

**Minutes of the Audit and Risk Committee**

**26 September 2022 at 12:00 hours**

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

**Present:** Councillor Miks (Chair), Councillor Spence, Councillor Waters and Councillor Greg Brackenridge

**Virtually:** Councillor Miller, Peter Farrow (Internal Audit), Satinder Sahota.

**Officers:** Gary Taylor, Kal Shoker, Kirsty Tuffin, Mike Griffiths, Paul Gwynn and Tom Embury

**Observers:** Alan Tranter, Member of the Pensions Board,

83/22 **Apologies for Absence**

Apologies for absence were received from Councillor Barrie, substituted by Councillor Vera Waters.

84/22 **Declarations of Interest**

There were no declarations of interest registered.

85/22 **Minutes of the Audit and Risk Committee held on 06 June 2022**

Resolved:

1. That the minutes of the Audit and Risk Committee held on 06 June 2022 were approved as a correct record.

86/22 **Minutes of the Audit and Risk Committee held on 18 July 2022**

Mike Griffiths, Section 151 Officer, advised the Committee that as per item 89/22 of the minutes of the previous meeting, that he wished to make a point of clarity that the West Midlands Fire Services Pensions Administration Team had not been responsible for the issues discussed at the last meeting.

Resolved:

1. That the minutes of the Audit and Risk Committee held on 18 July 2022 were approved as a correct record.

87/22 **Approach to be Taken in Respect of Immediate Detriment Cases Under the McCloud/Sargeant Ruling**

Mike Griffiths presented the Approach to be Taken in Respect of Immediate Detriment Cases Under the McCloud/Sargeant Ruling report that outlined the proposed approach by the Scheme Administrator for the processing of Immediate Detriment cases.

The Committee were advised that following the decision by Audit and Risk Committee to lift the pause in processing Immediate Detriment cases on the 6 June 2022, a staged approach to implementing the changes was recommended, as outlined within the report.

Members who are currently active and who have membership within the legacy period, (1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2022), known as Category 1 members, would be offered a choice of benefits aligned to the arrangements set out in the Memorandum of Understanding (MoU) agreed between the LGA and the FBU on 8<sup>th</sup> October 2021.

It was aimed to process Members known as Category 2 members, who left the scheme after 1<sup>st</sup> April 2015 and before 30<sup>th</sup> June 2022, with service during the legacy period and who have already submitted a claim for remedy under the terms of the MoU, need to be processed by 31<sup>st</sup> December 2022, prioritised based on the date a claim was made, dealing with the earliest claim first and working through all subsequent claims. There were 15 members in this category. There was also one member who retired on health grounds who would be included within this group. This member would be given priority.

Work would need to be undertaken by the Pensions Team relating to Category 2 members who had not yet submitted a claim for remedy. This would involve setting out a statement for the Members, detailing the benefits due and the payments required, to return their service to their previous pension scheme, by 28<sup>th</sup> February 2023. Members would have 6 months

to respond to this statement. On receipt of a response, the Scheme Administrator would process the benefits of the affected member in line with their response, prioritised based on the date a claim was made, dealing with the earliest claim first and working through all subsequent claims. There were 37 members in this Category.

Due to the significant resource required to progress the Immediate Detriment cases, two additional members of staff had been recruited and were due to join the Pensions Administration Team in October and November 2022.

The Chair of the Authority advised that he had a non-pecuniary interest due to being a member of the Firefighters Pension Scheme(s). He advised that West Midlands Fire Service had been the first to remediate the decision on Immediate Detriment cases following the court ruling in favour of the FBU case. He appreciated the anxiety that this had caused individuals however, the implementation of this decision would take time. The pension team had been working overtime on this issue and he had been grateful to all those involved.

