



WEST MIDLANDS FIRE AND RESCUE AUTHORITY

Monday, 08 April 2019 at 11:00

**FIRE SERVICE HEADQUARTERS,
99 VAUXHALL ROAD,
BIRMINGHAM, B7 4HW**

Distribution of Councillors	
<u>Birmingham</u>	D Barrie Z Iqbal K Jenkins S Spence
<u>Coventry</u>	C Miks S Walsh
<u>Dudley</u>	A Aston N Barlow
<u>Sandwell</u>	J Edwards C Tranter
<u>Solihull</u>	P Hogarth
<u>Walsall</u>	S Craddock A Young
<u>Wolverhampton</u>	G Brackenridge J Dehar
<u>Police & Crime Commissioner</u>	D Jamieson
<u>Co-opted Members</u>	Professor S Brake S Middleton

Car Parking will be available for Members at Fire Service Headquarters.

Accommodation has been arranged from 10.00 am for meetings of the various Political Groups.

Fire Authority

You are summoned to attend the meeting of Fire Authority to be held on
Monday, 08 April 2019 at 11:00

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

for the purpose of transacting the following business:

Agenda – Public Session

- 1 To receive apologies for absence (if any)
- 2 Declarations of interests in contracts or other matters
- 3 Chair's announcements
- 4 Minutes of the Fire Authority held on 18 February 2019 5 - 36
- 5 Route to Mayoral Governance Update - Approval of Statutory Order and Proposed Constitutional Detail 37 - 74
- 6 Contract Awards Summary for period to 31 April 2019 75 - 78
- 7 Statement of Assurance 2017-18 79 - 102
- 8 Pay Policy Statement 2019-2020 103 - 154
- 9 Corporate Performance Indicators 2019-20 Report 155 - 160
- 10 Minutes of the Governance and Transformation Committee held on 28 January 2019 161 - 164
- 11 Notes of the Policy Planning Forum held on 4 February 2019 165 - 176
- 12 Notes of Joint Consultative Panel held on 4 February 2019 177 - 182

Agenda (not open to public and press)

14 **Exclusion of the public and press**

Chair to move:- *"That the public and press be excluded from the rest of the meeting to avoid the possible disclosure of exempt information under Schedule 12A to the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 for the reasons stated below."*

15 **Planned Procurement Exercise**

- Information relating to the financial or business affairs of any particular person (including the authority holding that information);

Agenda prepared by Julie Connor

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

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WEST MIDLANDS FIRE AND RESCUE AUTHORITY

Item 4

**18 February 2019 at 1100 hours at
Fire Service Headquarters, Vauxhall Road, Birmingham**

Present: Councillor John Edwards (Chair)
Councillor Zafar Iqbal (Vice Chair)
Councillors Aston, Barrie, Barlow, Brackenridge,
Craddock, Dehar, Hogarth, Jenkins, Miks, Spence,
Tranter, Walsh, and Young
Mr M Ager, Independent Member

1/19 **Apologies for Absence**

Councillors Walsh and Tranter, Gurinder Josan (Representing PCC), Prof Simon Brake and Ms Sarah Middleton, Co-opted Members

2/19 **Chair and Chief Fire Officer's Announcements**

The Chair presented the Chief Fire Officer, (CFO) Mr Phil Loach, with a certificate marking his 25th year of Service with the West Midlands Fire Service. The certificate recognises the Service given by the Chief Fire Officer and the Chair thanked the Chief for his Service.

The CFO informed the Authority that after 27 years' service, seven as a Principal Officer in West Midlands, Deputy Chief Fire Officer Philip Hales had announced his retirement.

DCFO Hales stated that he had joined West Midlands Fire Service in 2010 as a temporary Assistant Chief Officer from Cheshire Fire and Rescue Service and this was one of his best decisions. The DCFO had enjoyed working in and with the community of the West Midlands. The people had inspired him in what had been achieved.

Mr Hales was moving back home to Cheshire to be with his family and he felt it was the right time to start a new chapter of his life.

DCFO Hales thanked the Authority, the CFO and Chair for the opportunity to serve in the West Midlands and was extremely

proud to have served here. Mr Hales stated that he would be retiring at the end of June and would be leaving with no regrets or concerns. The DCFO hoped the Authority would build on the progress it had made in the future and continue to provide a sustainable Fire Service for the community of the West Midlands. He thanked everyone and gave his best wishes for the future.

The Chair on behalf of Authority thanked DCFO Hales for his work, his clear role on the National Fire Chiefs Council and for Chairing the Finance Committee and arguing valiantly for better deal on behalf of Fire Service. The Chair also thanked the DCFO for his work for the Service and the fire service nationally. The West Midlands Fire Service would miss him and wished him a long and happy retirement.

DCFO Hales thanked the Authority for their good wishes.

The LGA would be running a Leadership Course at Warwick University on the 26/27 February 2019 and expressions of interest were welcome from Members of the Authority.

The Service were hosting an LGA Masterclass on Equality and Diversity on the 20 February 2019 at Fire Service Headquarters. Members were asked to contact Julie Connor, in Strategic Hub, if they wished to attend.

The Police and Crime Commissioner had formally informed the Authority that Mr Gurinder Singh Josan would be representing him at future meetings of the Authority. It was noted that Mr Singh Josan was a former member of Sandwell MBC.

It was noted that the Fire Service Band would be performing a Spring Concert at St John's in the Square, Wolverhampton, WV2 4BZ on 2 March 2019 at 7pm Tickets were available from the Band.

Following the recent Inspection the Chief Fire Officer had received the a brief update from Inspection Team on the 8 February 2019.

In respect of efficiency and effectiveness there was wide commendation for the Service.

Inspectors acknowledged that there had been much dialogue with staff but bringing change and transformation had also brought tension.

There were no safety concerns and the Chief felt that the Authority would not be disappointed with their report.

The Chief Fire Officer informed the Authority that he would be writing to the seven Chief Executives updating them of the work being undertaken by the Service in respect of high rise fire safety post the Grenfell incident.

Birmingham City Council had tested the cladding on all high rise buildings in Birmingham and there were limited flammability concerns in those buildings and the Service had changed the level of response to those buildings.

It was hoped that other Councils would follow the example of Birmingham City Council. Wolverhampton City Council had started to follow suit. This work would provide the best information on the on foreseeable risk.

The letter would be sent out within the next 48 hours and the Chief Fire Officer wanted to make Members aware that they may be approached by their Council colleagues.

3/19 **Declarations of Interest**

Councillor Brackenridge declared an interest in item 11 of the Agenda. The Chair declared an interest in the same items and stated they were personal and non-pecuniary.

4/19 **Minutes of the Fire Authority held on 19 November 2018**

Resolved that the Minutes of the Authority held on the 19 November 2018, be confirmed as a correct record.

5/19 **Investment in Support Services**

The Authority received a report from the Chief Fire Officer requesting approval for the ongoing further investment within the Support Services.

The reductions in the Comprehensive Spending Review since 2010/11 had resulted in significant reductions and changes to support services and the implications of the changes over this period of time were being revealed. There was now a requirement to invest in the Diversity, Inclusion, Cohesion and Equality (DICE), Information Communications Technology (ICT) and Intelligence and Innovation (I&I) Teams.

The investment places a heavy emphasis on roles which will enable more innovative and digital solutions to help people, systems and processes to become more efficient and effective.

The DICE Team required an additional Watch Commander A role who would be responsible for the attraction and initial selection of applicants for firefighter recruitment and, working in partnership with colleagues at the Fire Service College and marketing company, Thinkology.

Candidates who are successful during the initial stages of online assessment are invited to attend an assessment day. Currently the assessment is carried out by off duty firefighters, Crew Commanders and Watch Commanders on a goodwill basis. The additional resourcing and funding is now required. The Watch Commander A post would be supported by Assessors role and required an annual investment of £59k from 2019/20.

Our current Enterprise Resource Planning (the collective name for a wide range of back office applications that are essential across by Service Delivery and Service Support) are now in need of replacement.

The ERP has been identified as a strategic platform for delivery of the digital agenda. Digital work underpins the delivery of the Plan with a high number of key projects reliant on technological solutions to deliver more efficient and effective ways of working and would be instrumental in organisational transformation.

The current ERP systems requiring a refresh include:

- Human Resources, Occupational Health
- Time and Attendance
- Training and Competence
- Procurement
- Finance
- Payrolls
- Business Intelligence

The need to implement replacement ERP systems is based upon the following three areas:

- Replacing outdated systems and reducing associated risks
- Modern solutions' functionality provides new enhanced digital tools to our mobile workforce
- Business process re-engineering improves efficiency through better ways of working

High level market research has been carried out following engagement with internal and external stakeholders. The findings have identified that Commercial Off the Shelf (COTS) products and partners are readily available within Procurement Frameworks.

Investigative analysis to date indicates an uplift of £350k per annum is likely to be needed from 2021/22 to provide for ERP licencing and support.

Intelligence and Innovation (I&I) carries out a vital role through its Organisations Assurance (OA), Health, Safety and Wellbeing work.

OA is a critical part of the organisation's three lines of defence risk management framework. Reductions in I&I have taken place since 2010 and the team has been supported by earmarked reserves which is no longer sustainable and there is a need for an uplift of £23k.

Management resources within the team have been realigned to Health, Safety and Wellbeing subsequently reducing organisational assurance capability.

Further to additional workloads, new burdens are further increasing the overall demand upon I&I, e.g. Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services, Health and Safety Executive inspections, high profile incidents such as Grenfell and Manchester Arena bombing and requirement to implement and embed National Operational Guidance.

Restructuring and new ways of working have been implemented, but further investment is needed through the creation of a Station Commander B and Watch Commander B post require £120k ongoing investment.

Considered alongside the adoption of the £23k funding required to maintain the existing team, total investment for I&I equates to £143k per annum from 2019/20.

The financial implications were set out in a table to the report, but it was noted that there was currently no specific budget provision and costs would need to be met from existing budgets.

One Councillor expressed her concerns about the effect that the cuts to services and funds not being available to support planned projects and felt that the community would be suffering as a result and asked how the Service would be compensating for the loss of services.

The Chief Fire Officer stated that he tried to keep Members aware of the various changes, whilst maintaining the best service to the community, including the 5 minute attendance time and various changes to prevention and protection. The significant cuts to the budget have meant decisions have had to be taken whilst managing the least risky options.

Some of these changes may be less able to detect but the four areas identified as a result of review required investment. The increased burden of Inspection had required a significant amount of resource that had to be redirected from elsewhere.

It was likely that the Authority would be required to return to similar decisions in the future. If the overall funding package was not increased, the Authority would be required to make

difficult cuts and the size and ambition of the Service may need to be reduced in the future.

The Chair stated that the cuts to services were a consequence of the £10m cut to Government funding in the last four years and £38m overall and support staff had been reduced by 26%.

A report to the Authority in November 2018 had required more investment in the Protection Department following cuts of 40%.

Whilst maintaining the best possible response times, other services have paid a heavy cost with support services trying to hold things together. The key areas of DICE, I&I and ICT now required further investment and the Chair was supportive of this. The constant significant cuts over the years may create other issues in the future.

Resolved that the ongoing further investment within Support Services be approved.

6/19 **Strategy Option 2019-2020**

The Authority considered the approach set out to deliver “The Plan” and set a balanced budget, through the flexible, risk-based management of resources on a daily basis.

The Chief Fire Officer explained that he would manage resources and determine and manage fleet availability, to support the delivery of the approach as appropriate.

The Authority had previously been provided with a range of options to consider in addressing the 2019/20 £3m deficit within the Authority’s Financial Efficiency Plan. The Authority had also approved an additional investment of circa £600k for the protection function to enable efficient and effective delivery of the Authority’s statutory fire safety responsibilities, in support of current and changing legislation.

Further investment in support services would also be required to effectively and efficiently deliver ‘The Plan’ over a 3 year rolling period and beyond. This would be in addition to the £3.6m savings required. The CFO stated that he would continue to lobby the government for an appropriately funded service.

An assessment of the five options presented to the Authority on 19 November 2018 had been conducted. The recommendation to the Authority was essentially an amalgamation of staff/resource availability and resources configuration. The shift arrangements and on-call firefighter options had been discounted as from analysis no significant savings would be made from these options.

Risk analysis and evidence informs the Integrated Risk Management Plan (IRMP) and looks to assess all reasonably foreseeable risk within the community.

The CFO will determine the most effective flexible management of risk and allocation of resources on a daily basis. This will be achieved through the use of an evidence base, the IRMP, technological solutions such as the Dynamic Cover Tool, technical expertise and professional judgement.

The expected budget constraints during 2019/20 will result in a number of resources being unavailable each day, but a flexible risk-based approach to decisions made by the CFO on a day to day basis will enable resources to be available on a day to day basis. A full Equality Impact Assessment has been carried out and the risk based, flexible approach outlined in the recommendation supported by the ongoing targeting of prevention and protection work towards the most vulnerable helps to mitigate any potential equality impacts.

The Authority had noted that the Review of the Strategic Enabling Team and the Flexi Duty System would form a part of the management review.

The Set review, being carried out by the CFO, would be completed by 31st March 2019.

There would be no significant changes to the current levels and roles of supervisory management within the organisation. In recognition of this all temporary vacant roles would be substantiated. The application of this would be based on a set of implementation principles underpinned by the recognition and substantiation of individuals in vacant roles who have passed a recognised selection process with the intention to start applying the principles against an agreed timeframe in April 2019.

Appendix 1 to the report set out illustrative examples of risk based management of fleet availability to deliver a balance budget.

Members were asked to note that the two Pump Rescue Ladder (PRL) appliances allocated to technical Rescue are not included in the options, due to the specific and specialised role they provide.

The proposed flexible, risk-based management of resources on a daily basis would provide the basis of achieving the required level of savings, specifically by a reduction in employee related costs.

Based on current estimates and assumptions within the Medium Term Financial Plan, there is a forecast budget shortfall of approximately £1.7m in 2021/22. Unless an improvement in the Authority's funding position and/or any alternative Service efficiencies are identified, the approach proposed to balance the budget in 2019/20 would need to be extended further to achieve a balanced budget in future

In answer to a Member's enquiry it was confirmed that consultation had taken place with the Representative Bodies and firefighters would not receive less pay. There would not be any enforced redundancies, but there would be a reduction in the use of Voluntary Additional Shifts.

One Member stated that this was the best of the bad choices facing the Authority and the spending cuts were now starting to affect the front line and service to the public.

Robust negotiations had been held with the Representative Bodies and no changes were being made to shift patterns or conditions of service. The option was to now look at the fleet and it was felt that this was a difficult but the best decision.

The Chair stated that the Service Delivery Model had been maintained since 2011 whilst continuing to meet response times, carrying out Safe and Well visits and addressing the needs of vulnerable people.

This had been continued through reduced budgets, but the Authority could no longer afford to keep appliances on the run and continue with the levels of Voluntary Additional Shifts and would now be pre-stating appliances as this was what the Authority could afford. The primary impact of the decision, at this difficult time, would be on the number of Safe and Well visits conducted. The Safe and Well visits are carried out by on duty firefighters and the Authority would now be supporting less vulnerable people and this was seen as a retrospective step and not fulfilling the Authority's wishes.

More investment was required to return to where the Authority wished to be, but this was the least worst option with the least risk. The risk based attendance times would be maintained

The CFO confirmed that all staff had been engaged with directly and further engagement and consultation would be taking place on the Employment Relations Framework.

The CFO stated that the recommendations were underpinned by the requirement to prepare an Integrated Risk Management Plan and this was where the focus had been placed. The robust approach to the IRMP had considered the financial or political lenses sequentially. The CFO stated that until the funding issues had been resolved this was the best option available to the Authority.

Resolved that the approach set out in the paper to deliver 'The Plan' and set a balanced budget, through the flexible, risk-based management of resources on a daily basis be approved.

Resolved that the Chief Fire Officer through the Authority's approved accountabilities would manage resources and determine and manage fleet availability to support the delivery of the approach as appropriate be approved.

7/19 Budget and Precept 2019-2020 and Budget Forecast 2020/2021 to 2021/2022

The Authority considered a report on the Authority's Net Revenue Budget for 2019/20, the consequent additional 2.99% Band D Precept Level increase and the resultant amount payable by each constituent District Council, the Capital Programme for 2019/20 to 2021/2022, the Treasury Management Strategy including the Minimum Revenue Provision Statement and Prudential Indicators.

As part of the settlement for 2016/17 an offer was made for a multi-year funding settlement. In order to take up the four year funding settlement to 2019/20, the Authority considered and approved the Efficiency Plan on 19 September 2016 which was submitted to the Home Office.

On 13 December 2018, the Secretary of State for Ministry of Housing, Communities and Local Government (MHCLG) had announced the provisional settlement for 2019/20 at £52.048m resulting in a core funding reduction of £0.982m. The Government also proposed a Council Tax referendum threshold of 3% for Fire and Rescue Authorities.

The four year settlement offer announced in December 2016, which had been confirmed each year, had resulted in the following core funding reductions:

- 2016/17 £3.278m
- 2017/18 £3.962m
- 2018/19 £1.673m
- 2019/20 £0.982m

A total reduction over the four year period (2016/17 - 2019/20) of £9.895m (16% of the 2015/16 core funding).

The MHCLG confirmed the Authority's 2019/20 total core funding on the 29 January 2019.

The projected budget included a number of efficiency measures which were set out in the Efficiency Plan, amended as reflected in the earlier agenda report, as well as enabling any actions to be undertaken arising out of the Authority's Corporate Risk Register.

The Corporate Risk Register had identified a number of major risks that would seriously affect the Authority's ability to carry out its functions. The nature of the risk had made it difficult to quantify any funding impact that would arise were the risk to materialise and in the short term would result in a demand on the Authority's General Balances.

No government allocations have been made beyond 2020

Business Rates Retention

The Business Rates Retention Scheme was introduced in April 2013. Local Authorities are able to keep 50% of the business rates revenue. Under these arrangements the Authority is entitled to a payment equivalent of 2% of the mount of Business Rates retained by the 7 West Midlands Councils. This is approximately £10m.

The Chancellor announced in the Spending Review in November 2015 the intention to localise 100% of business rates to local authorities by 2019/20, however the Local Government Finance Bill fell when Parliament was dissolved for the General Election. The Government is still committed to the reforms.

The Secretary of State for CLG announced in the provisional settlement for 2019/20 of the Government's aim to increase the local share of business rates retention from 50% to 75% in 2020/21 in a way that is fiscally neutral.

Fair Funding Review

The Fair Funding Review will affect how funding is allocated and redistributed between local authorities. It is currently proposed that the new arrangements will be introduced from 2020/21. The Review will set new funding baselines for every Fire and Rescue Authority. The Review had identified a strong rationale for retaining a separate funding formula for Fire and Rescue Services in the needs assessment. The Government has provisionally identified the cost drivers with the greatest impact for Fire and Rescue Services.

The Government have indicated there could potentially be significant changes compared to the current funding shares. The Government are considering different options from updating the existing Fire Funding Formula to developing a multi-level model using fire incident data as a proxy for relative risk.

Following further work to identify an appropriate approach to develop the new funding formula for the Fire Service, the Government has indicated it will sense-check the result of any analysis with experts in the sector, including the National Fire Chiefs Council. The Government will then form a view, however, this review adds another complexity and volatility to long term financial planning.

The Plan

The Authority consulted the public in January 2017 providing the public with an opportunity to influence how the Service works. The Community Safety Strategy (the Integrated Risk Management Plan) is the risk analysis which identifies what the risk profile of the West Midlands community and provides analysis of where resources are required to enable effective management of these risks in order to achieve an average five minute risk based attendance standard for the most serious emergencies. However, following the Executive Committee decision on 6 June 2018 to remove new entrants' contracts it was recognised this would result in the need for a change in the Authority's strategy which is reflected in the Plan 2019-2022.

The Plan sets the Authority's strategic direction for the next three years and defines those outcomes, priorities and strategic objectives which are to be provided with reduced funding and resources.

Firefighters Pension Scheme – Employers Contributions

Following the announcement by the HM Treasury to the discount rate for unfunded public sector pensions on 6 September 2018 and the earlier announcement in the Budget 2016, there has been a reduction to the discount rate from 3% to 2.4%, increasing the employer contributions (to include ill-health costs) from an average of 17/6% to 30.2% from April 2019.

The estimated cost to the fire sector would be around £107m per annum. However, in order to mitigate most of the increase, HM Treasury has provided additional funding in 2019/20, with the sector paying only the additional costs announced at Budget 2016. The Fire sector will pay approximately £10m of the additional costs in 2019/20. The remainder will be provided by a grant under s31 Local Government Act 2003.

