin, political belief, religion, trade union membership, genetics, biometrics, health, sex life or sexual orientation, processing is permitted only where Article 6 conditions for processing personal data exists **and** a further condition specified in Article 9 of GDPR is met.

Article 9 gives the following conditions for processing personal data:

- (a) the data subject has given explicit consent to the processing of those personal data for one or more specified purposes;
- (b) processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law;
- (c) processing is necessary to protect the vital interests of the data subject or of another where the data subject is physically or legally incapable of giving consent;
- (d) processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim;
- (e) processing relates to personal data which are manifestly made public by the data subject;
- (f) processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity;
- (g) processing is necessary for reasons of substantial public interest;
- (h) processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services or pursuant to contract with a health professional;

(i) processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices;

(j) processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes;

It is difficult to envisage any activity which does not include processing and a Privacy Impact Assessment (PIA) should be completed when embarking on projects and/or activities that may involve processing personal data.

See Appendix 8

The processing of data for the purposes of carrying out of 'directed' and intrusive covert surveillance; the use of covert human intelligence sources; the interception of communications; and the acquisition and disclosure of communications data is covered under the Regulation of Investigatory Powers Act 2000 (RIPA).

See Appendix 9

2.2 Principle 2 - Collected for specified, explicit and legitimate purposes

Personal data should only be used for the purpose for which it was originally collected

2.3 Principle 3 – Data minimisation

The amount of personal data should be adequate, relevant and limited to what is necessary for the purpose it is held;

2.4 Principle 4 - Data accuracy

Personal data shall be accurate and kept up to date. Reasonable steps must be taken to ensure that any personal data that is inaccurate is erased or rectified without delay.

2.5 Principle 5 – Storage limitation

Personal data kept in a form where a data subject is identifiable shall not be kept for longer than is necessary for that purpose or purposes. Data that is out of date or no longer necessary must be properly destroyed or deleted.

2.6 Principle 6 – Technical and Organisational measures in the security and management of data

Personal data should be processed in a manner that ensures appropriate security. Technical and organisational measures shall be taken against unauthorized or unlawful processing of personal data and against accidental loss of, destruction of, or damage to personal data.

2.7 Principle 7 – Accountability

WMFS must be responsible for and be able to demonstrate compliance with the other 6 principles.

2.8 Employee Personal Information

Personal information can be obtained from a number of sources, from the employee themselves, from the circumstances of their employment for example, salary information, from their progression through the organisation or from development, training and assessment situations.

This information then allows the organisation to plan and formulate policies and strategies and, in some instances, to conform to legislative requirements. Planning, policy and strategy formulation depends on information which is effective and accurate and will enable the organisation to recruit, train and develop employees to their full potential, to be as effective as possible within the organisation and to provide good service to our community.

It is the intention of the Service to hold information electronically where possible, in preference for paper based records.

3. Personal Record File contents

3.1 Computerised Personal Record File

A computerised Personal Record File will hold the following information:

Type of information	Content	Purpose		Duration held	
Employment	Original application form Employment references Qualification certificates Contract of employment (inc. relevant role profile) Next of kin information Details of promotion, and successful applications Transfers, successful requests and requests refused		Recruitment Recruitment Recruitment Emergency contacts Career progression Equality and Diversity monitoring		Minimum duration life of employment and 6 years after.
Attendance	Sickness record, PR25, Doctor's certificates Exemptions granted Correspondence issued under the Attendance Management Policy Copies of injury reports Attendance record cards Maternity leave applications Applications for special leave Parental leave applications	Sickness payments Management of attendance Maternity payments Management of attendance and appropriate payments		Minimum duration life of employment and 6 years after.	

	Paternity leave applications Adoption leave applications PR12 Injury Report Forms	Accident information			
Training	Training courses nominations and results of attendance Examination results Application for post entry training Qualification certificates	Job competency and development Development Requirement of post entry training funding Development		Minimum duration life of employment and 6 years after.	
Performance	Assessments/ advice/monitoring of performance IPDR form	Management of performance Personal development and review	Minimum duration life of employment and 6 years after		
Awards/ Achievements		Letters of thanks Achievements Letters of commendation	Personal achievement	Minimum duration life of employment and 6 years after	
Discipline	Records of any disciplinary action taken, and associated papers where necessary	Management of discipline	Minimum duration life of employment and 6 years after		
General Correspondence	General correspondence that does not fall within any of the categories above.	For example 'Request for reference'	Minimum duration life of employment and 6 years after		

3.2 Local Personal Record File

A Personal Record File maintained at the location of the individual must only contain the following items of information:

Section	Content	Purpose	Duration held
Training records	Permit to work	Job competency and development	Duration of employment
Performance	Assessments or warnings on performance	Management of Performance	Until end of warning of monitoring or improvement (then sent to PSS for PRF held for duration of employment)
	IPDR	Personal development and review	Duration of employment
Attendance Management Information	Absence data	Monitoring	Duration of employment?