Members of the public in attendance were asked if they wished to voice their concerns. Alan Tranter, Member of the Pensions Board, expressed his concerns on the affects this had on individuals and their incomes and lack of planning for additional resources to process payments. Members of the public also took the opportunity to express their frustrations and worries on the situation and the lack of communication. Following discussions on four cases not receiving their pension forecast within the desired timeframe, Paul Gwynn, Payroll and Pensions Manager, advised the Committee that the delay in these cases had been the result of one employee being off due to ill health. This had now been picked up and work was underway to deal with this. He confirmed that the members would have received their pay on Friday 23 September and a statement would be issued within 7-10 days of leaving the service as the benefit entitlement had to be produced using the most up-to-date wage slip.

Following concerns raised by members of the public on the February 2023 timescale for Category two cases, the Chair of the Authority sympathised with those affected. He advised that

although he appreciated the timescales were not what members wanted to hear, the Audit and Risk Committee had been the first to take the decision to pay those affected as the service did not want to discriminate against its employees. The money to fund this would be taken out the service's reserves as the Government had not confirmed who would be funding remedy. The other option is to await changes to government legislation, that was not due to be published until October 2023. This would delay the processing of these cases until at least February 2024 so although February 2023 had not been desirable it would be processed as soon as possible. He expressed the view that employees were the service's priority and additional members of staff had been employed to assist and process the cases as soon as possible.

Alan Tranter endorsed the Chair of the Authority's comments and expressed concerns if the timings were not met in February 2023. The Chair of the Committee advised that pension scheme members would be kept up to date, following the members of the public desire to be kept informed and receive relevant communication. She advised that an Independent Investigation would be taking place into issues with the pension scheme in 2022 and would be looking into areas of improvement and would seek the views of representatives. Should members of the public wish to email Councillor Miks to highlight issues experienced than she would ensure this was passed onto the relevant officers.

Resolved:

1. That the proposed approach, as per section 5 of the report, by the Scheme Administrator be approved.

88/22 **CIPFA Audit and Risk Committee Update No.36**

*Please note: it was agreed to amend the ordering of the agenda to allow for the CIPFA update No.36 to be discussed earlier, due to prior commitments of the Internal Auditors. It was agreed that the report could be discussed in the public domain as the appendix had been made exempt due to copyright issues.*

Peter Farrow, Internal Auditor, presented the CIPFA Audit and Risk Committee Update No.36 that outlined the new CIPFA

Guidance on Audit Committees in Local Authorities and Internal Audit and provided a quarterly update on new developments/guidance members need to be made aware of. Internal auditors would follow this guidance to ensure the authority is following best practice. Members were advised that should they wish to participate in any training courses/seminars than to contact Peter Farrow who would look into this further.

Resolved:

1. That the CIPFA Audit and Risk Committee Update No.36 be noted.

#### 89/22 **Statement of Accounts 2021-2022**

Mike Griffiths, Treasurer, presented the Statement of Accounts 2021-2022 report that outlined draft statement of accounts (unaudited) and a draft summary of the statement of accounts.

The committee were advised that Kal Shoker, Finance Manager, had provided training on the Statement of Accounts to Members of the Committee in June 2022. Since this, as per the balance sheet within the report, there had been movement within the reserves and general balances had decreased by £2m to £3.8m. The earmarked reserves had also decreased by £7m to £29.8m.

The Committee were advised that the Statement of Accounts were unaudited, and the final audited version would be brought back to Committee for final sign off.

Resolved:

1. That the draft Statement of Accounts for 2021-2022 (unaudited), as per appendix A, be approved.
2. That the draft Statement of Accounts summary for 2021-2022, as per appendix B, be noted.

#### 90/22 **Treasury Management – Annual Report – 2021-22**

Kal Shoker, Finance Manager, presented the Treasury Management – Annual Report – 2021-22 that outlined the treasury activity during 2021-2022 and the actual prudential indicators for 2021-2022.

The Committee were advised that as the report had been deferred from July's Committee meeting, some of the content on the economy and interest rates within the report had been historical and any changes would be reflected within the mid-year review for 2022-2023.