The increase in the 2019/20 Employer's Pension contributions is estimated to be £5.3m for the Fire Authority, a s31 government grant of £4.9m has been allocated for 2019/20. The budget forecasts from 2020/21 reflect a continuation of this arrangements however, it should be noted that removal of the s31 arrangement would create an ongoing budget pressure of up to circa £5m.

Firefighters Pension Scheme – Court of Appeal Judgement Issues

On 20th December 2018, the Court of Appeal handed down the judgement in the Firefighters transitional appeals case, finding the transitional protections introduced with the new Pensions scheme in 2015 were unlawfully discriminatory on grounds of age. The Government have submitted an application for permission to appeal to the Supreme Court. The report highlighted potential annual cost increases in employers costs of £1.5m.

Precept 2019/20

All City/Metropolitan Councils had formally set their Council Tax base and had notified the Authority accordingly.

The Council Tax at Band D for 2019/20 would be £60.60, and increase of 2.99% (£1.76) per annum, the lowest precept for any stand alone fire authority.

The Council Tax amounts to £43.215m split between the constituent Local Authorities.

The final figures from external funding sources had now been notified and totalled £96.778m.

In addition to external funding it is estimated that the Authority will generate income of £3.079m (£3.977m in 2018/19). The 2019/20 budget also assumes the use of £1.1m in general balances.

General Balances Strategy

The Authority noted that the General Balances at 1 April 2019 would be estimated at £6.9m, this equates to 7.1% of the Authority's 2019/2020 Net Revenue Budget. The actual level of General Balance at 1 April 2019 would not be determined until the completion of the Authority's 2018/19 closedown of accounts process.

The overall funding requires the use of £1.1m general balances to support the Net Revenue budget which includes an estimated 2% pay award assumption. This would result in the Authority's available General Balances being approximately £5.8m by the end of 2019/20

Meaningful financial planning is hampered as the four year finance settlement comes to an end in March 2020 and there is no clarity over funding levels, nationally and locally, after that date.

The level of General Balances is estimated to be approximately £5m by the end of 2020/21 which is considered appropriate given the issues highlighted. However, the use of General Balances is not a sustainable means of funding the Authority's revenue budget.

Capital Programme

The Capital Programme had been monitored during the year and the projects set out in the capital programme. It is estimated that commitments in respect of those projects which make up the proposed capital programme are as follows:

2019/2020	£6.524m
2020/2021	£3.153m
2021/2022	£3.359m

Funding for the Capital Programme would predominantly be provided by Earmarked Reserves.

No specific announcements had been made by the MHCLG in relation to capital funding. The government have been asked to address the lack of any specific capital funding allocations for the Fire sector.

West Midlands Fire Service's Treasury Management functions are provided by Sandwell MBC, who have, in turn, appointed external advisors to support them. The Treasury Management Strategy for 2019/20 was set out in the report.

Planning for the 2019/20 to 2021/2022 budget

The budgetary planning is closely linked with the delivery of the Plan, all financial pressures faced by the Authority have been considered and resources allocated as appropriate to fulfil the priorities of the Authority.

The robustness of the budget preparation and adequacy of reserves had been assessed and determined using a variety of mechanisms.

No borrowing would take place in 2019/2020.

Consideration will be given to the appropriate level of reserves required as at 31 March 2019 as part of the Authority's closedown of accounts process.

The current level of reserves are considered to be sufficient in all but the most unusual and serious combination of possible events and best endeavours have been made to ensure that the budget and reserves are adequate using the information at this date.

The forecast budget for 2021/22 shows a shortfall of £1.7m and the Authority's attention would need to be given to the Service adjustment that would be required to set a balanced budget for that year. There were a number of significant uncertainties that would need to be kept under review.

The Chair thanked the Treasurer for his explanation of the budget and confirmation that the Authority would be keeping its precept increase below the 3% threshold.

The Chair appreciated that this was a difficult budget and 2019/20 would be a difficult year for the Authority especially with the uncertainty of the re-evaluation of the national pension scheme. If the government doesn't support the Scheme by 2020/21 the whole amount, in excess of £5m, will fall on the Fire Authority.

The second issue is the Court of Appeal judgment on the Firefighters transitional appeals case. The decision relates only to the transitional protection arrangements in the 2015 firefighters pension scheme that applied to members of the 1992 Firefighters Pension Scheme.

If the case is upheld by the Supreme court, a £1.5m deficit will fall on the Authority making a total of £6.5m.

The Firefighters pay rise was still outstanding and discussions were taking place on the 19 February 2019 on broadening the role of the firefighter and a significant increase in pay. The Chair stated that if the government did not fund the pay rise, the Authority would need to pay for any increase above the 2% budgeted for.

General balances would be at £5m by 2021, 5% of the budget as recommended by the Auditors, however, the budget would be £1.7m in deficit by 2021/22.

This was not a happy picture for the Authority with no Government funding to support the capital programme and by 2022 the Authority would just only just be able to cover the £7m required for insurance purposes. The Vehicle Replacement Programme and replacement of vehicles would struggle to continue with only essential maintenance taking place unless further government funding was forthcoming.

Nine years of financial reductions had put the Fire Authority's back against the wall and the Authority did not have control of some of the issues, local and national, and would need the government to change its approach to funding.

One Member stated that he didn't take lightly the fact that the Authority were asking council tax payer to pay more for their services and expressed concern at the lack of capital funding for the building of fire stations in the future.

The Chair stated that the important message was that the Authority's precept had increased by £1.76 per annum, which equated to 14p per month more per household and the West Midlands Fire and Rescue Authority were still the lowest precepting Authority in the country.

The Leader of the Opposition agreed with the budget, he recognised that the Authority were in difficult times, but stated that the Treasurer always did a good job for the Fire Service and he supported the Treasurer.

The Chair thanked the Treasurer, Deputy Treasurer and their Team for the hard work and the great job to deliver a balanced budget.

The Treasurer thanked the Authority for their support.

Resolved:

- (1) That the Authority's Net Revenue Budget for 2019/20 of £96.778m which includes a Council Tax requirement of £43.215m, together with the associated precept levels and resulting Band D Precept Increase of 2.99%, as now submitted, be approved;
- (2) that the Authority's capital programme for 2018/19 to 2021/2022, as submitted, be approved;
- (3) that the Authority's Treasury Management Strategy which includes the Minimum Revenue Provision Statement, and the Prudential Indicators, as now submitted, be approved;
- (4) that it be noted that the constituent District Councils have formally set their Council Tax bases for the year 2018/19 in accordance with Regulation 3 of the Local Authorities (Calculation of Council Tax Base) Regulations 1992 made under Section 33 (5) of the Local Government Finance Act 1992 as follows:-

	Tax Base
Birmingham	251,580.00
Coventry	83,400.10
Dudley	92,253.95
Sandwell	74,150.81
Solihull	76,946.00
Walsall	70,792.74
Wolverhampton	<u>63,996.44</u>
	<u>713,120.04</u>

(5) that the following amounts be now calculated by the Authority for the year 2019/20 in accordance with Sections 40 to 48 of the Local Government Finance Act 1992.

- (i) £114,900,000 being the aggregate of the amounts which the Authority estimates for the items set out in Section 42A(2)(a) to (d) of the Act.
- (ii) £71,685,080 being the aggregate of the amounts which the Authority estimates for the items set out in Section 42A(3)(a) to (b) of the Act.
- (iii) £43,214,920 being the amount by which the aggregate at 5(i) above exceeds the aggregate at (5)(ii) above calculated by the Authority in accordance with Section 42A(4) of the Act as its council tax requirement for the year.
- (iv) £60.60 being the amount (5)(iii) above divided by the total amount at (4) above, calculated by the Authority in accordance with Section 42B(1) of the Act as the basic amount of its Council Tax for the year.

(6) Valuation Bands

	£ (to 6 decimals)	£ (rounded to 2 decimals)
A	40.399856	40.40
B	47.133165	47.13
C	53.866475	53.86
D	60.599784	60.60
E	74.066403	74.07
F	87.533021	87.53
G	100.999640	101.00
H	121.199568	121.20

being the amounts given by multiplying the amount at (5)(iv) above by the number which in the proportion set out in Section 5(1) of the Act is applicable to dwellings listed in a particular valuation band divided by the number which in that proportion is applicable to dwellings listed in valuation band D, calculated by the Authority in accordance with Section 47(1) of the Act, as the amounts to be taken into account for the year in respect of categories of dwellings listed in different valuation bands.

	£
(7) Resultant precepts:	
Birmingham City Council	15,245.694
Coventry City Council	5,054,028
Dudley MBC	5,590,569
Sandwell MBC	4,493,523
Solihull MBC	4,662,911
Walsall MBC	4,290,025
Wolverhampton City Council	<u>3,878,170</u>
Total	<u>43,214,920</u>

being the amounts given by multiplying the amount at (5)(iv) above by the appropriate tax base at 4 above in accordance with section 48(2) of the Act, as the amount of precept payable by each constituent District Council.

- (8) that the precept for each District Council as calculated at 5(iv) above be issued in accordance with Section 40 of the Local Government Finance Act 1992.

8/19 **Proposed Vehicle Replacement Programme 2019-20 to 2021-22**

Approval was sought to proceed with the proposed Vehicle Replacement Programme (VRP) for the financial years 2019/20 - 2021/22, based on the three-year capital costs and the years when the vehicles are estimated to be delivered.

Approval was sought for the funding for 2019/20

It was intended to procure a range of vehicles identified in the Vehicle Replacement Programme using the Crown Commercial Services Purchase Framework Agreement RM859, Open EU tenders and other approved Consortia routes that represent value for money to the Authority.

The Treasurer stated that Officers based at Transport Engineering Workshops using their professional skills and judgements had carried out a review of the ongoing Vehicle Replacement Programme.

Officers had focused on year one and intended to evaluate electronic vehicles to comply with the impending Birmingham Clean Air Zone and suitability prior to any proposed purchases in 2020/21. The replacement period for vans and cars had been extended from 7 to 8 years.

Vehicle life expectancies for replacement and review were set out and the option of leasing vehicles had and would continue to be explored.

One Member's personal view was that the move to electric vehicles was too soon to be considered.

The Chair felt that the Authority were not moving too quickly, but were taking a measured and modest approach as vehicles would not be able to get into city centres in the future without an exemption.

The CFO whilst recognising the comments made, stated that a Pump Rescue Ladder's life expectancy was 10 years, with three years in reserve and may not be usable in future.

Another Member felt that the Authority should pursue renewables as Birmingham City Council were about to introduce a clean air zone and other Councils would soon follow in a bid to reduce the carbon footprint. It was felt the Service should follow a mature and staggered approach to moving to electric vehicles and should be taken seriously.

Resolved:

- (1) that the Vehicle Replacement Programme for the financial years 2019/20 to 2021/22, as now submitted be noted.
- (2) that the funding for the Vehicle Replacement Programme for 2019/20 be approved.
- (3) that the intention to procure a range of vehicles identified in the VRP using the Crown Commercial Services Purchase Framework Agreement FM859, Open EU tenders and other approved Consortia routes that represent value for money to the Authority be noted.

9/19 **2019-2020 Property Asset Management Plan**

Approval was sought to the 2019/20 Property Asset Management Plan. In order to ensure the effective and efficient use of land and buildings, a Property Asset Plan is essential.

Considerable work had been completed during the previous 12 months to assess the appropriateness of existing property assets and consider where future investment should be directed.

Planned maintenance issues will be undertaken during the five year period commencing 2019/20.

The Authority received the key Specific Actions for the forthcoming year.

The Chair congratulated the team on the list of activities undertaken during the last year and reminded members of the Official Opening of Fire Control would take place following the meeting.

One Member enquired about the official opening of Coventry Fire Station following the recent leak at the new station.

The Treasurer confirmed that the contractors had been back on site following the leak and they had been repairing the roof and making good any internal damage.

The Chair stated that a date had not been set for an official opening but Members would be notified as soon as this had been arranged. The station is operational.

The Authority noted that the work on the training facility was behind scheduled due to ongoing discussions with Warkwickshire Fire and Rescue Service.

Resolved that the 2019/20 Property Asset Management Plan be approved.

10/19 **The Plan 2019 – 2022**

The Authority considered the revised Outcomes, which the Vision statement and Priorities of The Plan for 2019-2022 which are derived from the Integrated Risk Management Plan (IRMP). The changes were designed to enable the Service to sufficiently respond and react to the increasingly changing internal and external environment.

The Plan is a rolling 3 year corporate strategy, designed to enable detailed planning for the first year and broader planning setting out aspirations for a further 2 years.

As part of the Service's Strategic Planning Framework The Plan is reviewed annually and the IRMP sets out in detail the risk based analysis that has informed the recommendation.

The response, prevention and protection outcome statements had been amended to recognise the strategic intent of both current and future transformation of services, through working with partners including the WMCA and public reform agenda as well as consideration of digital innovation, workforce reform and development.

The potential additional burdens to Fire and Rescue Services, as a result of the recommendations of the independent review of building regulations of fire safety following the Grenfell Tower incident have been considered.

The changes proposed through the Strategy Option Fire Authority report, priority and outcome statements reflect the need for the CFO to deliver The Plan through flexible, risk-based management of resources on a daily basis to enable a balanced budget.

The Digital and Innovation supporting priority statement and its outcomes have been reviewed the reflect the significance of digitally enabling the delivery of all priorities within the Plan.

The ability to provide the appropriate information to our mobile workforce and the need for secure exchange of data remain in place and the supporting statement has been bolstered by amendments reflecting the importance of embedding a digital culture as well as a focus on research and development.

The proposed priorities and outcomes 2019-2022 were set out in the report. The Plan will be available electronically.

In response to a Members enquiry, it was confirmed that the dynamic approach and the impact of the Safe and Well visit would be evaluated and considered by the Quarterly Performance Framework and Scrutiny Committee and Members of the Authority attend both meetings.

Although the impact of the changes on the safety of the community would be difficult to monitor, they would be monitored for immediate or long term effects.

Resolved that the amendments to the Priorities and Outcomes of the Plan 2019-2022 as now submitted be approved.

11/19 **Monitoring of Finances**

The Authority noted the Monitoring of Finances report up to and including January 2019, which included revenue expenditure and the capital programme. The assumption had been updated as part of the preparation process for the 2019/20 budget.

The Authority's 2018/19 Council Tax requirement is £41.305 million and the revenue budget is £96.608m. The current year's budget has been revised and reflects an estimated transfer from general balances of £1.5m. The actual spend to January 2019, including commitments, was £80.584 million compared to a projected budget of £80.632m, an overall favourable variance of £0.048m.

The Authority's approved capital programme for 2018/19 is £13.548million. Expenditure to the end of January 2019 is shown as £8.168million.

The main forecast variances within the capital programme relates to:

- Aston Fire Station where there has been a delay to construction to enable the re-siting of communication lines
- Vehicle Replacement Programme – delayed purchase of ancillary vehicles (command support vehicle, Detection Identification and Monitoring vehicle and Welfare Pod) pending the outcome of a review and slippage of final stage builds of 7 PRL's to 2019/20.

12/19 **Pay Policy Statement 2019-20**

Approval was sought to the Pay Policy Statement for the 2019/20 financial year setting out the Authority's policies relating to the remuneration of its Chief Officers.

The Deputy Chief Fire Officer confirmed that the Pay Policy Statement 2019/20 complied with Section 38 (1) of The Localism Act 2011 and would be available on the Internet.

The Pay Policy Statement and Appendices set out the pay of all employees, pension arrangements and confirms the Authority's commitments as a Living Wage Employer.

There were no changes of substance to the Pay Policy Statement 2018/19.

Resolved that the Pay Policy Statement for the financial year 2018/19 as now submitted be approved.

13/19 **Arrangements to Act in Matters of Emergency – Laying of the Statutory Order for Transfer of Governance**

The Authority noted the decision made under the above provisions set out within the Authority's constitution, to advise local authorities not to proceed with the layering of the statutory Order for transfer of governance.

The decision taken by the CFO and the Chair of the Authority following the amendments made to the draft statutory Order by the Joint Committee for Statutory Instruments (JCSI) was noted.

On 10 January 2019, advice was provided by the CFO to local authority Chief Executives not to proceed with the laying of the statutory Order to transfer governance of West Midlands Fire Service to the West Midlands Combined Authority (WMCA).

The Order was due to be laid on the 14 January 2019. The amendments were received on the 9 January 2019 and consent was required by 10 January 2019 at 1430 hours.

On review of the JCSI amended Order, it was apparent that changes had been made to Section 1 and Section 7 of the Order, Chief Fire Officer Functions.

The amendments changed the 'CFO Functions' to 'delegated functions' on the choice of the Mayor, further compromising the locally agreed key ask and removing clarity on the independence of the role.

The decision was taken aligned to the Authority's Standing Orders, part 3, item 17, Arrangements to Act in Matters of Emergency Section 2.

There was insufficient time for the Combined Authority to understand the outcomes, and each of the local authority and WMCA Chief Executives agreed to the course of action and the

Clerk confirmed this decision to the Home Office on the 10 January 2019 and hence the process was paused.

A Member expressed his disappointment with the position the Authority found itself, but agreed with the approach taken by the Authority and local leaders. He hoped that the government would look again at the legislation rather than the triple locks locally.

14/19 **Route to Mayoral Governance Update**

The Authority noted the progress of discussions with the Chair, Mayor, CFO and WMCA regarding the route to Mayoral Governance.

The pause created in the governance process was a result of the amendments made to the draft Order at the Joint Committee for Statutory Instruments. The amendments focused on the delegation of the accountability of the CFO and removed the absolute assurance that these would be delegated by the Mayor. This resulted in concern that the operational and organisation independence of the CFO could be compromised.

Therefore local safeguards were considered to replace the specific provisions removed from the Order, the accountability of the CFO as defined in the draft Order, must be delegated by the Mayor to the CFO. The local safeguards will form clauses contained in the WMCA Constitution. The Chair, CFO and Mayor have re-affirmed their commitment to the governance transfer to the WMCA.

WMCA Officers have proposed five distinct areas to the CFO which were to be considered by both WMCA and WMFS officers.

The proposed constitutional clauses as developed and as submitted to the Authority, will be submitted to the WMCA board for approval on the 22 March 2019.

Progression on the proposals will be subject to more formal and detailed drafting for review prior to the 22 March 2019 and an understanding that the CFO would need to be assured around the detail.

The timeline assumed that constitution proposals could be developed and agreed with the CFO, prior to engagement and recommendation at WMCA.

- WMFRA Policy Planning Forum 4 February 2019
- WMCA Board update – 8 February 2019 – urgent business item
- WMFRA meeting update 18 February 2019
- WMCA agree constitution changes 22 March 2019

Authority Leaders will need to consider whether the changes to the Order and the developed proposals would require further consideration by their Authority decision-making processes.

The Chair stated the surest way of getting certainly is in the Order and enshrined in legislative process and Members would want to be assured. The changes would be considered by the Combined Authority on 22 March 2019.

It was recommended that Section 41 Members talk with their Leaders and make sure that their Councils were happy with the five proposed Constitutional clauses and they were adequate the robust. If not, the Authority would be required to refer back to the Home Office JCSI to see if they would change.

It was noted that the CFO must be the Officer who has the skills experience and operational independence to develop and implement the IRMP as defined by the National Fire and Rescue Framework.

15/19 **Notes of the Policy Planning Forum held on 5 November 2018**

The Notes of the Policy Planning Forum held on 5 November 2018 were received.

16/19 **Notes of Joint Consultative Panel held on 5 November 2018**

The Notes of the Joint Consultative Panel held on 5 November 2018 were received.

Councillor Brackenridge asked for an update on Minute No13/18 Update on Cultural Review of the Notes of the Joint Consultative Panel.

Sarah Warnes stated that following the last meeting of the Joint Consultative Panel held on 4 February 2019, further discussions had taken place in respect of the Terms of Reference being sent out to organisations with regards to the procurement of the cultural review. The wording had been agreed and the contract was now out to tender. The timeframes to seek to achieve the selection of an appropriate organisation to deliver the Cultural Review by the end of June were in place.

17/19 Minutes of the Audit and Risk Committee held on 12 November 2018

The minutes of the Audit and Risk Committee held on 12 November 2018 were received.

18/19 Minutes of the Governance and Transformation Committee held on 12 November 2018

The minutes of the Governance and Transformation Committee held on 12 November 2018 were received.

19/19 Minutes of the Scrutiny Committee held on 14 November 2018

The Minutes of the Scrutiny Committee held on 14 November 2018 were received.

Councillor Spence thanked officers for their great work and support given to the Scrutiny Committee.

20/19 Notes of the Policy Planning Forum held on 10 December 2019

The notes of the Policy Planning Forum held on 10 December 2018 were received.