4. Data Subject Rights

Data subjects have the right to be informed about the collection and use of their personal data. Data subjects can be employees (including temporary and volunteers), partners and those communities we serve,

The rights that are applicable to all data subjects under DPA are as follows:

- Right to be informed that processing is being undertaken

This is achieved by issuing privacy notices at the point of collecting personal data

- Right to access personal data (requests)

There are processes in place to ensure requests are responded to promptly.

- Right to rectify, block or erase data

This is a limited right as some personal data has to be maintained in line with other legislation e.g. pension regulations so may not be erased on request

- Right to restrict processing of the data

This is a limited right as some personal data has to be processed in line with other legislation e.g. payment of council tax so cannot be restricted for this purpose

- Right to object to processing

This is a limited right as some personal data has to be processed in line with other legislation e.g. financial regulations to calculate taxation so objection cannot be acted upon in some instances

- Rights in relation to automated decision making including profiling

Processes have been identified within the organization and mechanisms put in place to verify the results and provide a simple explanation for the rationale behind the decision:

- Right to data portability

This gives individuals the right to receive personal data they have provided to a controller in a structured, commonly used and machine readable format. It also gives them the right to request that a controller transmits this data directly to another controller. This is applicable in situations such as

entering into a contract such as changing banking providers but is not applicable to processing paper files;

- Right to claim compensation for certain breaches of the Act

WEST MIDLANDS FIRE AND RESCUE AUTHORITY**AUDIT AND RISK COMMITTEE****6 JUNE 2022****1. ANNUAL REPORT OF THE AUDIT AND RISK COMMITTEE 2021/22**

Report of the Chair of the Audit and Risk Committee.

RECOMMENDED

- 1.1 That the Committee considers the content and format of its Annual Report 2021/22 for submission to the next meeting of the Authority.

2. PURPOSE OF REPORT

- 2.1 This report is submitted to Members to seek approval to the Annual Report of the Audit and Risk Committee 2021/2022.

3. BACKGROUND

- 3.1 Enabling the Authority to be fully effective in comprehending and assessing the control environment within which West Midlands Fire Service operates, the Audit and Risk Committee present an annual report of its activities to the Authority.
- 3.2 A draft Annual Report for 2021/22 has been prepared by the Chair of the Audit and Risk Committee and is attached for comments by the Committee in preparation for submission of the report to the next meeting of the Authority.
- 3.3 The Committee maintained its functioning throughout the Service business continuity and recovery phases of the COVID-19 pandemic. It met in a hybrid format, Members in room enabling decision making supported by discussion from Members joining virtually online.

4. **EQUALITY IMPACT ASSESSMENT**

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

5. **LEGAL IMPLICATIONS**

- 5.1 The Authority has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

6. **FINANCIAL IMPLICATIONS**

- 6.1 The Accounts and Audit Regulations Act states that a relevant body must “maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper internal audit practices”.

BACKGROUND PAPERS

Annual Report of the Audit and Risk Committee 2021/22.

Chair of the Audit and Risk Committee

Appendix 1 - Annual Report of the Audit and Risk Committee 2021/22

1. Background

The Audit and Risk Committee was established by the Fire Authority in January 2008. Its purpose is to provide:

- independent assurance on the adequacy of the risk management framework and the associated control environment,
- independent scrutiny of the Authority's financial and non-financial performance to the extent that it affects the Authority's exposure to risk and weakens the control environment, and to
- oversee the financial reporting process.

The key benefits of the Committee are derived by:

- increasing public confidence in the objectivity and fairness of financial and other reporting.
- reinforcing the importance and independence of internal and external audit and similar review processes.
- providing additional assurance through a process of independent review.
- raising awareness of the need for internal control and the implementation of audit recommendations.

The Terms of Reference for the Committee can be found at Appendix A of this report.