The Committee were advised that following the Treasury Management strategy approval in February 2021 there were three activities that needed to be highlighted:

Firstly, Capital Expenditure had been £3.1m funded by revenue contributions. The largest spend had been the Vehicle Replacement Programme at £2.3m, £185k on rewires and £138k on boiler replacements. No borrowing had been undertaken to finance any capital expenditure in 2021-2022.

Secondly, as at 31st March 2022 the Authority's total external debt had been £31.5m. The value of long-term assets held by the Authority as at 31st March 2022, which the loans have helped fund was £154.5m. The average rate of interest payable on this debt had been 5.24%.

Finally, as at 31st March 2022 the Authority's investments totalled £33.5m which were invested with Sandwell Metropolitan Borough Council (MBC) as part of the treasury management arrangement the authority had with them. Interest had been received on the Authority's daily cash balance and was based on the average return achieved by Sandwell (MBC) plus 10 basis points which for 2021/22 was 0.16%. This compared favourably to the benchmark, the SONIA (Sterling Overnight Index Average) un compounded rate of 0.1355%.

Resolved:

1. That the treasury management – Annual Report 2021-2022 be noted, and the prudential/treasury indicators be approved.

## 91/22 **Pension Board – Appointment of Independent Chair**

Tom Embury presented the Pension Board – Appointment of Independent Chair report that outlined the proposed process for advertising, sourcing and appointing a new Independent Chair to the Pension Board.

The committee were advised that the previous Independent Chair, Head of Finance for West Midlands Police, had resigned from post. There is no prescribed process held within legislation, so it had been proposed to use a similar process to that of an Independent Member/Person to the Authority. This would entail the advert being published externally, with shortlisting/interviews to be conducted by a Sub-Committee of Audit and Risk Committee. A recommendation by the Sub-Committee would be brought to a future Audit and Risk Committee meeting for approval.

Resolved:

1. That the proposed process of appointment for an Independent Chair of the Pensions Board be approved.

92/22 **Update on Corporate Risk 6.1 Business Continuity Arrangements**

Gary Taylor, Assistant Chief Fire Officer, presented the Update to Corporate Risk 6.1 Business Continuity Arrangements that outlined the context for uprating Corporate Risk 6.1 to 16 (RED) and potential steps to mitigate the risk, as requested at the last Audit and Risk Committee meeting, following a verbal update on the issue.

The Committee were advised that as per the Fire and Rescue Service National Framework, Fire and Rescue Authorities were required to assess any risk of emergencies occurring and ensure business continuity. Alongside this, Section 2 of the Civil Contingencies Act 2004 contained contingency/business continuity plans that the Authority had a statutory duty to assess, plan and advise upon. The West Midlands Fire Service (WMFS) Industrial Action Plan had been in place to assist with this, however, it relied upon non-striking operational staff/volunteers to provide cover. Following a Scrutiny Review in October/November 2019, a report was submitted to Fire Authority to greater strengthen business continuity resilience arrangements. The report was rejected, following a recommendation from Scrutiny Committee to continue with

existing business continuity arrangements. Fire Authority had responded to the Fire Reform White Paper stating they had confidence in the robustness of the current plans in place, but this contradicted the Officer response who did not share the same views.

A survey conducted by the National Fire Chief's Council (NFCC) had been published and RAG rated services on the resilience of their business continuity plans in the event of industrial action. This had been shared with the Home Office.

The Committee were advised that Corporate Risk 6.1 had been escalated from 12 to 16 (impact 4, likelihood 4), the highest risk level, as the service felt it did not have the confidence that services could be provided should there be strike action. A 2% pay award had already been rejected by Grey-Book staff, with consultation taking place with Green Book staff on a £1925 increase to all pay points. It was felt that given the different factors around cost-of-living crisis, the topic of pay that was impacting on everyone, and with other sectors already striking, the use of volunteers/non-striking staff would not be enough to provide the services required. It was recommended that an external provider be engaged with to provide the resilience required should there be strike action. As this would incur expenditure in excess of the CFO's delegated £250,000 limit, the decision would require Fire Authority approval. Such expenditure had also not been included in approved budgets of the Fire Authority, so would need to be taken into account in future budgeting decisions