21/19 **Minutes of the Governance and Transformation Committee held on 10 December 2018**

The minutes of the Governance and Transformation Committee held on 10 December 2018 were received.

22/19 **Minutes of the Audit and Risk Committee held on 14 January 2019**

The minutes of the Audit and Risk Committee held on 14 January 2019 were noted.

23/19 **Exclusion of the public and press**

Resolved that the public and press be excluded from the rest of the meeting to avoid the possible disclosure of exempt information under Section 12A to the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation) Order 2006 relating to the financial or business affairs of any particular person (including the authority holding that information).

24/19 **Planned Procurement Exercise for 2019/20**

The Authority received a report for approval of the tender exercise for the provision of various works, goods and services to West Midlands Fire and Rescue Authority during 2019/20 for:

- Uniform
- Liquid Fuels (Derv)
- Childcare Voucher Scheme
- Energy
- National Frameworks
- Tyres
- Electrical Rewires
- Enterprise Resource Planning System
- Active Lan Hardware
- Windows and Doors

The insurance arrangements were also due for renewal in October 2019 and a further report would be presented to the Fire Authority at its meeting scheduled on 8 April 2019.

Resolved that the tender exercises for the provision of various works, goods and services to West Midlands Fire and Rescue Authority during 2019/20 be approved.

The meeting closed at 1237 hours.

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

8 APRIL 2019

**1. ROUTE TO MAYORAL GOVERNANCE UPDATE –
APPROVAL OF STATUTORY ORDER AND PROPOSED
CONSTITUTIONAL DETAIL**

Report of the Clerk

RECOMMENDED THAT:

- 1.1 the Authority note the resolutions of the West Midlands Combined Authority (WMCA) on the 22 March 2019 and in particular the submission of the final Draft Statutory Order, received from the Home Office on 9th January 2019, to lay in Parliament.

2. PURPOSE OF REPORT

- 2.1 To inform members of the decisions taken at the WMCA Board meeting on the 22 March 2019 with the intention of progressing the transfer of the governance of the West Midlands Fire and Rescue Service (WMFS) to the Mayoral WMCA as previously agreed.
- 2.2 To provide detail on proposals accepted by the WMCA Board to deliver additional assurances within the Constitution and through a Chief Fire Officer Framework of accountabilities as developed between West Midlands Fire and Rescue Service and the Combined Authority.
- 2.3 Outline the indicative timeline and next steps subject to this decision.

3. BACKGROUND

- 3.1 The extensive background to this item is set out in previous Authority and WMCA reports.
- 3.2 A strong evidence base has established the direction of this governance change which has included a multi stakeholder

'Future Governance Working Group', consistent engagement with the Fire Authority and Local Authorities, joint working between the WMCA, West Midlands Fire and Rescue Authority (WMFRA) and the Home Office. This culminated into the development of a governance review and scheme which, following public consultation, formed the basis of a submission to the Home Secretary as set out below in paragraph 3.4.

- 3.3 The benefits of the Mayoral WMCA governance model provides substantial opportunities for the joint transformation of public services to West Midlands communities, providing value for money in the delivery of public safety. The benefits can be broadly summarised under four main themes: public safety delivered through a broad range of responses to emergency services, a workforce to support collaborative services and reduce vulnerability, continued improvement and transformation, and operational independence.
- 3.4 At the 25 May 2018 WMCA Board meeting it was agreed that the Scheme be submitted to the Home Office to enable the development of the draft Statutory Order. Following receipt of the draft Statutory Order, specific proposals set out in the report to progress key local 'asks' were confirmed at the 14 September 2018 Board meeting. The Chief Executive and Monitoring Officer of the WMCA were given delegated authority to consent to the laying of the Order in Parliament, subject to the outcome of the final local constituent council cabinet meeting on 19 September 2018.
- 3.5 The proposed final Draft Statutory Order (**APPENDIX A**) from the Home Office was sent out to each Constituent Council, the WMCA and WMFRA on the 9 January 2019 with a request to provide consent. The proposed Order however contained an amendment that led the Chief Fire Officer to advise that the Order not be consented to on the basis that the change was too significant and compromised the intent of the proposed governance changes.
- 3.6 The single albeit significant change in the proposed Order received back from the Home Office, was in Part 2, Section 7, regarding delegations of Chief Fire Officer Functions by a Mayor. The title for this section was altered from 'Functions

of the Chief Fire Officer' to 'Delegation of functions to the Chief Fire Officer.' Furthermore 7 (1) was amended to 'The only arrangements the Mayor may make under section 107D(3)(b) of the LDEDC Act 2009 in relation to fire and rescue functions are to authorise the exercise of the following functions by the Chief Fire Officer....' It was felt that this change, particularly replacing the use of 'must' with 'may' in 7(1), compromised the intent of the proposed governance changes which had been consulted upon and previously agreed by Board members.

- 3.7 As a result of this change and the subsequent advice provided by the Chief Fire Officer the Order was not consented to by the Constituent Councils and the WMCA.

4. RESPONSE TO PARLIAMENTARY PROCESS

- 4.1 The Home Office have confirmed that Parliamentary Lawyers advising the Joint Committee on Statutory Instruments, have stated that the Order is required to be in its current form as a reflection of primary legislation. The current form is the final Draft Order and cannot be altered. As a result of this change, WMCA and WMFS officers have been working together to develop proposals to mitigate the amendment made to the Order.
- 4.2 There is a clear will to identify a solution to locally mitigate the amendment made to the Order. Therefore, following discussions with the Home Office, the below proposals were identified as local solutions to enable the transfer to go ahead.

Constitutional Amendment to the Mayor's Fire Function

- 4.3 In order to deliver additional assurances around the operation of a Mayor's Fire Function, a number of constitutional amendments are proposed which are detailed in full in **APPENDIX B**. These amendments provide the assurances required as to functions that must be delegated to the Chief Fire Officer by a Mayor, which were not able to be provided in the Draft WMCA (Fire and Rescue Functions) Order 2019 and are as follows:

- 4.3.1 Delegation of Operational and Organisational Fire Functions to the Chief Fire Officer:** The intention is to guarantee that the delegations to the Chief Fire Officer previously agreed to must be provided to the Chief Fire Officer as the person with the competencies to prepare and deliver the Integrated Risk Management Plan (IRMP).
- 4.3.2 Procedure to be followed in the event of any proposed changes to delegation:** The intention of the procedure set out is to ensure a robust process is undertaken when a Mayor wishes to amend any delegation of Operational and Organisational Fire Functions to the Chief Fire Officer. Any proposals would need full consideration through the WMCA governance processes including Overview and Scrutiny and Audit Risk and Assurance. The Chief Fire Officer would be fully engaged and consulted as a part of those processes and the final decision as to any changes would be for the WMCA Board.
- 4.3.3 Clarity that no other officer other than the Chief Fire Officer (or an officer delegated by the Chief Fire Officer) can undertake the functions as set out in the draft Order.**

Framework of Delegated Accountabilities

- 4.4** It is also proposed that an additional Framework of Delegated Accountabilities relating to the Mayor's Fire Function, a draft of which is attached as **APPENDIX C** be adopted into the Combined Authority constitution in addition to the amendments set out in 4.3. The purpose of this Framework would be to build upon the amendments proposed in 4.3 and to set out (in accordance with the WMCA Fire Functions Order 2019) how the functions of the Mayor, Chief Fire Officer, WMCA and Mayoral Fire Committee would be exercised in relation to each other and in support of delivering fire and rescue functions as aligned to relevant the legislative framework. Significantly this scheme of accountabilities sets out clearly how the Chief Fire Officer will enable the preparation and delivery of the IRMP, through an agreed Strategic Plan and Budget. The WMCA would become the Fire and Rescue Authority and as such would provide statutory officer roles through its staffing structure, however to support the Chief Fire Officer in the

delivery of delegated accountabilities and working directly with WMCA Statutory Officers, a Deputy Section 151 Officer and a Deputy Monitoring Officer and Clerk will exist as part of the WMFS structure.

- 4.4 It is the view of both the WMCA Officers and the Chief Fire Officer that these proposals in Appendix B and Appendix C outlined in paragraphs 4.3 and 4.4 above, provide the additional assurances required to ensure that the intent of the proposed transfer is maintained. This has subsequently led to the approval of the Order through the WMCA Board.
- 4.6 An explanatory guide to the WMCA constitutional framework for West Midlands Fire Service (WMFS) Fire Functions is attached at **APPENDIX D**.
- 4.7 In addition to the proposed constitutional amendments and scheme of delegated accountabilities, it is proposed that a commitment to reviewing Fire and Rescue governance arrangements is made to take place within the next Mayoral term. The purpose of any review would be twofold, firstly to ensure that the arrangements are working as intended and secondly, to examine whether there are further changes that can bring robustness and clarity to the Chief Fire Officer accountabilities.
- 4.8 At the WMCA September 2018 Board meeting a number of local mitigations to key asks were agreed by the WMCA Board. These are detailed in the September 2018 Board report and are not affected by the proposals within this report.

5. **WMCA APPROVALS AND NEXT STEPS**

- 5.1 On the 22 March 2019 the WMCA Board approved the following recommendations:
 - 5.1.1 The Final Draft Statutory Order received from the Home Office on 9 January 2019 was noted.
 - 5.1.2 The WMCA's consent to the laying of the Order in Parliament was confirmed.

- 5.1.3 The WMCA's acceptance of the proposals set out in the report to provide additional constitutional provisions and deliver a Chief Fire Officer Framework of accountabilities in order to provide the necessary assurances required following receipt of the Final Statutory Order was confirmed, subject to the approval of constituent councils.
- 5.1.4 The Chief Executive and Monitoring Officer of the WMCA were given delegated authority to approve the draft Order received from Government in agreement with the Chief Fire Officer and Chair of the Fire & Rescue Authority, should there be any further non-material changes before the Order was laid.
- 5.1.5 A commitment to reviewing governance arrangements within the next Mayoral term was confirmed.
- 5.2 The Home Office have identified a date of the 5 June 2019 to lay the Order before Parliament. Further discussions will take place during the parliamentary process to finalise a transfer date.
- 5.3 The timeline from here on in therefore requires the Board to (a) agree to the proposed local assurances outlined in this report, (b) consent to the Draft Order being laid before Parliament and to confirm its delegation to the Chief Executive and Monitoring Officer of the Combined Authority, to approve the draft Order received from Government should there be any further non-material changes before the Order is laid.
- 5.4 As we understand the Draft Order will not be changed further and so final Consent would then be requested from each Constituent Council by the Home Secretary, once consent had been received from all Constituent Councils it will then be laid before Parliament before receiving final sign off by the Home Secretary. If the requested approvals can be provided quickly this could lead to the Order being laid in June 2019 and possible transfer in October 2019.

6. **EQUALITY IMPACT ASSESSMENT**

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

7. LEGAL IMPLICATIONS

- 7.1 The legal implications have been included in previous reports to the Authority. The specific issues that were raised by the Home Office following formal submission of the Governance Review and Scheme are covered in the September 2018 Board report.
- 7.2 The proposed changes to the WMCA Constitution set out in this report, if agreed, will provide assurance to the Chief Fire Officer regarding the delegation of the operation services by the Mayor should these matters become Mayoral functions. Although the WMCA constitution is subject to change, the process set out in the proposed sections ensures that the implications of such proposals will receive full consideration as part of any change process.

8. FINANCIAL IMPLICATIONS

- 8.1 The financial implications have been included in previous reports to Authority. Specific issues have arisen at this stage in relation to a number of points that were raised by the Home Office following formal submission of the Governance Review and Scheme.
- 8.2 The original timeline projected a commencement date for the governance transfer at the beginning of the financial year. As a result of the delay outlined in this report the 1 April 2019 commencement date is no longer achievable. If a commencement date is achieved which is part way through the financial year, there will be implications for the accounting processes for the existing Fire Authority and part year accounts will need to be prepared covering the period up to the relevant date. Discussions have already taken place to scope the relevant implications of this between WMCA and WMFS finance leads and external auditors. Additionally, the draft Order has identified Mayoral Fire Committee member allowances.

9. **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications highlighted in regard to this report.

BACKGROUND PAPERS

WMFRA response to the Enable Closer Working between the Emergency Services

Consultation – the prelude to the Policing and Crime Bill (October 2015)

WMFRA Integrated Risk Management Plan Public Outcomes Report (20 February 2017)

WMFRA report - 'Route Map to Mayoral Governance' (20 February 2017)

WMFRA report – 'Route map to Mayoral West Midlands, Combined Authority Governance - a Reformed Fire Authority (RFA) and decision (10 April 2017)

WMCA Board (8th September 2017)

WMCA Board – WMFRA Governance Review and Scheme (8th December 2017)

The National Framework for Fire and Rescue Services England 2018

WMFRA report – Widening CFO Accountabilities 16 April 2018

Governance of WMFS Public Consultation Outcomes Report (25 May 2018)

WMCA Board (14th September 2018)

WMFRA Report – Route Map to Mayoral Combined Authority Governance (17 September 2018)

WMFRA Reports (18 February 2019) – Arrangements to Act in Matters of Emergency, Laying the Statutory Order for Transfer of

Governance

WMCA Board report - Governance of the West Midlands Fire & Rescue Service – Approval of Statutory Order and Proposed Constitutional Detail (22 March 2019)

Appendices

Appendix A - Draft West Midlands Combined Authority (Fire and Rescue) Order 2019

Appendix B – Proposed Constitutional Amendments to the Mayor's Fire Function

Appendix C – Proposed Scheme of delegated accountabilities

Appendix D – Explanatory Guide

The contact officer for this report is Karen Gowreesunker, telephone number 0121 380 6678

Karen Gowreesunker
Clerk to the Authority

Draft Order laid before Parliament under section 117(2) of the Local Democracy, Economic Development and Construction Act 2009, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No. 0000

LOCAL GOVERNMENT, ENGLAND

FIRE AND RESCUE, ENGLAND

**The West Midlands Combined Authority (Fire and Rescue
Functions) Order 2019**

Made - - - -

[2019]

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 105A(1)(a), (3)(a) and (4), 107D(1), (3)(c)(ii), (4), (5), (7)(b) and (c), and (8), 114, 115 and 117(5) of the Local Democracy, Economic Development and Construction Act 2009^(a) (the “LDEDC Act 2009”).

A proposal for making this Order has been made to the Secretary of State by the West Midlands Combined Authority and the district councils whose areas are comprised in the area of that Combined Authority in accordance with section 105B(1)(a) of the LDEDC Act 2009 by inclusion in a scheme prepared and published under section 112 of the LDEDC Act 2009^(b).

In accordance with section 107D(9) of the LDEDC Act 2009 the West Midlands Combined Authority, the mayor of that Combined Authority, and the district councils whose areas are comprised in the area of that Combined Authority, have consented to the making of this Order.

In accordance with section 105B(9) of the LDEDC Act 2009, the Secretary of State has laid before Parliament a report explaining the effect of this Order and explaining why the Secretary of State considers it appropriate to make this Order.

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- (a) 2009 c. 20. Section 105A was inserted by section 7 of the Cities and Local Government Devolution Act 2016 (c. 1) (“the CLGD Act 2016”). Section 107D was inserted by section 4 of the CLGD Act 2016 and amended by section 8(3) of the Policing and Crime Act 2017 (c. 3). Section 114 was amended by section 23 of, and paragraphs 17 and 26 of Schedule 5 to, the CLGD Act 2016 and by S.I. 2016/997. Section 115 was amended by section 23(1) of, and paragraphs 17 and 27 of Schedule 5 to, the CLGD Act 2016. Section 117(2), (2A) and (3) were substituted by section 13 of the Localism Act 2011 (c. 20) and section 117(5) was inserted by section 23(1), and paragraphs 17 and 29 of Schedule 5 to, the CLGD Act 2016.
- (b) Section 112 was amended by sections 6 and 23 of, and paragraphs 17 and 23 of Schedule 5 to, the CLGD Act 2016. Section 105B was inserted by section 7 of the CLGD Act 2016.

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament pursuant to section 117(2) of the LDEDC Act 2009.

PART 1

Introduction

Citation and commencement

1. This Order may be cited as the West Midlands Combined Authority (Fire and Rescue Functions) Order 2019 and comes into force on 1st April 2019.

Interpretation

2. In this Order—

“the FRS Act 2004” means the Fire and Rescue Services Act 2004(a);

“the LDEDC Act 2009” means the Local Democracy, Economic Development and Construction Act 2009;

“the Area” means the area of the WMCA;

“Chief Fire Officer” means the officer of the WMCA who is responsible for managing the fire and rescue service;

“constituent councils” means the councils for the local government areas of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton;

“excluded function” has the meaning given in article 6(1);

“fire and rescue declaration” means a document which—

(a) is prepared and published by the Chief Fire Officer, and approved by the Mayor, in accordance with the Fire and Rescue National Framework, and

(b) contains a statement of the way in which the Mayor and the WMCA have had regard, in the period covered by the document, to the Fire and Rescue National Framework and to any integrated risk management plan prepared by the Chief Fire Officer for that period;

“fire and rescue functions” means functions conferred on the WMCA as a fire and rescue authority(b) by, or by virtue of, any enactment;

“Fire and Rescue National Framework” means the document prepared by the Secretary of State under section 21 of the FRS Act 2004(c);

“the fire and rescue service” means the personnel, assets, finances, reserves and services secured by the WMCA for the purposes of carrying out the WMCA’s functions under—

(a) section 6 of the FRS Act 2004 (fire safety),

(b) section 7 of that Act (fire-fighting),

(c) section 8 of that Act (road traffic accidents),

(d) any order under section 9 of that Act (emergencies) which applies to the WMCA,

(e) section 2 of the Civil Contingencies Act 2004(d) and any regulations under that Act applying to a fire and rescue authority,

(f) any other provision of or made under an enactment which confers functions on a fire and rescue authority;

(a) 2004 c. 21.

(b) By virtue of section 120 of the Local Democracy, Economic Development and Construction Act 2009, “fire and rescue authority” means a fire and rescue authority under the Fire and Rescue Services Act 2004.

(c) Section 21 was amended by paragraph 9 of Schedule 1 to the Policing and Crime Act 2017.

(d) 2004 c. 36.

“integrated risk management plan” means a document which—

- (a) is prepared and published by the Chief Fire Officer, in accordance with the Fire and Rescue National Framework, and
- (b) sets out for the period covered by the document in accordance with the requirements of the Fire and Rescue National Framework—
 - (i) the fire and rescue service’s priorities and objectives, and
 - (ii) an assessment of all foreseeable fire and rescue related risks that could affect its community,

in connection with the discharge of the WMCA’s functions as a fire and rescue authority;

“the Mayor” means the mayor for the Area;

“the Mayoral Fire Committee” has the meaning given in article 4(3);

“the transfer date” means 1st April 2019;

“the WMCA” means the West Midlands Combined Authority, a body corporate established by the West Midlands Combined Authority Order 2016(a);

“the WMFRA” means the West Midlands Fire and Rescue Authority(b).

PART 2

Transfer of functions

Transfer of functions of the WMFRA to the WMCA

3.—(1) The functions of the WMFRA that were exercisable in relation to the Area immediately before the transfer date are functions of the WMCA.

(2) The WMCA is the fire and rescue authority for the Area for the purposes of the FRS Act 2004, subject to paragraph 5 of the Schedule.

(3) The WMFRA is abolished.

Exercise of fire and rescue functions

4.—(1) Subject to paragraph (4), and article 7(1), the fire and rescue functions are exercisable only by the Mayor.

(2) For the purposes of the exercise of the fire and rescue functions, the Mayor may do anything that the WMCA may do under section 113A of the LDEDC Act 2009 (general power of economic prosperity board or combined authority)(c).

(3) The Mayor may arrange for a committee of the WMCA (“the Mayoral Fire Committee”) to advise the Mayor on the exercise of fire and rescue functions.

(4) The Mayor may not make any arrangement under section 107D(3) of the LDEDC Act 2009 (functions of mayors: general) that authorises the exercise of any excluded function.

(5) Members and officers of the WMCA may assist the Mayor in the exercise of the fire and rescue functions.

(a) S.I. 2016/653, as amended by S.I. 2017/510.

(b) The body corporate known as the West Midlands Fire and Rescue Authority was established by section 26 of the Local Government Act 1985 (c. 51). Section 26 was amended by paragraph 10 of Schedule 2 to the Civil Contingencies Act 2004 (c. 36) and by section 7(6) of the Policing and Crime Act 2017.

(c) Section 113A was inserted by section 13 of the Localism Act 2011 and amended by section 23 of, and paragraph 25 of Schedule 5 to, the Cities and Local Government Devolution Act 2016.