2. Meetings

During financial year 2021/22 the Audit and Risk Committee met on the following dates:

- 07 June 2021
- 19 July 2021
- 27 September 2021
- 06 December 2021
- 21 March 2022

	07/06/21	19/07/21	27/09/21	06/12/21	21/03/22
Councillor Miks	✓	✓	✓	✓	✓
Councillor Padda	A	✓	✓	✓	✓
Councillor Spence	✓	✓	✓	✓	✓
Councillor Barrie	✓	✓	Substitute Ferguson	✓	✓
Councillor Miller	✓	✓	✓	✓	✓
Councillor Ferguson	-	-	✓	-	-
Mr M Ager	✓	✓	✓	A	✓

✓ – in attendance

A – sent apologies

4. The Committee's business

During the year the Committee conducted the following business:

Governance Statement – 2020/21
Corporate Risk – Regular Updates
Audit Committee Annual Report – 2020/21
Audit Committee – Terms of Reference Review
Audit Committee Work Programme 2020/21
Statement of Accounts 2020/21

CIPFA Audit Committee Updates
Updates on Topical, Legal and Regulatory Issues
Treasury Management Annual Report – 2020/21 (and Mid-Year Review)
Annual Senior Information Risk Officer Report

External Audit Plan 2020/21
External Audit Findings Report
External Audit – Annual Audit Letter 2020/21
External Audit – Audit Committee Update
External Audit – Communication with the Audit Committee

Internal Audit Annual Report – 2020/21
Internal Audit Progress Reports
Internal Audit Charter – Annual Review
Internal Audit Plan – 2021/22

Vacant Residential Properties Review
Whistle Blowing Policy and Regulation of Investigatory Powers Act for 19/20 and 20/21
The Pension Regulator – Scheme Return
Annual Report and quarterly minutes of the Pension Board
Oversight of progress of McCloud/Sargeant Age Discrimination consultation and actions arising (Remedy)
Discussion and decision on Immediate Detriment payment

5. Conclusion

The Committee was able to confirm:

- That the system of internal control, governance and risk management in the Fire Authority was adequate in identifying risks and allowing the Fire Authority to understand the appropriate management of these risks.
- That there were no areas of significant duplication or omission in the systems of internal control, governance and risk management that had come to the Committee's attention and had not been adequately resolved.

6. Sources of assurance

The Committee gained assurance to produce the above conclusion, from the following sources:

The work of Internal Audit

The Internal Auditors gave the following opinion in their Annual Report for 2020/21:

*'Based on the work undertaken during the year and the implementation by management of the recommendations made, Internal Audit can provide reasonable assurance that the Fire Authority has an adequate and effective framework of governance, risk management and control. *We are pleased to report that this is an unqualified opinion and the highest level of assurance available to Audit Services. In giving our opinion it should be noted that assurance can never be absolute. The most that internal audit can provide is reasonable assurance that there are no major weaknesses in the Authority's governance, risk management and control processes.'*

The work of the External Auditors

During the year the external auditors (Grant Thornton) reported back to the Audit Committee on several occasions as detailed in section 4 above. No issues of any significant concern had been raised prior to the preparation of this report.

The Governance Statement

The Governance Statement operated throughout the year ended 31 March 2021 and up to the date of the approval of the annual report and accounts. The systems to ensure the management of the risks have been shown to be sound.

Risk Management

The Committee regularly receives and reviews the Fire Authority's Corporate Risk Register, and assesses the assurance provided to demonstrate how risks are being mitigated.

7. The Committee's main achievements

The Committee believes its key achievements during the year were:

- Maintaining functioning of Audit and Risk as a Standing Committee during the response and recovery phases of the Covid-19 pandemic (utilising legislation and digital engagement to enable continuity of business)
- Continuity of good working relationships with the Authority's external auditors Grant Thornton.
- Receiving and reviewing several sector updates from the external auditors.
- Receiving and reviewing updates from the Internal Auditors Sandwell MBC
- Receiving the second Senior Information Risk Officer report
- Overseeing progress and responding to the government publications on Immediate Detriment and the outcomes of the McCloud/Sargeant Age Discrimination case
- Oversight of the work of the Pension Board
- Reviewing the portfolio of Vacant Residential Properties
- Oversight of the response to implementation of the Whistle Blowing Policy and Regulation of Investigatory Powers Act
- Reviewing the Committee's Terms of Reference and the Internal Audit Charter to ensure they remain fit for purpose.
- Providing additional assurance through a process of on-going independent review.
- Raising the profile of internal control issues across the Authority and of the need to ensure that audit recommendations are implemented.
- Regular consideration and review of the Authority's Risk Register and accompanying assurances.
- Building the skills and knowledge of Committee members through regular technical updates and the consideration of related guidance issued by CIPFA.
- The continued presence of an Independent Member to broaden the Committee's experience and independent viewpoint.