Following queries on the sourcing of equipment and training, Gary advised that a full report providing key details on equipment and training would go to Fire Authority on 10 October 2022. He re-assured Members that external companies often used ex firefighters and therefore maintained high standards. Following concerns raised by FBU, Gary reassured Members that the service made no judgement on those wishing to strike and knew the impact this would be having on staff however, the service did have a legal duty to ensure that services could still be provided in the event of strike action.



The Chair of the Authority sympathised with staff and the services legal obligation to provide services in the event of strike action. He had and would continue to lobby nationally on the issue of fairer pay and understood that poor pay increases had occurred for the last ten years or so. He wished for the Home Office to assist and would continue talks with them as the decision had been out of the authority's hands on pay increases. He recommended that a scrutiny review on the proposals for business continuity arrangements be conducted whilst national negotiations take place and conclude an offer that would be accepted by its members.

Satinder Sahota, Monitoring Officer of the Authority, expressed the need that members mitigate any risk and that talks with the Home Office should be included within the Scrutiny review.

Resolved:

1. That the context and reasoning for the uprating of corporate risk 6.1 in June 2022 to 16 (RED), the highest rating, and implications to the service be noted.
2. That steps to mitigate the risk be taken by recommending to Fire Authority that a Scrutiny Review take place.

### 93/22 **Pension Regulator Supervisory Review Report**

Tom Embury presented the Pension Regulator Supervisory Review report that outlined the content/recommendations of the 2020-2021 Relationship Supervision Review Report of the West Midlands Fire Service Firefighter Pension Scheme from the Pension Regulator.

The Committee were advised that the report covered the period between 2020-2021 as it was delayed as a result of the COVID pandemic. An action plan would need to be developed and provided back to the Pension Regulator by early November 2022. It was recommended that Pension Board be delegated the task to discuss/develop the action plan in an extraordinary meeting, to be scheduled in October, for circulation to the Chair of Audit and Risk Committee and be brought back to Audit and Risk Committee in November. Following discussions around the role of Pension Board, it was agreed that officers would begin

the draft action plan for further developments/discussions to take place at the Extraordinary Pension Board meeting. Alan Tranter, Pension Board Member, advised he would be happy to work with Officers on the action plan and some of the actions had already been in place/could be actioned quickly.

A member of the public expressed concerns that the report did not cover the recent administrative issues and felt individuals were pushing the blame around. The Chair of the Committee disagreed and advised that the report had been delayed due to COVID and an Independent Investigation would be conducted on the recent issues highlighted.

Resolved:

1. That the content and recommendations of the 2020-2021 Relationship Supervision Review Report of the West Midlands Fire Service Firefighter Pension Scheme from the Pension Regulator, be noted.
2. That recommendation 1.2 as per report, be approved subject to the amendment that Officers would draft the action plan for further discussions/development at the Extraordinary Pension Board.

94/22 **Update on Topical, Legal and Regulatory Issues (Verbal Report)**

Mike Griffiths advised the Committee that Grant Thornton had issued a letter advising that the deadline for the Annual Auditors Report would be delayed until 31 January 2023.

Resolved:

1. That the update on Topical, Legal and Regulatory Issues be noted.

95/22 **Audit and Risk Committee Work Plan 2022-2023**

Tom Embury, Deputy Clerk, presented the Audit and Risk Committee Work Plan for 2022-2023 that outlined the planned agenda items for future scheduled Audit and Risk Committee meetings.

The Committee were advised that the Pension Regulator Supervisory Report would be added to the November meeting.

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The outcome of the review would be added to a future meeting once timelines had been determined.

Resolved:

1. That the Audit and Risk Committee Work Plan 2022-2023 be approved.

The meeting closed at 14:17 hours.

Kirsty Tuffin

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