The Mayoral Fire Committee

5.—(1) The Mayoral Fire Committee must consist of no more than 18 members, appointed by the Mayor as follows—

- (a) no more than 15 members on the nomination of the constituent councils, provided that—
 - (i) each member must be nominated by a constituent council from that council's elected members,
 - (ii) at least one member must be appointed on the nomination of each of the constituent councils,
 - (iii) the Mayor and the constituent councils must, when appointing or nominating members, ensure so far as is reasonably practicable that the number of members appointed on the nomination of each constituent council is proportionate to the number of electors of each of the constituent councils, and
 - (iv) where the Mayor decides not to appoint a person who has been nominated by a constituent council—
 - (aa) the Mayor must notify that constituent council, giving reasons, and
 - (bb) that constituent council may nominate a further person from that council's elected members who must be appointed by the Mayor,
- (b) the police and crime commissioner for the Area,
- (c) two co-opted members to be determined by the Mayor in consultation with the chair of the Mayoral Fire Committee.

(2) The Mayor and the constituent councils must, when appointing or nominating members in accordance with paragraph (1)(a), ensure that the members taken as a whole reflect so far as reasonably practicable the balance of the political parties for the time being prevailing among the constituent councils when taken together.

(3) The Mayor must ensure that the majority of the members are members appointed in accordance with paragraph (1)(a).

(4) The Mayor must, after consultation with the leaders of the constituent councils, appoint one of the members of the Mayoral Fire Committee to serve as chair of the Mayoral Fire Committee.

(5) On a vote at a meeting of the Mayoral Fire Committee, each member appointed under paragraph (1)(a) or (b) has one vote.

(6) The WMCA may pay allowances to members of the Mayoral Fire Committee in accordance with its scheme of allowances.

(7) A member of the Mayoral Fire Committee appointed in accordance with paragraph (1)(a) ceases to be a member if they cease to be an elected member of the relevant constituent council.

(8) A member appointed in accordance with paragraph (1)(a) may resign by written notice served on the proper officer of the constituent council of which they were a member at the time of their appointment to the Mayoral Fire Committee, and the resignation is to take effect on receipt of the notice by the proper officer.

(9) A member serving written notice in accordance with paragraph (8) must also serve copies of that notice on the Mayor and the chair of the Mayoral Fire Committee.

(10) A member appointed in accordance with paragraph (1)(c) may resign by written notice served on the Mayor and the chair of the Mayoral Fire Committee, and the resignation is to take effect on receipt of the notice by the Mayor and the chair of the Mayoral Fire Committee.

(11) The Mayor may at any time terminate the appointment of a member appointed in accordance with paragraph (1)(a) or (c) where they have not attended scheduled meetings of the Mayoral Fire Committee throughout a period of six consecutive months from the date of that member's last attendance.

(12) Where a person appointed in accordance with paragraph (1)(a) ceases to be a member by virtue of paragraph (7), (8) or (11), the constituent council that nominated that member must, as

soon as practicable, give written notice to the Mayor and nominate another person from that council's elected members.

(13) Where a person appointed in accordance with paragraph (1)(b) or (c) ceases to be a member, the Mayor must appoint another person to be a member in accordance with paragraph (1)(b) or (c) (as the case may be).

(14) In paragraph (8), "proper officer" has the meaning given in section 270(3) of the Local Government Act 1972^(a).

Excluded fire and rescue functions

6.—(1) The following fire and rescue functions are "excluded functions"—

- (a) the fire and rescue functions specified in the following provisions of the FRS Act 2004—
 - (i) section 13 (reinforcement schemes), other than subsection (5),
 - (ii) section 15 (arrangements with other employers of fire-fighters), and
 - (iii) section 16 (arrangements for discharge of functions by others),
- (b) the functions of—
 - (i) appointing, or dismissing, the Chief Fire Officer,
 - (ii) approving the terms of appointment of the Chief Fire Officer, and
 - (iii) holding the Chief Fire Officer to account for managing the fire and rescue service in accordance with article 7(3),
- (c) the functions of approving—
 - (i) the integrated risk management plan, and
 - (ii) the fire and rescue declaration,
- (d) the function of approving plans, modifications to plans and additions to plans for the purpose of ensuring that—
 - (i) so far as is reasonably practicable, the WMCA is able to continue to perform its fire and rescue functions if an emergency occurs,
 - (ii) the WMCA is able to perform its functions so far as necessary or desirable for the purpose of preventing an emergency, or reducing, controlling or mitigating the effects of an emergency, or taking other action in connection with it, and
- (e) the function of approving any arrangements for the co-operation of the WMCA in relation to its fire and rescue functions and other general Category 1 responders and general Category 2 responders in respect of the performance of the WMCA's duty as a fire and rescue authority under section 2 of the Civil Contingencies Act 2004^(b) and any duties under regulations made in exercise of powers under that Act.

(2) In paragraph (1)(d), "emergency" has the meaning given in section 1 of the Civil Contingencies Act 2004 for Part 1 of that Act.

Delegation of functions to the Chief Fire Officer

7.—(1) The **only arrangements the mayor may make under section 107D(3)(b) of the LDEDC Act 2009 in relation to fire and rescue functions are to authorise the exercise of the** following functions by the Chief Fire Officer—

- (a) the operational and technical leadership of the fire and rescue service,
- (b) the provision of operational and technical advice to the Mayor,
- (c) the preparation and publication of the integrated risk management plan,

(a) 1972 c. 70.

(b) 2004 c.36. Category 1 responders are listed in Part 1, and category 2 responders general are listed in Part 3 of Schedule 1 to the Civil Contingencies Act 2004. There are amendments to section 2 and Schedule 1 which are not relevant to this Order.

- (d) together with the officer responsible for the proper administration of financial affairs of the WMCA under section 151 Local Government Act 1972, the proposal of an annual budget for the fire and rescue service,
 - (e) the preparation and delivery of the fire and rescue service priorities and objectives,
 - (f) the functions of the WMCA under—
 - (i) sections 6, 7, 8 and 13(5) of the FRS Act 2004, and any order under section 9 of that Act which applies to the WMCA,
 - (ii) section 2 of the Civil Contingencies Act 2004, and any regulations under that Act applying to a fire and rescue authority,
 - (iii) the Regulatory Reform (Fire Safety) Order 2005(a),
 - (iv) any other provision of, or made under, an enactment which confers functions on a fire and rescue authority,
 - (g) the leadership, appointment and development of all fire and rescue service staff, and the staffing structure,
 - (h) the dismissal of fire and rescue service staff,
 - (i) the management and allocation of assets, finances and reserves,
 - (j) the management and negotiation of trade union relations.
- (2) If the Mayor makes arrangements described in paragraph (1) —
- (a) the Chief Fire Officer must have regard to the Fire and Rescue National Framework in carrying out their functions, and
 - (b) the Mayor must hold the Chief Fire Officer to account for the exercise of—
 - (i) the functions of the Chief Fire Officer, and
 - (ii) the functions of persons under the direction and control of the Chief Fire Officer.

PART 3

Transitional arrangements and asset transfers

Transfer of property, rights and liabilities

8.—(1) All property, rights and liabilities (including rights and liabilities in relation to contracts of employment) which immediately before the transfer date were property, rights and liabilities of the WMFRA are transferred to, and by virtue of this paragraph vest in, the WMCA on the transfer date.

(2) In relation to the property, rights and liabilities transferred by paragraph (1) and any property, rights and liabilities acquired in connection with the WMCA's fire and rescue functions on or after the transfer date—

- (a) all functions in relation to such property, rights and liabilities are to be exercised by the Mayor,
- (b) all decisions relating to such property, rights and liabilities are to be made by the Mayor.

(3) Subject to article 6, nothing in paragraph (2) prevents the Mayor from making arrangements under section 107D(3) of the LDEDC Act 2009 in relation to the matters mentioned in paragraph (2).

(a) S.I. 2005/1541.

Secondments

9. In the case of a person who, immediately before the transfer date is seconded to the WMFRA, the secondment is to have effect, after that time, as a secondment to the WMCA.

Continuity

10.—(1) The abolition of the WMFRA, the transfer or abolition of the WMFRA's functions, and the transfer of the WMFRA's property, rights and liabilities, do not affect the validity of anything done before the abolition or transfer.

(2) Paragraphs (3) to (5) apply where any functions, property, rights or liabilities are transferred by this Order from the WMFRA to the WMCA.

(3) There may be continued by or in relation to the WMCA anything (including legal proceedings) which—

- (a) relates to any of the functions, property, rights or liabilities transferred, and
- (b) is in the process of being done by or in relation to the WMFRA immediately before the transfer date.

(4) Anything which—

- (a) was made or done by or in relation to the WMFRA for the purposes of, or otherwise in connection with, any of the functions, property, rights or liabilities transferred; and
- (b) is in effect immediately before the transfer date,

has effect as if made or done by or in relation to the WMCA.

(5) The WMCA is to be substituted for the WMFRA in any instruments, contracts or legal proceedings which—

- (a) relate to any of the functions, property, rights or liabilities transferred, and
- (b) are made or commenced before the transfer date.

(6) In this article a reference to the transfer of a function includes a reference to the abolition of the function and the conferral of a corresponding function on another person.

Transfers: supplementary provision

11.—(1) All property, rights and liabilities transferred by this Order are to be transferred by that transfer, notwithstanding that they may be or include—

- (a) property, rights and liabilities that would not otherwise be capable of being transferred, or
- (b) rights and liabilities under enactments.

(2) No right of reverter, right of pre-emption, right of forfeiture, right of re-entry, right to compensation, option or similar right affecting any land or other property is to operate or become exercisable as a result of any transfer of land or other property by virtue of this Order (whether or not any consent required to the transfer has been obtained).

(3) No right to terminate or vary a contract or instrument is to operate or become exercisable, and no provision of a contract or relevant document, is to operate or become exercisable or be contravened, by reason of the transfer made by this Order.

(4) Paragraphs (1) to (3) above have effect in relation to—

- (a) the grant or creation of an estate or interest in, or right over, any land or other property, or
- (b) the doing of any other thing in relation to land or other property,

as they have effect in relation to the transfer made by this Order of land or other property.

(5) In this article, "relevant document" means—

- (a) any enactment, other than an enactment contained in the LDEDC Act 2009,
- (b) any subordinate legislation made otherwise than under that Act, or
- (c) any deed or other instrument.

PART 4

Modification of enactments and consequential repeal

Modification of enactments and consequential repeal

12. The modification of enactments in their application to the WMCA as a fire and rescue authority and the consequential repeal set out in the Schedule have effect.

Address	<i>Name</i>
Date	Minister of State
	Home Office

SCHEDULE

Article 12

Modification of enactments in their application to the WMCA as a fire and rescue authority and consequential repeal

PART 1

Modification of primary legislation

Local Government Act 1972

1. In section 138(5) of the Local Government Act 1972 (powers of principal councils with respect to emergencies or disasters)(a), the reference to “metropolitan county fire and rescue authority” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

Local Government and Housing Act 1989

2.—(1) The Local Government and Housing Act 1989(b) is modified as follows.

(2) In section 67 (application of provisions about companies in which local authorities have interests), subsection (3)(k) applies as if the reference to “joint authority established by Part IV of that Act” included a reference to the WMCA as a fire and rescue authority.

(3) In section 155 (emergency financial assistance to local authorities) subsection (4)(g) applies as if the reference to a “joint authority established by Part IV of the Local Government Act 1985” included a reference to the WMCA as a fire and rescue authority.

Crime and Disorder Act 1998

3.—(1) The Crime and Disorder Act 1998(c) is modified as follows.

-
- (a) 1972 c. 70. Subsection (5) was inserted by section 156(3) of the Local Government and Housing Act 1989 (c. 42) and the words “metropolitan county fire and rescue authority” were substituted by paragraph 10(2) of Part 1 of Schedule 2 to the Civil Contingencies Act 2004 (c. 36). Other amendments have been made to section 138 which are not relevant to this Order.
- (b) 1989 c. 42. Section 67 has been repealed by sections 216(1) and 241 of, and Part 16 of Schedule 18 to, the Local Government and Public Involvement in Health Act 2007. The repeal has not yet been brought into force. Section 155(4)(g) has been amended by the substitution of the words “an Integrated Transport Authority” by section 77(5) of, and Part 4 of Schedule 4 to, the Local Transport Act 2008. There are other amendments to section 155 which are not relevant to this Order.
- (c) 1998 c. 37. In section 5(5) the definition of “fire and rescue authority” was substituted by section 53(1) of, and paragraph 89(1), (2)(b) of, Schedule 1 to, the Fire and Rescue Services Act 2004. In paragraph (b) of subsection (5) the words “metropolitan county fire and rescue authority” were substituted by virtue of paragraph 10(1), (2) of Part 1 of Schedule 2 to the Civil Contingencies Act 2004. There are other amendments to section 5 which are not relevant to this Order. Paragraph (j) of section 115(2) was inserted by section 22 of, and paragraphs 1 and 7(1), (2) of Schedule 9 to, the Police and Criminal Justice Act 2006 (c. 48). Other amendments have been made to section 115 which are not relevant to this Order.

(2) In the definition of “fire and rescue authority” in section 5(5) (authorities responsible for strategies), the reference in paragraph (b) to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

(3) In the definition of “relevant authority” in section 115(2), the reference in paragraph (j) to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

Local Government Act 2003

4. In section 23 of the Local Government Act 2003 (meaning of “local authority” for purposes of Part 1)(a) the reference in paragraph (1)(k) to “a joint authority established by Part 4 of that Act” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

Fire and Rescue Services Act 2004

5.—(1) The FRS Act 2004(b) is modified as follows.

(2) Section 4A (power to provide for police and crime commissioner to be fire and rescue authority) has effect as if at the end of subsection (3)(b) there were inserted—

“; and

(c) outside the area of the West Midlands Combined Authority.”.

(3) Section 4B(1)(changes to existing fire and rescue authorities) has effect as if the reference to fire and rescue authorities in England outside Greater London did not include the WMCA.

PART 2

Modification of secondary legislation

Pipelines Safety Regulations 1996

6. In paragraph (a) of the definition of “local authority” in regulation 2(1) of the Pipelines Safety Regulations 1996 (interpretation)(c) the reference to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

Local Government (Best Value Authorities)(Power to Trade)(England) Order 2009

7. In article 1(2) of the Local Government (Best Value Authorities)(Power to Trade)(England) Order 2009 (application of order to best value authorities)(d) the reference in paragraph (c) to a “metropolitan county fire and rescue authority” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012

8. In regulation 3 of the Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012 (relevant authorities)(e) the reference in paragraph (a) to a “metropolitan county fire and rescue authority established under

(a) 2003 c. 26. In section 23(1)(k), the words “(fire and rescue services and transport)” were substituted by section 32 of, and paragraph 10 of Schedule 2 to, the Civil Contingencies Act 2004.

(b) 2004 c. 21. Sections 4A and 4B were inserted by paragraph 5 of Part 1 of Schedule 1 to the Policing and Crime Act 2017.

(c) S.I. 1996/825, the words “metropolitan county fire and rescue authority” were substituted by virtue of paragraph 10(1), (2) of Part 1 of Schedule 2 to the Civil Contingencies Act 2004 (c. 36).

(d) S.I. 2009/2393.

(e) S.I. 2012/1647.

section 26 of the Local Government Act 1985” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

Local Government Pension Scheme Regulations 2013

9.—(1) Regulation 64 of the Local Government Pension Scheme Regulations 2013(a) is to be read as if, after paragraph (8), there were inserted—

“(8A) Paragraph (8B) applies where the exiting employer is the West Midlands Fire and Rescue Authority and the liabilities of the fund in respect of benefits due to the West Midlands Fire and Rescue Authority’s current and former employees (or those of any predecessor authority) have been or are to be transferred to the West Midlands Combined Authority by virtue of the West Midlands Combined Authority (Fire and Rescue Functions) Order 2019(b).

(8B) Where this paragraph applies, no exit payment is due under paragraph (1) and paragraph (2) does not apply.”.

Explosives Regulations 2014

10. In regulation 2(1) of the Explosives Regulations 2014 (interpretation)(c) in the definition of “local authority”, the reference in paragraph (c) to “a metropolitan county fire and rescue authority” is to apply as if it included a reference to the WMCA as a fire and rescue authority.

Control of Major Accident Hazards Regulations 2015

11. In regulation 2(1) of the Control of Major Accident Hazards Regulations 2015(d) in paragraph (b) of the definition of “local authority”, sub-paragraph (ii) is to apply as if there were substituted for that sub-paragraph—

“(ii) the area of the West Midlands Combined Authority, that authority as a fire and rescue authority;”.

PART 3

Consequential repeal

Local Government Act 1985

12. Part 6 of Schedule 10 to the Local Government Act 1985 (number of members of joint authorities: West Midlands)(e) is repealed.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the conferral of the functions of the West Midlands Fire and Rescue Authority (“the WMFRA”) on the West Midlands Combined Authority (“the WMCA”). It has been made following the publication, on 8th September 2017, of a scheme for the conferral of those functions on the WMCA. The scheme is available from the WMCA at [to be completed] or at [web address].

(a) S.I. 2013/2356; regulation 64(1) is substituted by regulation 22 of S.I. 2015/755.

(b) S.I. 2019/[tba].

(c) S.I. 2014/1638; to which there are amendments not relevant to this Order.

(d) S.I. 2015/483; to which there are amendments not relevant to this Order.

(e) 1985 c. 51. The table in Part 6 was amended by Part 1 of Schedule 9 to the Police and Magistrates’ Courts Act 1994 (c. 29), by section 77(5) of, and paragraph 53(6) of Schedule 4 to, the Local Transport Act 2008 (c. 26), and by S.I. 2014/1180 and 2017/1165. The West Midlands Integrated Transport Authority was abolished by the West Midlands Combined Authority Order 2016.

Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (“the LDEDC Act 2009”) provides for the establishment of combined authorities for the areas of two or more local authorities in England. Combined authorities are bodies corporate which may be given power to exercise specified functions of a local authority or public authority under sections 104, 105 and 105A of the LDEDC Act 2009, and power to exercise specified functions of any other public authority under section 16 of the Cities and Local Government Devolution Act 2016 (“the 2016 Act”). The Secretary of State may provide for there to be a mayor for the area of the combined authority where the constituent councils of the combined authority (each district council or county council whose area is within the area of the combined authority) and any existing combined authority consent under section 107B(3) of the LDEDC Act 2009.

Article 3 of this Order transfers the functions of the WMFRA to the WMCA on 1st April 2019, and provides that the WMCA is the fire and rescue authority for the area of the combined authority for the purposes of the Fire and Rescue Services Act 2004. The article also abolishes the WMFRA.

Article 4 provides that the fire and rescue functions of the WMCA are to be exercised by the Mayor of the WMCA, and for this purpose the Mayor may exercise similar powers to the WMCA’s powers under section 113A of the LDEDC Act 2009. It provides for the Mayor to establish a committee to advise the Mayor in the exercise of those functions, and also provides that members and officers of the WMCA may assist the Mayor in the exercise of those functions.

Article 5 makes provision about the membership and meetings of the committee.

Article 6 sets out certain fire and rescue functions which may not be delegated by the Mayor.

Article 7 sets out the fire and rescue functions that must be delegated to the Chief Fire Officer which include, in particular, the operational management of the fire and rescue service.

Articles 8, 9, 10 and 11 make transitional arrangements and supplementary provisions in relation to the transfer of functions, property, rights and liabilities from the WMFRA to the WMCA.

Article 12 and the Schedule make consequential modifications to primary and secondary legislation.

A full regulatory impact assessment has not been prepared as this instrument will have no impact on the costs of business and the voluntary sector.