Terms of Reference for the Committee

Terms of Reference were reviewed to ensure they remained fit for purpose, and that they reflected guidance provided in the Chartered Institute of Public Finance and Accountancy (CIPFA) Audit Committees – Practical Guidance for Local Authorities 2013 Edition:

Statement of purpose

Our Audit Committee is a key component of the Authority's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

The purpose of our Audit Committee is to provide independent assurance to the Members of the adequacy of the risk management framework and the internal control environment. It provides independent review of the governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

Governance, Risk and Control

- To review the Authority's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
- To review the annual governance statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Authority's framework of governance, risk management and control.
- To consider the Authority's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- To consider the Authority's framework of assurance and ensure that it adequately addresses the risks and priorities of the Authority.
- To monitor the effective development and operation of risk management in the Authority.
- To monitor progress in addressing risk-related issues reported to the Committee.
- To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- To review the assessment of fraud risks and potential harm to the Authority from fraud and corruption.
- To monitor the counter-fraud strategy, actions, and resources.
- To review the governance and assurance arrangements for significant partnerships or collaborations.

Internal Audit

- To approve the Internal Audit Charter.
- To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- To approve risk based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
- To consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
 - Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work;
 - Regular reports on the results of the quality assurance and improvement programme;
 - Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the annual governance statement.

To consider the Head of Internal Audit annual report:

- The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the quality assurance and improvement programme that supports the statement - these will indicate the reliability of the conclusions of internal audit.
- The opinion on the overall adequacy and effectiveness of the Authority's framework of governance, risk management and control together with the summary of the work supporting the opinion - these will assist the committee in reviewing the annual governance statement.
- To consider summaries of specific internal audit reports as requested.
- To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- To contribute to the quality assurance and improvement programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- To consider a report on the effectiveness of internal audit to support the annual

governance statement, where required to do so by the Accounts and Audit Regulations.

- To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To approve and periodically review safeguards to limit such impairments.
- To provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.

External Audit (Grant Thornton)

- To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- To consider specific reports as agreed with the external auditor.
- To comment on the scope and depth of external audit work and to ensure it gives value for money.
- To commission work from internal and external audit.
- To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.
- To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panel as appropriate.

Financial Reporting

- To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Authority.
- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Accountability arrangements

- To report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.
- To report to full Authority on a regular basis on the Committee's performance in relation to the terms of reference, and the effectiveness of the Committee in meeting its purpose.
- To publish an annual report on the work of the Committee.

Pension Board

- To have delegated responsibility as Scheme Manager for making decisions in the management and administration of the firefighters' pension schemes. 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.
- To submit its minutes and Annual Report to the Authority.

Pensions Board

Item 12

10 December at 14:00 hrs by Digital Meeting

Attendance:

Neil Chamberlain (Chair) – West Midlands Police

Employer Representatives:

Julie Felton

Kal Shoker

Councillor Miks (Chair of Audit and Risk Committee)

Employee Representatives:

Adam Harper

Emmett Robertson

Alan Tranter

Officers in attendance:

Karen Gowreesunker - Clerk to the Authority

Phil Fellows - Team Manager Strategy and Risk

Paul Gwynn – Pensions Advisor

Kirsty Tuffin – Democratic Services Officer

1. Apologies

No apologies for absence were received.

Please note: Councillor Miks and Karen Gowreesunker left at 3pm.

2. Declarations of interest

There were no declarations of interest received.

3. Minutes of Pension Board – 08 September 2021

The Chair advised that due to unforeseen circumstances, he had taken an extended period of leave and therefore some actions, as per minutes of the previous meeting, had been outstanding and would be resolved.

Resolved:

1. That the minutes of the Pension Board held on 08 September 2021 be approved as a correct record of proceedings.

4. WMFS Pension Board Workplan

The Chair of the Board presented the WMFS Pension Board Workplan that outlined key areas of planned work for the Board. It was agreed that the following members of the Board would be the lead officer responsible for the following areas of work:

- Risk register administration – Julie Felton
- New system/automation of Process – Kal Shoker
- Business as usual Performance Reports/Improvements – Chair of the Board/Paul Gwynn

The Chair of the Board advised that if members wished to add anything additional to the work plan or wished to lead on one of the key pieces of work to contact Kirsty Tuffin, Democratic Services Officer. It was agreed that the Chair of the Board and Kirsty Tuffin would meet to discuss the reporting frequency of each area of work.

Resolved:

1. That it be agreed that the WMFS Pension Board Workplan be noted.
2. That it be agreed that the following members of the Board would be the lead officer responsible for the following areas of work:
 - Risk register administration – Julie Felton
 - New system/automation of Process – Kal Shoker
 - Business as usual Performance Reports/Improvements – Chair of the Board/Paul Gwynn
3. That it be agreed that the Chair of the Board and Kirsty Tuffin would meet to discuss the reporting frequency of each area of work.

5. Verbal report on Audit and Risk Committee

Kal Shoker, WMFS Finance Manager, advised the Board that the Audit and Risk Committee took place on Monday 6 December whereby the minutes of the Pension Board meeting, held on Monday 06 September, were discussed and noted. He advised that the Committee had been provided with an update on Immediate Detriment and Paul Gwynn would provide an update within his report, as per the Boards agenda pack.

Resolved:

1. That the verbal update on Audit and Risk Committee, be noted.

6. Risk Register

Julie Felton and Alan Tranter presented the Pension Board Risk Register that outlined the key risk areas, categorised/scored against their likelihood to occur and impact that would have.

The Board were advised that the move to the Oracle Cloud system had been a positive move as it provided all electronic copy of records and allowed

pensions to access their own online portal to access payslips and update details. It was agreed that a mitigation column be included in the risk register which would be populated by Julie Felton, with the guidance of the Board.

It was agreed that Alan Tranter and Julie Felton work on the Risk Register, with assistance from Paul Gwynn, focusing upon the risks RAG rated 'red' in 6 weekly Working Group sessions. It was agreed that RAG rated 'red' risks be discussed at every Pension Board meeting, those rated 'amber' be discussed every 6 months and those rated 'green' be discussed annually by the Board. It was agreed that the 6monthly review take place in Septembers Pension Board Meeting, the annual review be conducted in the Pension Board Meetings in March and be included within the Pension Board work plan.

Following discussions on the employee and employer representative, it was agreed that Karen Gowreesunker would correspond with Kamla Devi-Ahir, Business Partner, on the facilitation of an employee representative to the Board. Feedback would be provided to the Chair and Pension Board. The benefits of the involvement of PSS as a member on the Board was highlighted. Emmett Robertson advised that he would be happy to remain a member of the Board until the process of appointment to the Board had been completed. Kirsty Tuffin, Democratic Services Officer, advised the Board that the next meeting had been provisionally scheduled for 28 March 2022.

Resolved:

1. That the update on the risk register be noted.
2. That it be agreed that a mitigation column be included in the risk register which would be populated by Julie Felton, with the guidance of the Board.
3. That it be agreed that Alan Tranter and Julie Felton work on the Risk Register, with assistance from Paul Gwynn focusing upon the risks RAG rated 'red' in 6 weekly Working Group sessions.
4. That it be agreed that RAG rated 'red' risks be discussed at every Pension Board meeting, those rated 'amber' be discussed every 6 months and those rated 'green' be discussed annually by the Board.
5. That it be agreed that the 6monthly review take place in Septembers Pension Board Meeting, the annual review be conducted in the Pension Board Meetings in March and be included within the Pension Board work plan.
6. That it be agreed that Karen Gowreesunker would correspond with Kamla Devi-Ahir, Business Partner, on the facilitation of an employee representative to the Board. Feedback would be provided to the Chair and Pension Board.

7. Pension Section Supporting Information

Paul Gwynn presented the Pension Section Supporting Information report that provided an update on key pension topics including figures on West Midlands

Fire Service Firefighters Pension Scheme Membership, Annual Activity levels and Internal Dispute Resolution Procedure (IDPR).

The Board were advised that the last report had been brought to the Board on 30 November 2020. The numbers in brackets in the following figures were highlighted and reflected the movement between 30 November 2020 – 30 November 2021, as per report:

Active Firefighters	1,389	(-9)
1992 Scheme Members	50	(-47)
2006 Scheme Members	2	(-4)
2015 Scheme Members	1,187	(+52)
Non-Members	150	(-10)
Pensioners	2,213	(+14)
Dependents	425	(+9)

The Board were advised that the number of non-members had slightly increased to 10.8%, indicating a take up of 89% for the scheme. This figure had been slightly higher than the take up for the Local Government Pension Scheme of 86.8% uptake. However, it was highlighted that the figure had risen to 10.8% in 2021 from 8.7% in 2018. It was agreed that Adam Harper and Paul Gwynn would arrange talks for different watches throughout the service throughout March/April 2022. The talks would be focused upon what it meant to be in the 2015 scheme and what the impact (if any) would be on movement.

Following queries on automatic membership, Paul Gwynn advised the Board that all new recruits were automatically enrolled into the scheme and provided an induction session. Every 3 yearly cycle, those who had opted out of the scheme are automatically enrolled back with the option to opt out again. The next 3 yearly cycle would be August 2022. It was agreed that Paul Gwynn would monitor those who decided to opt back out of the scheme following the 3 yearly cycle automatic enrolment and report back to the Board. It was highlighted that should WMFS be moved under the responsibility of the mayor than during that transaction, members would be automatically enrolled into the scheme.