Mayor's Fire Function – Proposed Constitutional Amendment

- 1.1 **Delegation of Operational and Organisational Fire Functions to Chief Fire Officer.**
- 1.2 The Mayor must delegate to the Officer of the Combined Authority defined as the Chief Fire Officer under paragraph 2 of the West Midlands Combined Authority (Fire and Rescue Functions) Order 2019 (the Order)] and further defined in paragraphs 1.3 and 1.4 below the functions set out in paragraph 7 (1) a–j of the Order.
- 1.3 In order to develop and implement the Integrated Risk management Plan (IRMP) as defined by the National Fire and Rescue Framework, the CFO must be the Officer who has the necessary competencies to do so.
- 1.4 The competences of this role will be defined by the Gold Book, National Framework and guidance produced by the fire sector through the National Fire Chiefs Council.
- 2.0 **Procedure to be followed in the event of any Proposed Changes to Delegation.**
- 2.1 If at any time the Mayor proposes to seek a change to Section 1.0 of the Constitution above he shall first prepare a Report to the Combined Authority Board setting out his/her intention and the reasons.
- 2.2 The Report must first be formally considered by;
 - 2.2.1 The Chief Fire Officer, providing professional and technical advice regarding proposals to all key stakeholder;
 - 2.2.2 The Combined Authority Overview and Scrutiny Committee
 - 2.2.3 The Combined Authority Audit Risk and Assurance Committee
 - 2.2.4 The Mayor's Fire Committeeand any representations will be made available to the meeting of the Board at which the Mayor's report is to be considered.
- 2.3 If the Combined Authority Board do not agree unanimously the proposals in the Mayor's report made under 2.1 above they may;

- 2.3.1 Request the Mayor to withdraw the proposal, or
- 2.3.2 Indicate the amendment(s) to the current proposal before the Board which they would be prepared to agree.
- 2.4 On receipt of a request or a proposal under paragraphs 2.3.1 or 2.3.2 above respectively the Mayor must, at the next ordinary meeting of the Board inform the Board if he proposes to take no further action or whether any amendments proposed under paragraph 2.3.2 above are to be incorporated into the report.
- 2.5 If on the Report being put to a vote at this meeting there is no unanimous agreement to the proposals the matter (or a matter which is substantially of the same content) may not be considered again until a period of six months has elapsed or the commencement of a new Municipal Year whichever is the later.
- 3.0 Any change to the provisions set out in clause 2 above will be treated as a change to the Combined Authority Constitution and will require unanimous approval for agreement.
- 4.0 The implementation date for any changes agreed under clause 2 above must be agreed with the CFO taking into account the need to provide for the continued effective delivery of agreed IRMP priorities as set out in the WMFS Strategic Plan and enable effective implementation of the fire and rescue functions as set out through the national framework.
- 5.0 No Officer other than the CFO as defined in section 1.2 or the properly appointed Brigade Manager in appropriate circumstances (as defined by the CFO) shall be delegated the functions set out in section 1.0 and the West Midlands Combined Authority (Fire Functions) Order 2019.

Appendix C
Item 5**West Midlands Combined Authority (WMCA) Constitutional Framework for
West Midlands Fire Service (WMFS) Fire Functions****Scope:**

This framework of fire functions is set out in accordance with the West Midlands Combined Authority (Fire and Rescue Functions) Order 2019 ('the Order'). This document sets out how the functions of the Mayor, Chief Fire Officer and Mayoral Fire Committee (MFC) will be exercised in relation to each other and in the delivery of fire and rescue functions as aligned to the legislative framework set out below.

An effective, constructive working relationship is more likely to be achieved where communication and clarity of understanding are at their highest. Mutual understanding of, and respect for, each party's functions will serve to enhance the delivery of prevention, protection and response services to the local communities.

All parties are expected to abide by the principles of good governance.

This section of the WMCA constitution should be read in conjunction with the '*Fire Functions Explanatory Guide*'.

Fire Functions Legislative Framework

The legislative framework for the delivery of fire and rescue functions comprises of the primary, secondary legislation and related guidance as out below. The Mayor is accountable for ensuring these functions are discharged through the Chief Fire Officer. The Chief Fire Officer will be accountable for the delivery of these services through an evidence based Integrated Risk Management Plan.

The Fire and Rescue Services Act 2004**The Fire and Rescue National Framework England 2018****The Regulatory (Fire Safety) Reform Order 2005****The Fire and Rescue Services (Emergency) Order 2007****Civil Contingencies Act 2004**

The legislation below informs the governance arrangements and the responsibilities placed on the WMCA, Mayor and Chief Fire Officer to deliver those legislative fire functions as set out above.

The West Midlands Combined Authority (Fire Functions) Order (2019)**The Local Democracy, Economic Development and Construction Act (2009)**

The Policing and Crime Act (2017)

Section 1 - Accountabilities of the Chief Fire Officer

The Chief Fire Officer and those officers to whom the Chief Fire Officer has delegated duties or responsibilities, will have full accountability to make decisions on all matters relating to the delivery of the role of a fire service as set out in the Fire and Services Act 2004, Regulatory Reform Order, Civil Contingencies Act, Emergency Order and other enabling legislation. The National Framework references specifically the need to undertake the fire services of 'prevention', 'protection' and 'response' with the aim of reducing vulnerability within the community through an effective IRMP. The delivery of this will rely upon the most appropriate configuration of WMFS resources as determined by the Chief Fire Officer on a day-to-day basis.

Setting Strategy

1.1 A clear framework of accountabilities for the Chief Fire Officer as delegated by the Mayor are set out in the Order. The application of these functions will ensure the delivery of the fire function legislative framework as detailed below.

1.2 The Chief Fire Officer will be accountable for the following:

- preparation and presentation of an evidence Integrated Risk Management Plan (IRMP) to the Mayor, along with
- a proposed budget (supported by the deputy Section 151 officer) and
- a 3 year corporate rolling strategic plan, recommending how WMFS fire and rescue services will be delivered to meet the requirements of the IRMP.

1.3 On the agreement of the IRMP, WMFS budget and priorities and objectives as set out in the Strategic Plan by the Mayor, the Chief Fire Officer will deliver this agreed strategy through the delegated accountabilities.

1.4 The Chief Fire Officer is accountable for reviewing the IRMP on an ongoing basis. An IRMP consultation should take place once every 3 years, or when changes impact on WMFS's ability to meet the needs of the agreed IRMP and strategic priorities and objectives as referred to in 1.10.

Delivering Strategy through the operational and organisational independence of the Chief Fire Officer

1.5 As the accountable figure for operational decision making, the Chief Fire Officer will make decisions on a day to day basis regarding the development, structure and allocation of the work force, finance and assets to enable the balancing of competing operational needs and or re-allocation of resources according to risk, thereby ensuring the delivery of the IRMP through the agreed framework of strategic priorities and objectives.

1.6 To enable this the operational independence of the Chief Fire Officer is a fundamental principle of the governance arrangements WMFS.

1.7 The Chief Fire Officer must be the Officer who has the necessary operational and technical competencies to deliver the IRMP. Competencies for this role will be defined by national frameworks and/or guidance provided by the fire sector through the National Fire Chiefs Council.

1.8 The CFO will be accountable for leading and resolving incidents locally and at times regionally and nationally to ensure that during these circumstances, resilience is created within local communities and are restored to normality.

1.9 The Chief Fire Officer will lead collaborative arrangements with public services and with other emergency services as defined in the Policing and Crime Act 2017. This will be aligned to enabling the delivery of strategic priorities, where it is in the interests of efficiency, effectiveness to do so.

1.10 Where services to local communities are to be impacted in a way which fundamentally changes or reduces services received and thereby impacts on WMFS's ability to meet the needs of the agreed IRMP and strategic priorities and objectives, the Chief Fire Officer will ensure that the Mayor is informed in a timely manner. Where the impact of change(s) is permanent the CFO will make evidence-based recommendations to the Mayor the IRMP and 3 year rolling Strategy to align the delivery of services to the changing environment.

1.11 An IRMP consultation process will commence to engage communities in the changes proposed to the delivery of services through revised strategic priorities and objectives. This will inform the process as set out above in 1.1-1.3.

Delivery of Fire Safety functions through the Regulatory Reform Order

1.12 To submit comments on any town & country planning matter, Building Regulations, Safety of Sports Grounds and other applications or licences, where the WMCA is a consultee, statutory or otherwise.

1.13 Under the Regulatory Reform Order the Chief Fire Officer will exercise all the powers of the WMCA as an enforcement Authority and without prejudice the Chief Fire Officer may in particular:

- authorise the commencement of criminal proceedings (after consultation with the Monitoring Officer and deputy Monitoring Officer) for any breach of any law or regulation, the enforcement of which the WMCA is empowered to undertake;
- take appropriate enforcement action on behalf of the WMCA under the Regulatory Reform (Fire Safety) Order 2005;
- designate persons as Inspectors under Article 26 of the Fire Safety Order 2005 and the Health and Safety at Work Act 1974; and
- authorise named members of staff in writing to exercise statutory powers conferred on the Authority under Article 27 of the Fire Safety Order 2005.

1.13 To delegate to Fire safety officers to undertake fire safety inspections under the Regulatory Reform (Fire Safety) Order 2005 on behalf of the Crown Property Inspection Group.

Leadership, appointment and development of all WMFS staff and staffing structure

1.14 The Chief Fire Officer will lead WMFS and set its direction and culture.

1.15 The Chief Fire Officer will have full direction and accountability for decisions made, which impact on the staffing structure, both temporary and permanent, workforce planning and the dynamic approach to workforce development. This will ensure the requirements of the IRMP are met through the agreed WMFS strategic priorities and objectives.

1.16 All decisions taken will embrace the WMFS behavioural 'Core Values' and 'Standards' which are managed through an effective performance and disciplinary management framework as determined by the Chief Fire Officer.

1.17 The Chief Fire Officer will be accountable for the varying of all staffing arrangements, appointments and acting-up arrangements for all WMFS staff as is considered necessary, to carry out the functions of the WMFS in pursuance of the IRMP from time to time.

1.18 The Chief Fire Officer will, in consultation with the Deputy Section 151 Officer (Fire), authorise the implementation of any nationally agreed pay award in respect of all WMFS employees. This will be subject to any element of discretion being referred to the Authority for consideration.

1.19 The Chief Fire Officer will make determinations, in consultation with the WMCA Section 151 Officer and Deputy Section 151 Officer (Fire) and the Mayor, in relation to discretionary elements of the (relevant) Local Government Pension Scheme/ Firefighters Pension Scheme and the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations.

1.20 The Chief Fire Officer will be accountable for the disciplining of all WMFS staff (up to and including dismissal) in line with policy and appropriate advice.

1.21 This Chief Fire Officer will be accountable for the determination of appeals against dismissal or other disciplinary action in respect of all staff, other than those who report directly to the Chief Fire Officer.

1.22 The Chief Fire Officer will be accountable for disputes under the first stage of the Internal Disputes Resolution Procedure, lodged in relation to the relevant Firefighters Pension Scheme or the relevant Local Government Pension Scheme.

Financial and resource management

1.23 The Chief Fire Officer will be accountable for the management of budgets, use of and allocation of all assets such as fleet, estate and equipment, to achieve the delivery of the IRMP in line with agreed strategic priorities and objectives.

1.24 The Deputy Section 151 Officer (Fire) working as part of the WMFS Strategic Enabling Team (SET) will work with the Chief Fire Officer to support effective financial and resource management and to ensure professional and timely reporting to the WMCA Section 151 Officer.

1.25 Where the Chief Fire Officer proposes changes to assets, property, finances and reserves, which will fundamentally change WMFS's ability to deliver services aligned to the agreed IRMP and strategic priorities and objectives, this will be agreed with the Mayor. This will have regard to the requirements of the evidence-based IRMP, advice and recommendation(s) of the Chief Fire Officer and the requirements of the Fire and Rescue National Framework for England 2018 (as amended). Any such changes would need to recognise the 'ring-fenced' nature of the WMFS's budgets, assets and reserves as set out in section 3 (below)

1.26 The Chief Fire Officer will explore and lead income generation activity by WMFS in order to support delivery of 'the Plan' and IRMP.

The management of trade union and employee relations.

1.27 To enable the most effective delivery of strategic priorities and objectives aligned to the IRMP, the Chief Fire Officer will be accountable for the management of all trade union relations relating to employee relations as set out in (and via use of) the WMFS Employee Relations Framework.

1.28 This will ensure that there is sufficient opportunity, flexibility and independence for the Chief Fire Officer (and/or the Strategic Enabling Team) to work with trade union representative bodies at an early stage. The Chief Fire Officer (and/or the Strategic Enabling Team) will use a structured and evidence based approach to solve employee relations issues with a focus on achieving 'shared solutions'.

Section 2 - Functions of the Mayor and WMCA

2.1 The WMCA is the Corporate Body which employs all staff and owns all properties and assets.

2.2 Except where set out below 'fire functions' are 'excluded functions' and can only be exercised by the Mayor on behalf of the WMCA.

2.3 The budget approvals proposals for WMFS is aligned to sections 1 and 1.1 to 1.4 and underpinned by the professional advice and recommendation(s) from the Chief Fire Officer, Deputy Section 151 Officer (Fire) and the WMCA Section 151 Officer. The Mayor will subsequently present the 'fire budget', the government grant, precept, business rates and other sources of income, related to the delivery of WMFS services to and on behalf of the WMCA.

2.4 The 'fire budget' and reserves as well as other funding streams are 'ring-fenced' for the delivery of services to support the sustainability of WMFS in reducing risk and vulnerability for the communities the WMCA and WMFS serve.

2.5 The Mayor has the legal power and duty to agree the IRMP and strategic priorities and objectives of WMFS on the recommendation of the Chief Fire Officer, having regard to the requirements of the Fire and Rescue National Framework for England 2018.

2.6 The Mayor of the WMCA has a statutory duty to hold the Chief Fire Officer to account in performance of the Chief Fire Officer's accountabilities.

2.7 Functions exercisable only by the Mayor:

- a) the following provisions of the Fire and Rescue Services Act (2004):
 - (i) section 13 (reinforcement schemes), other than subsection (5),
 - (ii) section 15 (arrangements with other employers of fire-fighters), and
 - (iii) section 16 (arrangements for discharge of functions by others);
- b) approving the IRMP and the 'fire and rescue declaration';
- c) scrutinise, support and challenge the overall performance of WMFS against the priorities agreed within 'the Plan' and IRMP; and
- d) approving plans, modifications and/or amendment to plans for the purpose of ensuring that—
 - (i) so far as is reasonably practicable, the WMCA is able to continue to perform its fire and rescue functions if an emergency occurs,
 - (ii) the WMCA is able to perform its functions so far as necessary or desirable for the purpose of preventing an emergency, or reducing, controlling or mitigating the effects of an emergency, or taking other action in connection with it;
- e) approving any arrangements for the co-operation of the WMCA in relation to its fire and rescue functions and other general 'Category 1' responders and general 'Category 2' responders in respect of the performance of the WMCA's duty as a Fire and Rescue Authority under section 2 of the Civil Contingencies Act 2004 and any duties under Regulations made in the exercise of powers under this Act;
- f) hold the Chief Fire Officer to account for -
 - (i) the delivery of the functions of the Chief Fire Officer and the functions of those under the direction and control of the Chief Fire Officer; and
 - (ii) the performance of the WMFS against the requirements of the IRMP and staff; ensuring the maintenance of an efficient and effective fire service;
- g) setting the fire service budget and the subsequent precept for the WMFS;

- h) appointing, or dismissing, the Chief Fire Officer;
- i) approving the terms of appointment of the Chief Fire Officer;
- j) hear appeals against dismissal from any Assistant Chief Fire Officer (including any Deputy CFO);
- k) appoint the Mayoral Fire Committee (MFC); and
- l) to approve the appointment of members to the MFC and in consultation with the WMCA to appoint the Chair of the MFC.

2.8 The Mayor and Chief Fire Officer must work together to safeguard WMFS operational independence as defined within this Constitutional Framework while ensuring that both parties can fulfil their respective roles as defined by the 'Order' and this Constitutional Framework.

Section 3

3.1 Ring-fencing of the WMFS/Fire Service budget, assets and reserves

A. To enable the most efficient and effective delivery of the agreed IRMP, strategic priorities and objectives and budget for WMFS the Combined Authority will maintain a separate budget known as the Fire Service budget "the budget". All receipts due to the Combined Authority in relation to the discharge of Fire Service operations and functions as set out in the Statutory Order West Midlands Combined Authority (Fire and Rescue Functions Order 2019), must be paid into "the budget" and all expenditure related to the same matters, must be paid out of "the budget". Page 61

B. All assets relating to the discharge of Fire Service operations and functions will be owned by the WMCA as set out in the Order, but ring fenced for use in relation to Fire Service Operations

Any receipts, income or proceeds of sale in relation to Fire Service Assets will be retained within "the budget".

C. Any reserves associated with the Fire Service at the point of transfer should be purely for the use of the Fire Service. Future movement in the Fire Service reserves need to be directly linked to the budgetary arrangements set out in A and B above.

D. The CFO together with the officer responsible for the proper administration of financial affairs, the Deputy Treasurer (fire) and the WMCA section 151 officer, will propose and be accountable for an annual budget for the fire and rescue service which will ensure the most effective and efficient delivery of services to local communities as set out in the Fire Service Strategy.

E. Nothing in these provisions shall be taken as precluding any shared services, shared use of assets or other forms of joint working involving assets, personnel or services maintained by "the budget" as determined by the CFO and with the consent of the Mayor.

Section 4 - Statutory Officer roles (Fire)

4.1 The Statutory Officers for WMFS as the Mayors Fire Function, will be the WMCA Monitoring Officer and WMCA Section 151 Officer.

4.2 It is recognised that deputies will be appointed in consultation with the WMCA statutory officers.

4.3 It is recognised that a deputy Section 151 Officer (Fire), deputy Monitoring Officer (Fire) and Clerk (Fire) will exist for WMFS to ensure:

- the Chief Fire Officer is sufficiently supported in the delivery of key fire functions and accountabilities:
- the development and delivery of the IRMP, through the delivery of a balanced budget and agreed strategic priorities and objectives, and
- that the ring fenced arrangements of the WMFS budgets and reserves are appropriately considered.
- The appropriate support to the Mayoral Fire Committee and Mayor

4.4 To provide the appropriate level of support the deputy Section 151 Officer (Fire) and Clerk (Fire) will need to exist within the WMFS Strategic Enabling Team (SET).

Appendix D
Item 5**WMCA Constitutional Framework for West Midlands Fire Service (WMFS) Fire Functions****Explanatory Guide****Scope:**

This explanatory guide should be read in conjunction with and to enable a full understanding and clarity of the WMCA Constitutional Framework for West Midlands Fire Service (WMFS) Fire Functions.

The WMFS as a function of the Mayor will operate as a public service within the WMCA.

All references to WMFS policies and/or standing orders are WMCA policies for the Mayors fire function.

Officer Delegations:

WMCA Statutory Officers will be those officers for WMFS as the Mayors Fire Function, however it is recognised that a deputy Section 151 Officer, deputy Monitoring Officer and Clerk will exist for WMFS to ensure the Chief Fire Officer is sufficiently supported in the delivery of key fire functions and accountabilities and in particular in ensuring:

- The development and delivery of the IRMP, through the delivery of a balanced budget and agreed strategic priorities and objectives, and
- that the ring fenced arrangements of the WMFS budgets and reserves are appropriately considered.

To provide the appropriate level of support the deputy Section 151 Officer and Clerk will exist within the WMFS Strategic Enabling Team.

All functions of the CFO as set out in the WMFS Fire Functions will be undertaken in line with the WMCA constitution and relevant WMFS policies.

The Chief Fire Officer may further delegate to any member of the Strategic Enabling Team as appropriate. In the event of the inability of the Chief Fire Officer to act due to absence or a conflict of interest, the authority to act as prescribed in any individual delegation will pass to the officer of WMFS who holds management responsibility for the said post/postholder, except where otherwise indicated within the delegation itself.

Officers appointed to posts at Assistant Chief Fire Officer level shall, subject to appropriate delegation by the Chief Fire Officer, have the power to provide key CFO accountabilities.

Fire Functions Legislative Framework

The legislative framework for the delivery of WMCA fire functions are as set out below.

The Fire and Rescue Services Act 2004 establishes Fire and Rescue Authorities and their statutory functions across England and Wales. The Act gives Fire and a Rescue Authorities the responsibility for fire safety, firefighting, road traffic collisions and emergencies. The WMCA and Mayor through the West Midlands Fire Service (WMFS) are accountable for the delivery of these legislative functions for the West Midlands Conurbation.

The Fire and Rescue National Framework England 2018 sets out the strategic direction for Fire and Rescue Services, detailing priorities and objectives in connection with the discharge of their functions as set out in the Fire and Rescue Services Act. The National Framework sets out specifically the requirement for each fire and rescue service to have an Integrated Risk Management Plan, which must include an assessment of all foreseeable fire and rescue related risk and how prevention, protection and response activities will prevent and mitigate the impact of identified risk on its communities.

The Regulatory (Fire Safety) Reform Order 2005 provides a minimum fire safety standard for all non-domestic premises. The fire and rescue service has a specific duty through this legislation to enforce fire safety in these premises.

The Fire and Rescue Services (Emergency) Order 2007 places mandatory functions on fire and rescue services in certain types on incidents. These include chemical, biological, radiological, nuclear, and emergencies requiring the freeing of people from collapsed structures.

Civil Contingencies Act 2004 places a legal obligation on the fire and rescue service to plan and prepare for emergencies, together providing increased cooperation and communication and information sharing. As a category 1 responder the fire and rescue service is also responsible for alerting and informing the public in relation to emergencies.

The legislation below informs the governance arrangements and the responsibilities placed on the WMCA, Mayor and Chief Fire Officer to deliver those legislative fire functions as set out above.

The West Midlands Combined Authority (Fire and Rescue Functions) Order 2019 places the responsibility and accountability for the delivery and performance of the fire service with the Mayor. The Mayor approves the Integrated Risk Management Plan and the strategic objectives of WMFS in the delivery of services to the communities of the West Midlands on advice and recommendation of the Chief Fire Officer and holds the Chief Fire Officer to account for the delivery of the service.

The Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017

The Local Democracy, Economic Development and Construction Act 2009 enables the Mayor of the WMCA be the accountable figure for fire functions within the West Midlands.

The Policing and Crime Act 2017 places a duty on the fire and rescue service to collaborate with other blue light emergency services.

Section 1: Accountabilities of the Chief Fire Officer

In delivering against the accountabilities set out in this constitution the Chief Fire Officer will work with the Strategic Enabling Team, deputy 151, deputy Monitoring Officer and Clerk to discharge accountabilities effectively. This will incorporate the delegation of responsibilities to members of the Strategic Enabling Team.

Setting Strategy

The following key strategic documents provide the basis for an evidence based approach to planning fire and rescue services and are the basis upon which the accountabilities of the Chief Fire Officer are set.

This section paragraphs 1.1-1.4 reference the following strategic planning documents:

The Integrated Risk Management Plan (IRMP) identifies a range of foreseeable risks to communities, business and property across the West Midlands. WMFS then puts in place a range of risk reduction measures to either remove, displace, control or mitigate the risk to an acceptable level through our Prevention, Protection and Response work and has developed a 'tool kit' to enable an effective IRMP process.

This is set out publicly in the Community Safety strategy (CSS) which provides the foundation from which WMFS builds its priorities, policies and objectives on. This enables decisions to be made around our IRMP which are informed by a sound evidence base. Our Community Safety Strategy brings together the extensive risk methodology, risk analysis, research and internal and external data sets which then feed into a technical paper, which through an IRMP panel allows the CFO to prepare an IRMP.

The CSS details the risk in the West Midlands and describes how we work to reduce risk and vulnerability across the West Midlands in a transparent way.

'The Plan' is the WMFS 3 year rolling strategic action plan detailing how we are going to reduce the risks identified by the risk analysis and research. 'The Plan' contains: The profile of the West Midlands; our Priorities and Outcomes; WMFRA business and financial planning process which delivers the IRMP and our Core Values.

The Plan sets out publicly WMFS priorities and objectives which have been defined to enable delivery of the IRMP within an agreed budget.

Supporting 'The Plan' is our strategic and organisational planning framework, which ensures that activities carried out at all levels of the organisation are strategically aligned to 'The Plan' as identifies within the IRMP.

1.4 The Fire and Rescue National Framework 2018 section 4.6 sets out a requirement for the IRMP to cover at least, a three year period and be reviewed and revised as often as needed to enable effective delivery of services. There is a requirement to reflect effective consultation throughout its development and at all review stages.

1.5 The operational decisions undertaken by the Chief Fire Officer on a day to day basis will be taken independently and will not require referral back to the Mayor.

1.6 Operational independence provides the Chief Fire Officer with the ability to flexibly manage and make decisions regarding the delivery of services and allocation and or variance of resources on a day to day basis, within the framework of the agreed strategic plan and budget.

1.7 Operational and technical competencies are required in the role of a Chief Fire Officer as the owner of the IRMP, to ensure efficient and effective strategic decision making in the delivery of the IRMP. The competencies required for this role are defined through national frameworks and are considered as part of the National Fire Chief Councils Community Risk Programme.

1.9 The Chief Fire Officer will lead and engage WMFS in collaborative opportunities which add value to the delivery of the agreed strategic priorities and objectives, as well as the improvement of efficiency and effectiveness and public safety.

1.10 As indicated in 1.4 where a significant change in internal or external factors results in the inability for WMFS to meet the requirements of the agreed IRMP and strategic priorities and objectives and where this change is will exist over the planning period 1-3 years, this will necessitate a review of the strategy setting process incorporating the IRMP, strategic priorities and objectives and budget.

1.11 Aligned to this is the accountability of the Chief Fire Officer in leading and resolving incidents locally, regionally and nationally, to ensure that during these circumstances, resilience is created within local communities and are restored to normality.

1.12 – 1.15

The Chief Fire Officer will be accountable for the workforce of WMFS.

The Chief Fire Officer will ensure all decisions made with regards to staffing arrangements, workforce development and transformation are aligned to the delivery of the IRMP and strategic priorities and objective and delivered through appropriate engagement, consultation and negotiation with all staff aligned to the WMFS Employee Relations Framework.

The Chief Fire Officer will be accountable for the appointment of all WMFS

staff as is considered necessary to carry out the functions of WMFS. For clarity this will include the appointment of all Brigade Managers and Senior Officers.

All functions of the CFO as set out above will be undertaken in line with the policies of the WMFS and WMCA constitution.

The determination of staffing arrangements will include: Varying staffing structures, personnel issues, staffing arrangements, varying grading's of individual posts and acting up arrangements in line with WMFS policy, as well as the determination of the best staffing model to meet the requirements of the agreed strategic priorities and objectives, such as in/out sourcing, TUPE, contingency workers or employees. 1.20 The Chief Fire Officer will be accountable for disputes under the first stage of the Internal Disputes Resolution Procedure, lodged in relation to the Firefighters Pension Scheme or the Local Government Pension Scheme.

People undertaking functions within WMFS. Workers and contractors and employees of the Service or working on behalf of the CFO, will through the selection process be clear of the values and expectations on them when undertaking work on behalf of the CFO. Ensuring that nationally and locally agreed conditions of service are implemented in line with agreed policies for WMFS.

The Chief Fire Officer will ensure WMFS employment policies and procedures are based on best practice guidance and are properly applied and enforced.

1.18 – 1.19 The Chief Fire Officer will delegate the dismissal of staff and undertaking of appeals against dismissal and other disciplinary action, as appropriate and in line with WMFS policies.

1.20 Stage 1 appeals under the firefighter pension schemes and the local government superannuation regulations may be delegated to the another officer on determination of the CFO.

Financial and resource management

Financial and resource management accountabilities of the Chief Fire Officer and delegated officers will be undertaken in line within an agreed framework for decision making.

The Chief Fire Officer will undertake all matters of day-to-day financial administration for WMFS, in accordance with the policies and Financial Regulations of the WMCA.

The management and negotiation of trade union relations.

The WMFS Employee Relations Framework is a policy agreed between the Chief Fire Officer and recognised staff Representative Bodies which supports early engagement, consultation and negotiation around proposed changes.

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

Item 6

8 APRIL 2019

1. CONTRACT AWARDS SUMMARY FOR PERIOD TO 31 APRIL 2019

Report of the Chief Fire Officer

RECOMMENDED

THAT the Authority note the attached Appendix which summarises the contracts in excess of £250,000 that have been awarded since September 2018.

2. PURPOSE OF REPORT

This report provides a six-month summary of all contracts that have been awarded since September 2018.

3. BACKGROUND

- 3.1 At the Authority meeting on 29 June 2015, Members approved a number of revisions to the Constitution. One of the revisions was that a retrospective twice yearly summary report of tender contract awards in excess of £250,000 be submitted to the Fire Authority for information purposes.
- 3.2 In accordance with the above requirement, a summary of those contracts awarded is attached as Appendix 1.

4. EQUALITY IMPACT ASSESSMENT

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

5. LEGAL IMPLICATIONS

The procurement processes that were followed for the procurement exercises detailed in the Appendices to this report were conducted in accordance with the Authority's Procurement Standing Orders and the Public Contract Regulations 2015.

6. **FINANCIAL IMPLICATIONS**

These are contained in the attached Appendices.

7. **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications arising from this report.

BACKGROUND PAPERS

Authority Meeting 21 September 2015

Standing Order 1/8 – Procurement Procedures

The contact name for this report is Phil Hales, Deputy Chief Fire Officer, 0121 380 6907.

PHIL LOACH
CHIEF FIRE OFFICER

APPENDIX 1

Contract Title	Winning Supplier	Approval Date	Contract Period (Including Extension Options)	Annual Contract value or Total Value for one off Purchase	Total Contract Value (including extension periods)	Budget	Basis of award e.g. Lowest Price or MEAT*	Date and Minute Number of Planned Tender Report	Any Other Relevant Information
Structural Firefighting PPE – Fully Managed Service Contract (FMS) 2019 - 2026	Bristol Uniforms Ltd	19 September 2018	8 years	£712,000	£5,696,768	£5,700,000	Direct Award from framework agreement	19 February 2018	
Integrated Communication Control System (ICCS) upgrade and support	Capita plc	4 October 2018	5 years	One off cost of £340,000 plus annual cost of £97,000	£825,000	£825,000	Direct Award*	18 September 2017	* Using the Negotiated Procedure Without Prior Publication Procedure.
General Waste and Recycling	Clearway Limited	18 December 2018	2 years plus options to extend for a further 4 years	£50,000	£300,000	£330,000	MEAT	25 June 2018	

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* Most Economically Advantageous Tender (MEAT)

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

Item 7

8 APRIL 2019

1. STATEMENT OF ASSURANCE 2017-2018

Joint report of the Chief Fire Officer, the Clerk to the Authority, and the Monitoring Officer.

RECOMMENDED

THAT the Authority approves the Statement of Assurance 2017-18.

2. PURPOSE OF REPORT

This report is submitted to seek approval for the Statement of Assurance 2017-18, which the Authority are legally obliged to produce and review on an annual basis under the Fire and Rescue National Framework.

3. BACKGROUND

3.1 The Fire and Rescue National Framework for England published in July 2012 sets out a requirement for Fire and Rescue Authorities to publish 'Statements of Assurance' and review them annually. The requirement is contained within Chapter 3 of the Framework which focuses entirely on 'assurance'.

3.2 In line with this expectation, the Authority's Statement of Assurance (attached as Appendix 1) has been reviewed for the year 2017-18 and is submitted for approval.

3.3 The Government has indicated that there are four key areas that should form part of any Statement of Assurance. These are:

- Financial
- Governance
- Operational
- Future improvements

- 3.4 With regard to our arrangements the following are all part of West Midlands Fire and Rescue Service's (WMFS) assurance process.

3.4.1 **Financial**

The Authority publishes its Statement of Accounts, pay policy, transparency data, internal and external audit information. Each year the auditors discharge pre-agreed audit plans and are invited to the Fire Authority and Audit and Risk Committee to give their findings. Additionally, the outcomes are published via Fire Authority meetings, the Internet and contained within the Annual Report.

3.4.2 **Governance**

Each year the Authority produces its Annual Governance Statement in support of its accounts. This statement expresses the measures undertaken to ensure propriety. In addition, the Fire Authority maintains a level of scrutiny of the Service through its governance framework, the reports of which are all publicly available.

3.4.3 **Operational**

The Fire Authority publishes and consults on its Community Safety Strategy (Integrated Risk Management Plan) on at least a three-yearly basis. This process of consultation is robust and is in line with the Fire Authority's own consultation strategy which is based on government guidance.

3.4.4 **Future Improvements**

Future improvements reflect on our work to continuously improve our Service Delivery model through the Prevention, Protection and Response integration project in order to deliver our vision of 'Making West Midlands safer, stronger and healthier'.

- 3.5 It is reassuring to note that the overwhelming majority of the information required as part of the Statement of Assurance is established within the organisation and the vast majority of the documents are already within the public domain. However, we do acknowledge the benefits of bringing these together within a single document in terms of providing transparency. The Statement of Assurance also ensures compliance with our specific data transparency requirements, for example the Local Government Transparency Code.
- 3.6 The Statement of Assurance brings together our key financial, governance and operational assurances together within one publication. It is the intention that the document will be live and to this end there will be electronic links from it to other corporate documents referenced therein. This will enable the reader to evaluate and make a valid assessment of our performance.
- 3.7 The Authority is required to review this document annually to reflect the previous year's activity.
- 3.8 It should be noted that although a revised version of the Fire and Rescue National Framework was published in May 2018 (coming into force as of 1 June), it is the version of the framework published in 2012 that applies to the period covered by this Statement of Assurance.

4. **EQUALITY IMPACT ASSESSMENT**

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

5. **LEGAL IMPLICATIONS**

The preparation of the Statement of Assurance document is a legal requirement as part of the Fire and Rescue Services National Framework for England. There are no matters arising out of this report that are required to be brought to the attention of the Monitoring Officer.

6. **FINANCIAL IMPLICATIONS**

The Statement of Assurance will be a web based publication. No hard copies will be produced and as such there are no direct financial implications.

BACKGROUND PAPERS

Fire and Rescue National Framework for England, DCLG, 2012

Guidance on statements of assurance for Fire and Rescue Authorities in England, DCLG, May 2013

Report by the Home Secretary on Fire and Rescue Authorities' progress with the Fire and Rescue National Framework for England (July 2018)

Firefighter fitness: addendum to the Fire and Rescue National Framework for England

The contact name for this report is DCFO Phil Hales, telephone number 0121 380 6004

PHIL LOACH
CHIEF FIRE OFFICER

KAREN GOWREESUNKER
CLERK TO THE AUTHORITY

SATINDER SAHOTA
MONITORING OFFICER



West Midlands Fire and Rescue Authority

Statement of Assurance

2017 - 2018

Published April 2019

WEST MIDLANDS FIRE SERVICE

Making the West Midlands Safer, Stronger and Healthier

www.wmfs.net

@WestMidsFire

Foreword 3

Statement of Assurance

Finance 5

Governance 7

Review of the Governance Framework 8

Operational 13

Future Improvements 18

Our Integrated Risk Management plan (IRMP) provides the evidence base from which we target and drive down risk in local communities. Whilst this spans across all of our priorities, at the heart of our service delivery model is the commitment we have made to a 5 minute risk based attendance standard, for incidents which pose the greatest threat to life and property. This standard is grounded in academic research and evidence from a wide range of sectors including health, fire and academic institutes, which recognises the quicker we are able to get to an incident the greater chance there is of survivability.

Through this commitment our staff make a very real and positive difference providing excellent services in helping people live safer, healthier lives and supporting the prosperity of the West Midlands economy.

There has been a government funding reduction of 6.8% or £5 million for the 2017/18 budget, however we continue to engage in partnership and collaborative opportunities to explore new and transformational ways to enhance the delivery of our services, as well as target areas of work to reduce vulnerability as identified through our strategy. This includes transforming our use of technology and digital approaches to enhance services provided to communities through implementing solutions such as 999 eye which enables an incident to be live streamed to fire control on receipt of call, a 3PT project management approach which seeks to create more efficient and effective delivery of priorities and the development of Tymly to support a more effective approach to the delivery of prevention initiatives.

Our commitment to excellence and collaboration relies on working closely with a wide range of other blue light services, agencies and organisations, including councils and the West Midlands Combined Authority (WMCA). This enables us to work more efficiently and effectively with the aim of achieving joint outcomes to better the lives of individual's in some of our highest risk communities.

Our resources are configured to ensure that staff are positively reducing risk and vulnerability where it is needed most and when needed, responding assertively, effectively and safely.



Councillor John

Edwards

Chair, West Midlands
Fire & Rescue Authority



Phil Loach

Chief Fire Officer
West Midlands Fire Service

We adopt a flexible, risk based approach to appliance availability managing resources dynamically using a set of principles to ensure financial targets are met. This is supported by a blended fleet enabling us to match resources and response to the risk that an incident presents and managed effectively by our Fire Control through the use of the Dynamic Cover Tool.

The activities undertaken by our firefighters are wide ranging and our approach to the delivery of integrated services means the people who attend emergency incidents are also the same people who deliver our 31,576 Safe and Well checks over the last twelve months, or participate in reducing the risk to businesses through the delivering of legislative protection. In addition, a number of our firefighters undertake specialist roles supporting both local service delivery as well as regional, national and international support.

Delivering an excellent service to our communities requires a highly trained workforce which is not only competent and able to deliver what is expected of it, but strives for excellence in everything it does. Central to this success is our aim to ensure the diversity of our workforce, encouraging greater representation of female and BAME (Black, Asian, Minority, Ethnic) members of staff across our workforce. Our approach to positive action intervention through the recruitment and selection of firefighters from these under represented groups is proving to be successful.

Whilst the next 12 months will continue to be challenging for West Midlands Fire Service (WMFS) will continue to seek the most innovative and transformational approaches to the delivery of our services, ensuring there is real tangible value being delivered across our communities and through partnerships.

During this continuous time of both challenge and change, it is essential that our communities and partners are confident we are doing the right things in the best way possible. Our Statement of Assurance provides the evidence to inform this view. We hope you enjoy reading it and encourage you to contact us if you require more details or information.

All public bodies are responsible for ensuring that their business is conducted in accordance with the law and proper standards and that public money is properly accounted for and spent in a value for money way.

It is a legal requirement under the Accounts and Audit Regulations 2015 for public bodies to publish the financial results of their activities for the year. This document, which is called the [Statement of Accounts](#) shows the annual cost of providing West Midlands Fire and Rescue Authority (hereafter 'the Authority') and is available on our website. Alternatively, the accounts can be viewed in summary format - [Summary of Accounts](#). The statement of accounts is published in September of each year following approval by the Fire Authority. The Authority is composed of 27 members, all of whom are Councillors elected to one of the seven constituent district councils within the West Midlands.

The Authority's Statement of Accounts are independently verified on an annual basis by an external auditor. Members of the public and local government electors have certain rights in the audit process prior to the formal approval and publication of the statement of accounts. These rights are set out in the [Audit of Accounts](#).

The Authority's external audit work is undertaken by Grant Thornton UK LLP a private audit practice. The full external audit work programme and the risk based approach to its determination are explained in the external auditor's Audit Plan. As well as auditing the accounts, the external auditor is required to conclude whether the Authority has in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the value for money conclusion.

The National Audit Office (NAO) issued guidance for auditors on value for money. The guidance states that for local government bodies, auditors are required to give a conclusion on whether the Authority has proper arrangements in place. The guidance identifies one single criteria for auditors to evaluate:

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



The external auditor will report their findings and provide their opinion on the Authority's accounts and the value for money conclusion to the Authority in September of each year. This information is detailed within the external auditors [Audit Findings Report](#) and will be laid out in the Authority's Statement of Accounts (Independent Auditor's Report). As a result of the external audit work in 2017/18, there were no significant matters arising that required the authority to implement an action plan for improvement.

The external auditor has produced the [Annual Audit Letter](#) which summarises the outcomes arising from the audit of the Authority. This document is available on the Service's website and confirms that the external auditor issued:

- An unqualified opinion on the accounts which give a true and fair view of the Authority's financial position as at financial year end and its income and expenditure for the year;
- An unqualified conclusion in respect of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources;
- An unqualified opinion on the authority's Whole of Government Accounts submission.

As part of the 2016/17 Finance Settlement, the Government offered four-year funding allocations to 2019-20 in return for robust and transparent efficiency plans. The Service's [Efficiency Plan](#) was submitted to the Home Office in October 2016, outlining how the Service planned to introduce further efficiencies over the four year period, during which the Authority would receive reductions in core funding of approximately £10 million. The Efficiency Plan is monitored by the Service and progress is reported on an annual basis to the Authority as part of the budget setting process.



The Accounts and Audit Regulations 2015 requires Authorities to prepare an annual governance statement in support of the statement of accounts. The governance statement explains the measures taken by the Authority to ensure appropriate business practice, high standards of conduct and sound governance.

The governance framework comprises the systems and processes, culture and values by which the Authority is directed and controlled, including its activities through which it engages with, and is accountable to, 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.

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 of those risks being realised, the impact should they be realised and to manage them in an efficient, effective and economic manner.

The [Authority's Annual Governance Statement](#), which is considered by the Authority's Audit Committee in June of each year, and is included within the published statement of accounts, sets out in detail the purpose of the governance framework and the key elements of the systems and processes that make it up.



The key elements of the systems and processes that comprise the Authority's governance arrangements include the following:

The Authority has an agreed [Constitution](#) which sets out how the Authority operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local citizens. Please note that the version of the Constitution linked to within this document is that of 2017. The Constitution was revised in June 2018 as a result of the introduction of the Reformed Fire Authority. The Authority facilitates policy and decision-making via regular Policy Planning Forums and Authority and Executive Committee meetings. An Audit 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 Authority reviews its [governance arrangements](#) including its Committees and their terms of reference annually.

The Authority has a Corporate Strategy ([The Plan](#)) setting out its objectives and there is quarterly performance monitoring in which achievement of the Authority's objectives are measured and monitored by the Scrutiny Committee.

The Authority has established clear channels of communication with the community and stakeholders regarding the production of The Plan and consultation on the key priorities of the Service, encouraging open communication.