Following concerns on the increased response time for requests, as outlined within the report, Paul Gwynn re-assured Members that as a result of Immediate Detriment, pension estimate requests had increased and had become more complex which had resulted in this change in response time. It was agreed that Paul Gwynn would circulate the monthly data, circulated to Mike Griffiths, Treasurer, to Alan Tranter to monitor the need for it to be added to the Pension Board Risk Register.

The Board were advised that five complaints had been received under the IDPR within the last 12 months, 3 of which had been resolved by the Scheme

Manager. It had been anticipated that the member of 1 of the 5 cases would approach the ombudsman following its rejection at appeal. It was agreed that the number of IDPR cases received, how they were resolved and the timeframe for this would be included in future reports.

The Board were advised that no further progress had been made on the data review/scoring. The new system would be implemented by the end of March 2022 and would provide automated reports. The Scheme would keep up to date data and be scored by The Pensions Regulator (TPR) on how up to date the data held was. Following a query on the move to a new system and a delay in some payments to pensions, Paul Gwynn re-assured the Board that the new system had transferred tax details from the old system however, a small number of pensions had been paid incorrectly as the incorrect tax amount had been deducted. Most cases affected had been paid the correct amount of the same day however, a select few would receive any outstanding amount in January 2022. The Board expressed concerns on the new system and delays to payments and it was agreed that an update be provided at the next Board meeting. It was agreed that if delays to payments occurred as a result of the new system than it would be reported to the regulator.

Resolved:

1. That the Pension Section Supporting Information report be noted.
2. That it be agreed that Adam Harper and Paul Gwynn would arrange talks for different watches throughout the service throughout March/April 2022. The talks would be focused upon what it meant to be in the 2015 scheme and what the impact (if any) would be on movement.
3. That it be agreed that Paul Gwynn would monitor those who decided to opt back out of the scheme following the 3 yearly cycle automatic enrolment and report back to the Board.
4. That it be agreed that the number of IDPR cases received, how they were resolved and the timeframe for this would be included in future reports.
5. That it be agreed that an update on delayed payments, that resulted from the switch to the new system would be provided at the next Board meeting.
6. That it be agreed that if delays to payments occurred as a result of the new system than it would be reported to the regulator.

8. Remedy Update

Paul Gwynn presented the update on remedy and advised the Board that at the last Audit and Risk Committee Meeting the Scheme Manager had approved the recommendation to no longer process new cases. The service had been working with FBU on 15 cases that had already begun that would go through Immediate Detriment. There had been a memorandum of understanding underpinned from the Home Office Guidance and the scheme

could not be discriminatory. The Treasury had advised that any payments made by the service could not be recalled back from the Treasury therefore if the decision had not been made to pause considering new cases there would be a financial impact on the service. Once new guidance had been issued, a decision would be taken back to the Scheme Manager,

Concerns were raised that no review process had been put in place when the recommendation had been agreed and it was agreed that the Chair of the Board would write to Councillor Miks, Chair of the Audit and Risk Committee and Karen Gowreesunker, Clerk of the Authority, to gain an explanation on why the decision had to be made and requesting a review process be put in place.

Resolved:

1. That the remedy update be noted.
2. That it be agreed that the Chair of the Board would write to Councillor Miks, Chair of the Audit and Risk Committee and Karen Gowreesunker, Clerk of the Authority, to gain an explanation on why the decision had to be made and requesting a review process be put in place.

9. Update on Topical, Legal and Regulatory issues (Verbal Report)

Paul Gwynn advised the Board that the service was awaiting the publication of guidance for the retained members affected by the O'Brien case. Once this guidance had been published, all retained Members would be dealt with accordingly. The new 'Cloud Payroll' system would be rolled out over the next 3 months and would include existing payroll details. The pension's administration system had been a separate system available to Members that would generate annual statements for Members and provide up to date quotes of their pension. Assistance would be provided to those who did not have access to technology to ensure they would not be at a disadvantage.

The Board were advised that a small number of members classified as vulnerable or under ill-health would be issued with letters to ensure the service had the most up to date information as to whether they would still be eligible for their pension. A training session with Claire Hey needed to be arranged and it was agreed that this be included within the work plan, once confirmed.

Praise was given for Christiana Jackson who had completed her Chartered Pensions and Payroll qualification and had been awarded for the best placed project.