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 (within The Constitution) and Whistle Blowing Policy. There is a comprehensive induction and [Member Development Strategy](#) in place and information regarding strategies and procedures are held on the intranet. The Authority has a strong Internal Audit function and has established protocols for working with External Audit.

The Authority will continue to enhance and strengthen its internal control environment through regular review of current policies and procedures.

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 members to meet objectives. To consider



the effectiveness of the Authority's risk management arrangements is a specific term of reference for the Audit Committee and risk management is a specific responsibility of both the Chair and Vice Chair.

The Authority's [Corporate Risk Assurance Map Summary](#) identifies the principal risks to the achievement of the Authority's objectives and assesses the nature and extent of those risks (through assessment of impact and likelihood). The Assurance Map identifies risk owners whose responsibility includes the identification of controls and actions to manage them efficiently, effectively and economically. Corporate Risk matters are discussed with the Audit Committee on a quarterly basis.

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 its business planning process. This ensures that resources are aligned to priorities and secures best value from the resources that are available.

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 by the Strategic Enabling Team ensures that any significant budget variances are identified in a timely way, and corrective action initiated. Performance is reported to Authority on a quarterly frequency.

Performance management against our Corporate Strategy including The Plan, priorities and outcomes, is reported on a quarterly basis to senior managers via the Quarterly Performance Review framework and to Members through the Authority's Scrutiny Committee, via the report 'Analysis of Progress of Quarterly Performance against The Plan', which sets out our achievements and demonstrates our performance in delivering our key priorities, strategic objectives and outcomes during the previous financial year.

The Authority has a Standards Committee which promotes high [ethical standards amongst Members](#). This Standards 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 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 auditors in their Annual Audit Letter and other reports.

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 Regulation. The internal audit provision operates in accordance with the CIPFA Code of Practice for Internal Audit in Local Government. The arrangements for the provision of internal audit are contained within section 3 of the Authority's Financial Regulations. The purpose of internal audit is to provide the Authority with an independent and objective opinion on risk management, control and governance and their effectiveness in achieving the Authority's agreed objectives.

In order to achieve this, the [Internal Audit Strategy and Plan](#) has been developed. The strategy sets out the internal audit work to be undertaken on a rolling three year basis and includes a detailed annual internal audit plan for the current fiscal year. This work 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. Provision is made within the internal audit strategy to audit aspects of the Authority's governance and risk management arrangements on an annual basis. The work is further supplemented by reviews around the main financial systems, scheduled visits to Authority establishments, fraud investigations and counter-fraud activity including training for managers. The Authority has in place an [Anti-Fraud, Corruption and Bribery Policy](#).

The internal audit strategy is discussed and agreed with members of the Strategic Enabling Team and the Audit 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 internal audit reports include an assessment of the adequacy of internal control and prioritised action plans to address any areas needing improvement.



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 reported in the Annual Internal Audit Report;
- The work undertaken by the external auditor reported in their Annual Audit Letter; and
- Other work undertaken by independent inspection bodies.

In fulfilling the internal audit plan, quarterly reports will be provided to the Authority's Audit Committee detailing matters arising from internal audit work undertaken within the audit year. The purpose of these reports is to bring the Audit Committee up to date with progress made. The information included in progress reports informs the end of year Internal Audit Annual Report. This report provides an opinion on the adequacy and effectiveness of the Authority's governance, risk management and internal control processes.

Based on the work undertaken during the year and the implementation by management of the recommendations made, internal audit has provided reasonable assurance that the Fire Authority has adequate and effective governance, risk management and internal control processes. This is an unqualified opinion and the highest level of assurance available to the internal audit function. 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 order to provide assurance of the high quality of the work of the internal audit service, an annual [Review of Effectiveness of Internal Audit](#) is undertaken, the findings of which are approved by the Audit Committee.

The Audit Committee undertakes an annual self assessment / review of its effectiveness using the industry standard toolkit. This year's review highlighted that the Committee was operating within a recognised best practice framework. The Audit Committee is required to produce an [Annual Report](#). This report sets out in detail the business undertaken by the Committee, its achievements and its conclusion upon the adequacy of the system of internal control, governance and risk management in the Authority. The conclusion of the Audit Committee is derived from, and informed by, the work of internal audit and the compilation of the Annual Governance Statement. As a consequence of this work the Audit Committee was able to confirm:



'That the system of internal control, governance and risk management in the authority was adequate in identifying risks and allowing the 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.'
(ref: Annual Report of the Audit Committee 2017/18).

In preparing this Statement of Assurance, the Authority has considered the principles of transparency as set out in the Code of Recommended Practice for Local Authorities on Data Transparency and is mindful that greater transparency is at the heart of enabling the public to hold politicians and public bodies to account. Where public money is spent is a matter of public interest. The information provided in the links below, provides additional information on how the Authority has spent its public money and further demonstrates the Authority's commitment to transparency and accountability.

- [Contracts information & expenditure over £500](#)
- [Salary information](#)
- [Pay Policy Statement](#)
- [Member allowances scheme](#) – (Appendix 3 of the link) and [Member allowances](#)
- [The location of land and building assets](#)
- Counter Fraud Information
- The democratic running of the Authority including The Constitution, committee minutes, decision making processes and records of decisions are maintained on our website via the [Committee Management Information System](#) (CMIS)

In supporting the transparency agenda, the Authority is compliant with its responsibility set out in the Local Government Transparency Code 2015.

Our Statement of Assurance meet the guidance of the Fire and Rescue National Framework for England and is available [here](#).

The Fire Authority meets the requirements set out in the Fire and Rescue Service Act 2004, Civil Contingencies Act 2004, the Regulatory Reform (Fire Safety) Order 2005, Fire and Rescue Services (Emergencies) (England) 2007, Localism Act 2011 and the Fire and Rescue National Framework for England.

All Fire and Rescue Authorities are required to produce and publish an integrated risk management plan. The Authority's integrated risk management plan is represented in a visual manner by the [Community Safety Strategy](#) and sets out how we will keep people of the West Midlands safe through our Service Delivery Model.

The Community Safety Strategy contains our analysis of fire and rescue related risks in the West Midlands. It shows how we will target our resources so that we can prevent incidents from happening, while also making sure resources are located to best protect the community therefore enabling us to continue providing the highest standards of service in the areas of prevention, protection and emergency response through our Service Delivery Model.

Our Community Safety Strategy is the foundation on which we build our Service Delivery Model which is set out here:



2017 Service Delivery Model illustrated here.

The Community Safety Strategy is integral to informing and shaping our key priorities, desired outcomes, Service Delivery Model and corporate objectives as set out in The Plan. The Authority consults on its Community Safety Strategy in accordance with national guidance. At the last formal consultation held in 2016 there was strong support for both the risk based 5 minute attendance time and obtaining alternative funding sources.

West Midlands Fire Service has an interactive community safety strategy which enables members of the local community to view information which is relevant to where they live.

In accordance with Section 13 of the Fire and Rescue Services Act 2004, arrangements are in place to give mutual assistance to neighbouring Fire Authorities due to a lack of available resources in a geographical area in the event of large-scale incidents, or where the resources of the recipient authority are seriously reduced. Similarly, the Authority has reciprocal arrangements in place to receive assistance from neighbouring Authorities when required.

Agreements can be made with other Fire Authorities in accordance with Section 16 of the Fire and Rescue Services Act 2004 in respect of calls received from outside the West Midlands border. These agreements vary in detail from Authority to Authority but essentially they are a commitment to a neighbouring Fire and Rescue Authority to mobilise appliances to pre-agreed areas, known as Section 16 areas in the event of an emergency call being received.

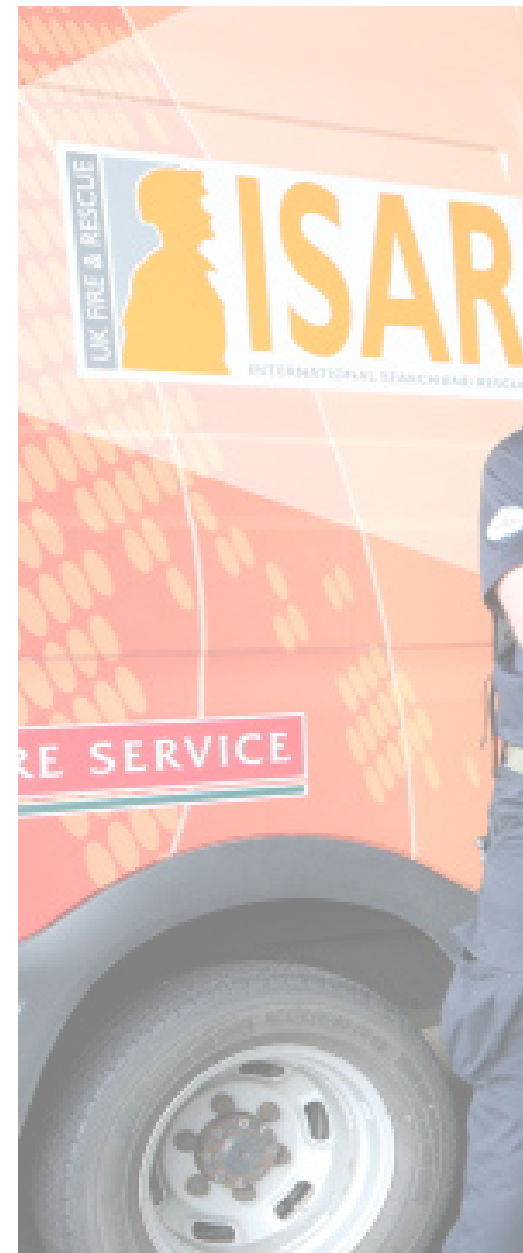


West Midlands Fire Service has mutual assistance arrangements with all Fire and Rescue Services surrounding the West Midlands (Shropshire, Staffordshire, Warwickshire and Hereford and Worcester Fire and Rescue Services.)

In order to meet our specific responsibilities under the Civil Contingencies Act 2004, the Authority is a partner in the multi agency [West Midlands Conurbation Local Resilience Forum \(LRF\)](#). This forum is chaired by the West Midlands Fire Service and brings together local emergency services and other partner agency responders including the military and voluntary sectors to plan and prepare for localised incidents and catastrophic emergencies that may impact the communities of the West Midlands. The strategic objectives of the LRF are enabled through the General Working Group (GWG) which involves members from all agencies who attend the LRF. More localised planning arrangements are further considered within each of the Local Authority areas across the West Midlands Conurbation through Local Resilience Groups (LRG). West Midlands Fire Service Operations and Station Commanders are engaged within these groups and work collaboratively with other responders and partner agencies to protect local communities.

In support of National Resilience we have enhanced our capability to respond to major emergencies such as terrorist attacks, industrial and domestic accidents and natural disasters. We are a partner in the Multi Agency Specialist Assessment Team (MASAT) which provides an initial assessment of potential Chemical, Biological, Radiological, Nuclear or Explosive (CBRNE) incidents. Our Urban Search and Rescue (USAR) and International Search and Rescue (ISAR) teams are on call 24/7 providing the ability to rapidly respond to incidents locally, nationally, and internationally, assisting and undertaking search and rescue operations. Our ISAR team are able to respond to humanitarian accidents or disasters anywhere in the world.

Each of the UK's emergency services works to keep our country safe and secure as well as protecting their communities. This means that we work together at major incidents and emergencies on an ever increasing basis. The introduction of the [Joint Emergency Services Interoperability Principles](#) (JESIP) provides the pathway as to how emergency services can work together more effectively. We also run the regional arrangements for the National Inter-Agency Liaison Officer cadre (NILO) which supports cross Blue Light organisational information sharing to support complex incident resolution.



A major incident is an event or situation, with a range of serious consequences, which requires special arrangements to be implemented by one or more emergency responder agencies. A major incident is beyond the scope of business-as-usual operations, and is likely to involve serious harm, damage, disruption or risk to human life or welfare, essential services, the environment or national security.

When police, fire and ambulance services respond to major incidents, along with other agencies, each organisation brings their own expertise to that situation. JESIP will help the emergency services better understand each other's expertise and ways of working so they can improve how they can jointly deal with an emergency. The clarity that JESIP brings to a major emergency scene enables for the better integration and more efficient and effective management of such incidents.

We support business growth and economic sustainability through our fire protection work, helping business communities to become safer from fire and assisting businesses to comply with the [Regulatory Reform \(Fire Safety\) Order 2005](#). This assistance may take the form of educational events, signposting to relevant guidance and the checking and auditing of fire protection measures. We are committed to enforcing the law so that members of the public and local employees are protected from the risk of death or injury caused by fire.

We continue to develop and enhance our risk-based inspection programme as per the requirements of the [National Framework](#) and we support the [Regulators' Code](#), improving the way regulation is delivered at the frontline, by adopting the principles of the Code. We ensure the professionalism of our Fire Safety Officers via the application of the [Competency Framework for Business Fire Safety Regulations](#) which has been embedded within the Service.

The West Midlands Fire Service strives for a commitment to excellence through a framework of learning and development defined by a culture of personal accountability.



Our “Emergency Response Cycle” breaks down the key elements that underpin this learning and development framework leading to assertive, safe and effective firefighting and excellent emergency response. The response cycle complements our commitment to the Health & Safety Executive guidance, ‘Managing for Health and Safety’ ([HSG 65](#)) and defines a simple but effective approach to Plan-Do-Check-Act. It starts with our people being highly skilled with our equipment, policy and procedures (acquisition of skills), with the cycle then moving through to the emergency response phase (application and maintenance of competence). We use reflective learning and direct observation of performance to look for both areas of excellence and improvement through our debrief and operational intelligence policy. The outcomes of this learning then directly impacts on continuous improvement influencing changes in policy, procedure and people leading to even safer firefighters delivering an even greater service.

West Midlands Fire Service is committed to supporting the health, fitness and wellbeing of all its employees and recognises its duty to ensure employees maintain the required level of fitness to fulfill their role safely. The service has a fitness framework and carries out fitness assessments annually on all operational employees.

The Service conducted the fire sector specific Operational Assessment (OpA) in 2016, which comprised a self-assessment against the OpA toolkit. The findings of the team of peers, based on the OpA self-assessment and fieldwork visit, was compiled into the Fire Peer Challenge Report which was submitted to the Authority. The report highlighted a number of areas for consideration which has resulted in the Service developing an Improvement Register to address the areas raised. Progress of the Improvement Register is monitored by the Authority via the Scrutiny Committee.



Significant progress continues to be made, in the drive to adopt an intelligence-led approach to risk management and the allocation of resources based on the outcomes of data and risk analysis. The future, whilst posing a number of challenges in terms of both financial constraints arising from the ongoing central government grant funding reductions, and the forthcoming Fire Reform programme and wider public sector reform, will see West Midlands Fire Service continuing to innovate and adopt increasingly flexible and creative ways to provide the highest standards of service delivery. Additionally, we will make the most out of the opportunities that may arise during this continuing period of significant change, including opportunities, amongst others, to build upon the considerable level of collaboration currently undertaken with partners via the incoming statutory duty for Fire, Police and Ambulance services to collaborate, and the establishment of the West Midlands Combined Authority.

In progressing Fire and Public Service reform, we commissioned an independent evaluation of the potential models of governance for the service. The objective of this review is to ensure the service retains its reputation for good governance, and to assess current practice within the context of legislative developments in the Fire and Public Sectors.

Based upon our IRMP and through taking an evidence based approach, we believe that response times matter in relation to survivability and economic growth. Our West Midlands Fire Service Service Delivery Model is built upon a resource configuration that enables us to meet our risk based 5 minute response standard and deliver an assertive, safe and effective intervention. Based upon risk, a blended fleet of vehicles, crewing levels and skill sets are dynamically mobilised to provide the right weight of response. This blended fleet is made up of 3 Business Support Vehicles crewed by a fire safety officer, 19 Brigade Response Vehicles crewed by 2 firefighters and a supervisory officer, and 41 Fire Engines crewed by 4 firefighters and a supervisory officer, two of which also have Technical Rescue capability, plus a small number of specialist vehicles that are dual crewed.

Demonstrating Public Sector Reform, we continue to embed new and innovative approaches to staffing through the use of a lean whole-time workforce supported through a system of Voluntary Additional Shifts (VAS) and Integrated Resilience. Similar to voluntary on call arrangements, firefighters during their rota days,



have the opportunity to undertake VAS. This has enabled us to reduce our whole-time workforce naturally to 1220 Firefighters, which includes 52 Technical Rescue firefighters, with VAS being used to cover shortfalls. This results in significant budget savings whilst maintaining services to the community. Integrated Resilience enables uniformed personnel undertaking roles in departments, to regularly staff response vehicles which covers staffing deficiencies, enables skills and knowledge transfer and maintains core competencies.

We continue to review our fleet, ensuring the correct vehicle types are being deployed, with state of the art equipment and technology, so that fast response times can be maintained with fewer firefighters. The introduction of a technology system within our Fire Control called Dynamic Cover Tool (DCT), assists the efficient and effective utilisation of our fleet and firefighters to best effect. The DCT ensures that resources can be mobilised most appropriate to an incident.

We continue to review our estate (stations and other building assets) on a regular basis, with a view to streamline local resources, ensuring efficiencies are maximised. We have worked collaboratively with West Midlands Police to investigate opportunities to share premises.

We continue to challenge some calls received by our Fire Control centre, to minimise the number of false alarms responded to and to ensure we always have sufficient resources to mobilise most effectively to the calls where lives and property are in danger. We have embedded our innovative 999eye system; technology which supports our resource efficiency and safeguards our firefighters in advance preparation of incident management. This allows the caller to send a live feed of the incident to Fire Control via a onetime only URL link from their own mobile phone, passing vital information to support Fire Control to appropriately resource the incident and give on coming crews vital information. Additionally, following the establishment of the nature of the call via a robust call challenging system, our Fire Control can mobilise one of the three Business Support Vehicles which have been recently introduced to our service delivery model, to false alarm calls who can provide support to the business or trust ensuring they are doing all they can to keep their employees and the public safe. Where necessary this may involve commencing relevant and proportionate enforcement of the Regulatory Reform (Fire Safety) Order 2005. In particular, advice can be provided on the management and suitability of the fire alarm, leading to a reduction in automatic false alarm calls.



Working with Staffordshire FRS, the combined Fire Control function continues to reap financial savings whilst improving the level of operational collaboration and inter-agency working within our region. A Memorandum of Understanding has been agreed with Warwickshire FRS to investigate similar opportunities for collaboration and efficiencies.

At the same time, we are actively engaging in productive partnerships and sharing data with key agencies to accurately target our preventative and educational activities, in the drive to moderate and improve behaviours in those most vulnerable from fire and other emergencies. In support of this work and to safeguard all partnerships, we commenced our preparation for the introduction of the General Data Protection Regulations in May 2018.

Our service delivery model blends our prevention, protection and response activity to reduce the effects and the number of emergency incidents. We have seen the benefits of our core delivery areas working together on many occasions in the past and we recognise the time is right to encourage further integration in a more co-ordinated way. This is the aim of the prevention, protection and response integration work stream. We have sought to progress this inter-dependent approach across the whole service by commencing development of a project management infrastructure into everyday business. This is a long term project based upon aligning systems and resources to derive an identified financial value from each workstream.

We continue to work together more closely as 'one team' for the benefit of the community. So, where prevention is currently delivered by firefighters we believe that by providing the right training and support to our fire safety team, they will be able to support our prevention priorities. It could be that they are carrying out an inspection at a business premises and they identify some vulnerable people; we want them to be able to help.

Likewise, whilst spending time amongst their community, firefighters might encounter fire safety concerns. In future, through closer working arrangements, we believe that our frontline crews will be able to offer appropriate advice.

Finally, as we aim to do all we can to achieve our risk based five minute attendance time we believe that we can provide resilience to our response teams through utilising fire safety officers to provide operational cover when appropriate. There will be other benefits to operating as one team including sharing information, joint training and closer relationships – all contributing to making the West Midlands safer and healthier.



WEST MIDLANDS FIRE AND RESCUE AUTHORITY

Item 8

AUTHORITY MEETING

8 APRIL 2019

1. PAY POLICY STATEMENT 2019/2020

Report of the Chief Fire Officer

RECOMMENDED

THAT the Authority approves the Pay Policy Statement for the financial year 2019/2020.

2. PURPOSE OF REPORT

- To inform the Authority of the new 2% local government employee pay rates (appendix 1D)
- To inform the Authority that there has been a restructure to the pay spine to ensure that no local government employee earns less than the Living Wage
- To inform the Authority that WMFS gender pay gap information has been published on the government website

This report is submitted for the Authority to approve the Pay Policy Statement for the financial year 2019/2020.

3. BACKGROUND

3.1 Section 38 (1) of The Localism Act 2011 requires Fire and Rescue Authorities to produce a Pay Policy Statement for each financial year. The proposed Pay Policy Statement 2019/2020 is set out at Appendix 1 of this report.