Resolved:

1. That the update on topical, legal and regulatory issues be noted.

2. That it be agreed that Paul Gwynn arrange training for the Board with Claire Hey and once a date be confirmed, be included within the Pension Board work plan.

The Pension Board meeting ended at 15:47 hrs.

Kirsty Tuffin

Strategic Hub

Kirsty.tuffin@wmfs.net

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

AUDIT AND RISK COMMITTEE

WORK PROGRAMME 2021/22

Date of Meeting	Item	Responsible Officer	Completed
2021			
19 July 2021	Statement of Accounts 2020/21 (Draft Unaudited Approval)	Treasurer	19 th July 2021
	Treasury Management Annual Report 2020/21	Treasurer	19 th July 2021
	Monitoring Policies and RIPA (Annual Whistleblowing Report)	Monitoring Officer/ACFO Strategic Enabler (Enabling Services)	Note: deferred to 6 December
	Minutes of the Audit and Risk Committee held on 7 June 2021	Democratic Services Officer	19 th July 2021
	Minutes of the Pension Board held on 30 March 2021	Democratic Services Officer	19 th July 2021
	Minutes of the Pension Board held on 9 June 2021	Democratic Services Officer	19 th July 2021
	Training Requirements of Audit and Risk Members		

	<p>Audit and Risk Committee Draft Work Plan 2021/22</p> <p>Request for a decision on Action to be taken in respect of immediate detriment cases under the McCloud_Sargeant Ruling</p>	<p>Democratic Services Officer</p> <p>Democratic Services Officer</p> <p>ACFO Strategic Enabler (Enabling Services) / Treasurer</p>	<p>Note: deferred from 19 July meeting</p> <p>19th July 2021</p> <p>19th July 2021</p>
27 Sept 2021	<p>Terms of Reference of Audit and Risk Committee</p> <p>Audit Findings Report 2020/21</p> <p>Statement of Accounts 2020/21 (for approval)</p> <p>Audit Progress & Sector Update</p> <p>Internal Audit Progress Report</p> <p>Internal Audit Report - Data Governance</p>	<p>Democratic Services Officer</p> <p>Grant Thornton</p> <p>Treasurer</p> <p>Grant Thornton</p> <p>Audit Manager</p> <p>ACFO Strategic Enabler (Enabling Services) /Data and Governance Manager</p>	<p>27th September 2021</p> <p>27th September 2021</p> <p>27th September 2021</p> <p>Deferred from 27th Sept Meeting 27th September 2021</p> <p>27th September 2021</p> <p>27th September 2021</p>

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	Minutes of the Audit and Risk Committee held on 19 July 2021 Audit and Risk Committee Work Plan 2021/22	Democratic Services Officer Democratic Services Officer	27 th September 2021
4 Oct 2021 [Authority]	Audit Findings Report 2020/21 Statement of Accounts 2020/21 Minutes of the Audit and Risk Committee held on 07 June and 19 July	Grant Thornton Treasurer Democratic Services Officer	4 th October 2021 4 th October 2021 4 th October 2021
25 Oct 2021 - <i>Cancelled</i>	Minutes of the Audit and Risk Committee held on 27 September 2021 Audit Progress & Sector Update Internal Audit Progress Report Treasury Management Mid-Year Report 2021/22 Annual Audit Letter 2020/21 Corporate Risk Update Q1 & Q2 2021/22	Democratic Services Officer Grant Thornton Audit Manager Treasurer Grant Thornton ACFO Strategic Enabler (Enabling Services)	Deferred to 6 December Deferred to 6 December Deferred to 6 December Deferred to 6 December Deferred to 21 March 2022 Deferred to 6 December

OFFICIAL

	Annual SIRO report	ACFO Strategic Enabler (Enabling Services)	Deferred to 21 March 2022
	Audit and Risk Committee Work Plan 2021/22	Democratic Services Officer	Deferred to 6 December
	Minutes of the Pension Board held on 08 September 2021	Democratic Services Officer	Deferred to 6 December
	Fraud Awareness Training (tbc)	Phil Tromans John Matthews	Deferred to 21 March 2022
6 December 2021	Minutes of the Audit and Risk Committee held on 27 September 2021	Democratic Services Officer	6 December 2021
	Audit Progress & Sector Update	Grant Thornton	Deferred to 21 March 2022
	Internal Audit Progress Report	Audit Manager	6 December 2021
	Treasury Management Mid-Year Report 2021/22	Treasurer	6 December 2021
	Corporate Risk Update Q1 & Q2 2021/22	ACFO Strategic Enabler (Enabling Services)	6 December 2021
	Vacant Residential Properties Update	Treasurer	6 December 2021
	Monitoring Policies and RIPA		6 December 2021

	(Annual Whistleblowing Report) Audit and Risk Committee Work Plan 2021/22 Minutes of the Pension Board held on 08 September 2021	Monitoring Officer/ACFO Strategic Enabler (Enabling Services) Democratic Services Officer Democratic Services Officer	6 December 2021
13 December 2021 (Authority)	Minutes of the Audit and Risk Committee held on 27 September Annual Audit Letter 2020/21	Democratic Services Officer Grant Thornton	13 December 2021 Deferred to 27 June

2022			
14 February 2022 (Authority)			
21 March 2022	Minutes of the Audit and Risk Committee held on 6 December 2021 Internal Audit Progress Report Audit Progress & Sector Update	Democratic Services Officer Audit Manager Grant Thornton	21 March 2022 21 March 2022

	Internal Audit Plan 2022/23	Audit Manager	21 March 2022
	Audit Plan 2021/22 (possibly in June 2022 - tbc)	Grant Thornton	
	Internal Audit Charter – Annual Review	Audit Manager	21 March 2022
	Informing the Audit Risk Assessment – West Midlands Fire and Rescue Authority 2021/22 (possibly in March 2022 but may need to be June 2022 - tbc)	Grant Thornton	21 March 2022
	Annual Audit Letter 2020/21	Grant Thornton	Deferred to 06 June 2022
	Annual SIRO report	ACFO Strategic Enabler (Enabling Services)	21 March 2022
	Minutes of the Pensions Board held on 10 December 2021	Democratic Services Officer	06 June 2022
	Audit and Risk Committee Work Plan 2021/22	Democratic Services Officer	21 March 2022
	Fraud Awareness Training	Phil Tromans John Matthews	21 March 2022
	<i>Committee Members' Private meeting with Internal Auditors (to follow Committee)</i>	<i>Audit Manager</i>	21 March 2022
6 June 2022	Annual Internal Audit Report 2021/22	Audit Manager	6 June 2022

	Governance Statement 2021/22	Treasurer	6 June 2022
	Monitoring Policies and RIPA (Annual Whistleblowing Report)	Monitoring Officer/ACFO Strategic Enabler (Enabling Services)	6 June 2022
	Corporate Risk Update Q3 & Q4 2021/22	ACFO Strategic Enabler (Enabling Services)	6 June 2022
	Audit Plan 2021/22 (possibly in March 2022 - tbc)	Grant Thornton	6 June 2022
	Informing the Audit Risk Assessment – West Midlands Fire and Rescue Authority 2021/22 (possibly in March 2022 but may need to be June 2022 - tbc)	Grant Thornton	21 March 2022
	Annual Report of the Audit and Risk Committee 2021/22 for approval	Chair, Audit and Risk	6 June 2022
	Audit Progress & Sector Update	Grant Thornton	
	Internal Audit Progress Report	Audit Manager	
	Minutes of the Audit and Risk Committee held on 21 March 2022	Democratic Services Officer	6 June 2022

	Minutes of the Pensions Board held on 10 December	Democratic Services Officer	6 June 2022
	Annual Report of the Pension Board 2021/22	Chair, Pensions Board	Deferred to July 2022
	Audit and Risk Committee Work Plan 2021/22	Democratic Services Officer	6 June 2022
	<i>Committee Members' Private meeting with External Auditors</i>	<i>Grant Thornton</i>	Deferred - TBC
	<i>Workshop for Members on Statement of Accounts 2021/22</i>	<i>Treasurer</i>	6 June 2022
27 June 2022 [Authority]	Governance Statement 2021/22	Treasurer	
	Annual Audit Letter 2020/21	Grant Thornton	
	Minutes of the Audit and Risk Committee held on 21 March 2022	Democratic Services Officer	
	Minutes of the Audit and Risk Committee held on 6 December 2021	Democratic Services Officer	
	Annual Report of the Audit and Risk Committee 2021/22	Chair, Audit and Risk	

XX July 2022 (Audit and Risk Committee 2022/23)	Minutes of the Audit and Risk Committee held on 6 June 2022	Democratic Services Officer	
	Statement of Accounts 2021/22 (Draft Unaudited Approval)	Treasurer	
	Treasury Management Annual Report 2021/22	Treasurer	
	Audit and Risk Committee Draft Work Plan 2022/23	Democratic Services Officer	
	Minutes of the Pension Board - 28 March 2022	Democratic Services Officer	
	Note: Audit Findings Report 2021/22 (needs to be in Sept 2022)	Grant Thornton	