3.2 A Pay Policy Statement is expected to comply with the following elements:-

3.2.1 a relevant Authority must prepare a Pay Policy Statement for each financial year.

3.2.2 a Pay Policy Statement for a financial year must set out the Authority's policies for the financial year relating to the

remuneration of its Chief Officers.

3.2.3 the statement must include the Authority's policies relating to:-

- (a) decisions on any pay, remuneration or severance packages of Chief Officer roles and/or packages of £100,000 or more being submitted to the Fire Authority;
- (b) remuneration of Chief Officers on recruitment;
- (c) increases and additions to remuneration for each Chief Officer;
- (d) the use of performance related pay for Chief Officers;
- (e) the use of bonuses for Chief Officers;
- (f) the approach to the payment of Chief Officers on their ceasing to hold office under or to be employed by the authority;
- (g) the publication of and access to information relating to the remuneration of Chief Officers;

3.2.4 in addition it must detail:

- (a) the remuneration of its Chief Officers;
- (b) the remuneration of its lowest-paid employees;
and
- (c) the relationship between the remuneration of its Chief Officers and all other employees. Appendix 1D

3.2.5 a Pay Policy Statement for a financial year may also set out the Authority's policies for the financial year relating to the other terms and conditions applying to the Authority's Chief Officers.

3.3 The term Chief Officer refers to those defined within the Localism Act. For West Midlands Fire and Rescue Authority this covers the posts of Chief Fire Officer, Deputy Chief Fire Officer and Assistant Chief Fire Officer (Service Delivery).

3.4 The term 'lowest paid employees' is defined as a full time employee on the bottom scale column point of the Green Book pay scale and the lowest paid role for Grey Book employees. These are the lowest paid employees other than apprenticeships

which are paid less to reflect the nature of the training and development role.

- 3.5 There are supplementary provisions relating to statements as follows:-
- 3.5.1 a relevant Authority's Pay Policy Statement must be approved by a resolution of the Authority before it comes into force.
 - 3.5.2 the statement must be prepared and approved before the end of 31st March 2019.
 - 3.5.3 each subsequent statement must be prepared and approved before the end of 31st March immediately proceeding the financial year to which it relates.
 - 3.5.4 a relevant Authority may by resolution amend its Pay Policy Statement, including after the beginning of the financial year to which it relates.
 - 3.5.5 as soon as is reasonably practicable after approving or amending a Pay Policy Statement, the Authority must publish the statement or the amended statement in such manner as it thinks fit, which must include publication on the Authority's website.
- 3.6 There is a two-track approach for determining levels of pay for Chief Officer roles. At national level, the National Joint Council (NJC) shall review annually the level of pay increase applicable to all those covered by this agreement. In doing so, the NJC will consider affordability, other relevant pay deals and the rate of inflation at the appropriate date. Any increase agreed by the NJC will be communicated to Fire Authorities by circular.
- 3.7 Other decisions about the level of pay and remuneration to be awarded to individual Chief Officer roles will be taken by the local Fire Authority. (Advice on the implementation of a local salary structure is contained within the Pay Policy Statement.)
- 3.8 Authorities are also required to produce information on the salaries of their Chief Officers and the names. This is included in the Statement of Accounts and also on the internet site www.wmfs.net.

- 3.9 If readers are to understand the information being presented to them, they need to have an appreciation of the wider context affecting the organisation. To this end the guidance requires the West Midlands Fire Service to include some contextual information such as a description of what it does, total spend, budget responsibility, job descriptions and person specifications.
- 3.10 The information referred to above, including the expenses paid to Chief Officers, is also available on the West Midlands Fire Service website at www.wmfs.net.
- 3.11 As part of this report the Authority are also publishing their approach to the use of discretionary arrangements in relation to the Local Government Pension Scheme. During the current year evolving case law may see changes to these policies which will be published.

4. **GENDER PAY GAP COMPARISON**

The mean gender pay gap is the difference between the average hourly rate of pay for male and female employees.

When considering all employees, the mean gender pay gap as at 31st March 2018 is 10.4% or £1.57 per hour. This is a narrower gap than the 14.2% reported for 2017.

The pay gap for operational employees (including Fire Control) is 4.7%. This has increased slightly from 2.8% due to the number of female recruits employed in the reporting period. The gap for support staff employees is 18.6% which has narrowed from 34.9% reported for 2017.

The average hourly rate for female support staff has increased due to 23 female staff increasing their grade, compared to 9 male staff.

More information is available on the government website.
<https://gender-pay-gap.service.gov.uk/>

5. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment is not required as there is no direct impact on individuals in setting out the

Authority's pay policy statements. Equality Impact Assessments will be carried out on individual processes and decisions taken in the application of the pay policy statement.

6. **LEGAL IMPLICATIONS**

6.1 The recommendations provided enable West Midlands Fire and Rescue Authority to continue to comply with the relevant sections of the Localism Act and demonstrate its support for the Government's Public Sector Pay Policy.

6.2 To comply with the Localism Act 2011, the West Midlands Fire and Rescue Authority must approve the Authority's Pay Policy Statement before 31st March 2019. The Service will then complete a review of the Pay Policy Statement each year which must be approved by the Authority before 31st March each year.

7. **TRADE UNION CONSULTATION**

This is not a matter for consultation with the trade unions. The Pay Policy Statement will be shared with the Trade Unions for information following approval at the Authority meeting on 18 February 2019.

8. **FINANCIAL IMPLICATIONS**

There are no direct financial implications arising from this report.

BACKGROUND PAPERS

Localism Act 2011

The contact name for this report is Philip Hales, Deputy Chief Fire Officer, 0121 380 6907.

PHIL LOACH
CHIEF FIRE OFFICER



PAY POLICY STATEMENT 2019/2020

**March 2019
People Support Services**

PAY POLICY STATEMENT 2018/2019

CONTENTS OF APPENDICES

	<u>Page</u>
Pay Policy Statement 2019/2020	9-14
Appendix 1A Statement of Policy - LGPS	15-20
Appendix 1B Statement of Policy - Firefighters Pension Scheme 1992	21-23
Appendix 1C Statement of Policy- Firefighters Pension Scheme 2015	24-50
Appendix 1D Remuneration and relationship between Chief Officer's and Lowest Paid Employees	51-52

Pay Policy Statement 2019/2020

The level and elements of remuneration for each Chief Officer

The basic pay details of all Chief Officers is available on the West Midlands Fire Service website www.wmfs.net . The levels of pay will be determined by both national and local review following the guidance set out in the 'Gold Book' Terms of Conditions. All other payments will be contained within the Authority's statement of accounts which is also published on the West Midlands Fire Service website. The new pay awards will be published post April 2019.

Remuneration of Chief Officers on recruitment

On recruitment the Executive Committee is authorised to consider and make recommendations to the Fire Authority on the conditions of employment and salary of the Chief Fire Officer, Deputy Chief Fire Officer and Assistant Chief Fire Officer. Considerations will be given to the guidance contained within the Pay Policy Statement for determining the level of salary for each Principal Officer.

Increases and additions to remuneration for each Chief Officer

There is a two-track approach for determining levels of pay for Principal Officer roles. At national level, the NJC shall review annually the level of pay increase applicable to all those covered by this agreement. In doing so, the NJC will consider affordability, other relevant pay deals and the rate of inflation at the appropriate date. Any increase agreed by the NJC will be communicated to Fire Authorities by Circular.

Other decisions about the level of pay and remuneration to be awarded to individual Principal Officer roles will be taken by the local Fire Authority. This will be considered at the time of the Pay Policy Statement Review. (Advice on the implementation of a local salary structure is contained within the Pay Policy Statement).

Remuneration of all other employees of the West Midlands Fire Service

Living Wage

The Fire Authority is an accredited Living Wage employer and is committed to ensuring that all employees are paid, as a minimum, the Living Wage. This is reviewed on a year on year basis and amendments are made to ensure that are aligned to the Living Wage.

Green Book Employees

Salaries of 'Green Book' employees in the Service are set using locally determined pay scales and utilising an Integrated Personal Development System which is based around the nationally agreed Job Evaluation Scheme.

Please see Appendix 1D for the salaries of Green Book Employees including our lowest paid employees and the relationship between these employees and our Chief Officers. For this purpose the relationship has been made to the Chief Fire Officer's salary. Any new changes to Green Book salaries will be reflected in the Pay Policy Statement post April 2019.

Grey Book Employees

Salaries of 'Grey Book' employees in the Service are set using nationally agreed pay levels.

National Pay Awards are also made to pay scales on an annual basis and these pay awards are applied to all employees. This annual award is applicable in April for Green Book Employees and July for Grey Book Employees.

Please see Appendix 1D for the salaries of Grey and Green Book Employees including our lowest paid employees and the relationship between these employees and our Chief Officers. For this purpose the relationship has been made to the Chief Fire Officer's salary.

The use of performance related pay for Chief Officers

The West Midlands Fire Service does not use performance related pay for its Chief Officers.

The use of bonuses for Chief Officers

The West Midlands Fire Service does not award bonuses to Chief Officers.

The approach to the payment of Chief Officers on their ceasing to hold office or to be employed by the Authority

The payment to Chief Officers on the ceasing of their employment will be in line with the benefits accrued through meeting the qualifying requirements of the relevant Pension Scheme.

In the case of any redundancy payments to be made to Chief Officers these payments will be set using the existing regulations for 'Gold Book' employees and their appropriate pension scheme.

Redundancy payments for Chief Officers eligible to join the Firefighters' Pension Schemes will be calculated based on the statutory maximum weekly pay. Gold book employees eligible to join the Local Government Pension Scheme will receive a redundancy payment in line with authority agreement under Regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. See Appendix 1A.

Any settlement of £100,000 or more or any other payments will be subject to the approval of the Authority on a case by case basis.

The approach to the payment of all other Employees on their ceasing to hold office or to be employed by the Authority

- Green Book Employees

The payment of Green Book Employees on the ceasing of their employment will be in line with the benefits accrued through meeting the qualifying requirements of the relevant Pension Scheme.

In the case of redundancy the guidance contained within the pension policy statement will apply under the existing conditions of the Local Government Pension Scheme.

- Grey Book Employees

The payment of Grey Book Employees on the ceasing of their employment will be in line with the benefits accrued through meeting the qualifying requirements of the relevant pension scheme.

In the case of any redundancy payments to be made to Grey Book Employees eligible to join the firefighter's pension scheme, these payments will be set using the existing regulations for Grey Book employees. Redundancy payments will be calculated based on the statutory maximum weekly pay.

- Employees in Fire Control

In the case of redundancy the guidance contained within the pension policy statement will apply under the existing conditions of the Local Government Pension Scheme.

The publication of and access to information relating to the remuneration of Chief Officers

Details of the Chief Officer's salary and remuneration including any expenses will be made available on the West Midlands Fire Service website. This information is contained within the Annual Report and Statement of Accounts.

Discretions available to the Authority under the Local Government and Firefighters Pension Schemes

In line with the regulations of the Local Government and Firefighters Pension Schemes West Midlands Fire Service must formulate, keep under review and publish their policies on certain discretions contained within the Regulations. These regulations are included as appendices to this policy.

Definitions used within the Pay Policy Statement

The term Chief Officer refers to those defined within the Localism Act. In simple terms the policy covers the Chief Fire Officer and those posts which report directly to him/her and also the next management tier below (excluding any secretarial or clerical roles).

The term 'lowest paid employees' is defined as a full time employee on the lowest paid role/rank for Grey Book employees and the bottom scale column point of the Green book pay scale or employee subject to the living wage if higher. These are the lowest paid employees other than apprenticeships which are paid less to reflect the nature of the training and development role.

IMPLEMENTATION OF A LOCAL SALARY STRUCTURE GUIDANCE

Introduction

1. Both the Employers and Brigade Managers recognise the importance of applying the appropriate skills and developing the competencies necessary to support and embed the cultural change inherent within these new terms and conditions.

Local Salary Structures

2. When determining the appropriate level of salaries for all Brigade managers, the Fire and Rescue Authority should refer to the relevant minimum salary of the Chief Fire Officer and the most relevant benchmark data.
3. Normally the fire and rescue authority will wish to begin by determining appropriate salary for their most senior manager.
4. When deciding how these posts should be remunerated the following factors are to be considered:
 - a. the Chief Fire Officer's salary and that of any senior staff not covered by the Scheme of Conditions of Service (Gold Book);
 - b. the relationship of current salary to the appropriate illustrative national benchmark;
 - c. any special market considerations;
 - d. any substantial local factors not common to fire and rescue authorities of similar type and size e.g. London weighting; complex local, regional or national responsibilities which bring added value;
 - e. comparative information to be supplied on request by the Joint Secretaries on salaries in other similar authorities;
 - f. top management structures and size of management team compared to those of other fire and rescue authorities of similar type and size;
 - g. the relative job size of each post, as objectively assessed through an appropriate job evaluation process or otherwise; and

- h. incident command responsibility and the requirement to provide operational cover within the employing authority and beyond

The process for setting salary levels should include consideration of the following criteria:

- minimum salary levels for Chief Officers in relevant sized local authorities;
- market rates of pay for senior managers in a range of private and public sector organisations; and
- evidence of recruitment and/or retention difficulties with existing minimum rates.

There are a range of schemes and approaches available for authorities to use in assessing job size. To assist authorities, advice can be obtained from the Employers' Side Secretary of the NJC.

APPENDIX 1A

STATEMENT OF POLICY

Under Regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, operative from 29 November 2006, each employer must formulate, keep under review and publish their policies on certain discretions contained within the Regulations.

This statement is applicable to all employees of the West Midlands Fire and Rescue Authority who are eligible to be members of the Local Government Pension Scheme (LGPS).

Regulation 5 - Power to increase statutory Redundancy payments

Explanation

Employers have the discretion to resolve to use the employee's actual pay instead of the statutory maximum pay permitted under the Employments Rights Act 1996, in the calculation of redundancy payments.

Policy

The Fire Authority will always use the employees' actual pay when calculating redundancy payments.

Regulation 6 –Discretionary Compensation

Explanation

The Authority has the discretion to resolve to increase the lump sum compensation payable under the Employments Rights Act 1996 to an employee who loses their employment with the Authority, up to a maximum of 104 weeks' pay.

Policy

The Fire Authority will not exercise this discretion and therefore will not increase the maximum payable beyond the statutory limit of 30 weeks' pay.

STATEMENT OF POLICY

Under Regulation 60 (1) of the Local Government Pension Scheme (LGPS) Regulations 2013, each employer must formulate, keep under review and publish their policies on certain discretions contained within the LGPS Regulations.

This statement is applicable to all employees of the West Midlands Fire and Rescue Authority who are eligible to be members of the LGPS.

1. Regulation 30 (8) – Waiving of actuarial reduction

Explanation

From age 55, members who have left local government employment receive early payment of their retirement benefits and do not need their employer's consent. The pension benefits must be reduced in accordance with guidance provided by the Government actuary. Employers may determine on compassionate grounds that the benefits are not reduced.

For a member who joined the scheme prior to 1 October 2006 where the member's age and membership (in whole years) satisfies the "rule of 85" then the benefits would be reduced, unless the employer chooses to exercise the discretion within the regulations. For a member who joined the Scheme on or after 1 October 2006, then reduced benefits would be payable if taken before age 65.

Policy

Each specific case will be judged equally and fairly on its own merits and would need to be funded by a lump sum contribution into the Pensions Fund by the Fire Authority. This discretion will only be exercised by the Fire Authority in cases where it can be demonstrated that the Fire Authority can fund the cost of the release within a 3-year period.

This discretion will be exercised by the Deputy Chief Fire Officer as delegated by Chief Fire Officer in conjunction with the Treasurer and Chairman to approve existing severance packages and members will be notified where discretion is exercised.

2. **Regulation 31 - Power of the Employing Authority to award Additional Pension**

Explanation

An employer may resolve to award a member additional pension of not more than £6,500 a year, payable from the same date as their pension is payable under any other provision of these regulations. An additional pension may be paid in addition to any increase to total membership resolved under Regulation 16 so long as the overall total does not breach the limits laid down within these regulations.

Policy

Each specific case will be judged equally and fairly on its own merits, having fully considered service delivery and financial costs.

3. **Regulation 30 (6) - Flexible Retirement**

Explanation

A member who is aged 55 or over and with their employer's consent reduces their hours or grade can then, but only with the agreement of the employer, make an election to the administering authority for payment of their accrued benefits without having retired from that employment.

Policy

Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs. This discretion will only be exercised by the Fire Authority in cases where it can be demonstrated that the Fire Authority can fund the cost of the release within a 3-year period.

4. **Regulations 16(2)(e) and 16(4)(d) - Funding of Additional Pension**

Explanation

Where an active member opts to make Additional Pension Contributions (APC) under Rule 16(2)(e) these may be funded in whole or in part by the Employer. Under Rule 16(4)(d) the employee may opt to pay APC as a Lump Sum and this may also be funded in full or part by the employer.

Policy

The Fire Authority will fund in whole or in part any APC operated by themselves under a salary sacrifice arrangement.

The Fire Authority will, however, not fund in whole or in part any other APC purchased either by periodical payments or Lump Sum direct from a members Net Pay.

The Fire Authority is not obliged by the Regulations to publish a statement on the following discretions contained within the LGPS 2013 Regulations but has chosen to do so.

5. **Regulation 22(8)(b) - Re-employed and Rejoining Deferred Members**

Explanation

Where a deferred member becomes an active member again before becoming entitled to the immediate payment of retirement benefits in respect of their former membership, their former membership will be aggregated with their current active membership unless within 12 months from the date of the active member's pension account being opened they make an election in writing to the member's appropriate administering authority. The period of 12 months may be extended at the discretion of the employing authority.

Policy

The Fire Authority will extend the period of 12 months beginning with the date that the active member's pension account is opened again to allow a member to choose not to aggregate his/her former membership in exceptional circumstances or where it was beyond the member's control.

6. **Regulation 100 (6) – Inward Transfer of Pension Rights**

Explanation

A person who becomes an active member who has relevant pension rights may request his fund authority to accept a transfer value for some, or all, of his former rights. An election must be made in writing before the expiry of the period of 12 months beginning with the date that he became an active member or any such longer period as his employer may allow.

Policy

The Fire Authority will extend the period of 12 months beginning with the date that he/she became an active member – thereby, allowing a member to transfer some or all of his/her rights from the relevant transferor in exceptional circumstances or in circumstances beyond the member's control.

7. **Choice of early payment of Deferred Pension**

Explanation

Where a member became a deferred member between 31 March 2008 and 1 April 2014, they can apply for early release of benefits, and the Fire Authority can fund the costs of the release.

Policy

Each specific case will be judged equally and fairly on its own merits and would need to be funded by a lump sum contribution into the Pensions Fund by the Fire Authority. This discretion will only be exercised by the Fire Authority in cases where it can be demonstrated that the Fire Authority can fund the cost of the release within a 3-year period.

This discretion will be exercised by the Deputy Chief Fire Officer as delegated by Chief Fire Officer in conjunction with the Treasurer and Chairman to approve existing severance packages and members will be notified where discretion is exercised.

From 1 June 2004, an amended Internal disputes resolution procedure applies to active members of the LGPS and to others such as deferred and pensioner members, whose position may be affected by decisions taken by their former employer or LGPS administering authority.

8. **The Internal Dispute Resolution Procedure**

Explanation

Responsibility for determinations under the first stage of the procedure now rests with a 'specified person' appointed by your (former) employer. The Fire Authority must specify the job title and address of the person to whom applications should be directed.

Policy

The specified person for the West Midlands Fire and Rescue Authority is:-

Phil Hales

Deputy Chief Fire Officer
West Midlands Fire Service HQ
99 Vauxhall Road
Birmingham
B7 4HW

The discretions within this Policy Statement will be reviewed at the point of regulation change but no less than yearly in line with the Authority's Pay Policy Statement.

STATEMENT OF POLICY

Under Rule B7 of the 1992 Firefighters' Pension Scheme Paragraph 5

(A) a fire and rescue authority may, having regard to—

- (a) the economical, effective and efficient management of their functions, and
- (b) the costs likely to be incurred in the particular case

- pay a lump sum in excess of two and a quarter times the full amount of the pension.

West Midlands Fire Service will formulate, keep under review and publish their policy on the discretion contained within this rule.

Due to the rate of the commutation factors laid down within the 1992 Firefighters' Pension Scheme it is possible for an unauthorised payment to occur if a member commutes the maximum allowable portion of their gross pension. In cases where this happens the Fire Authority will become liable to a further charge. When using this discretion the amount to which the lump sum will be increased will be limited to the maximum authorised payment allowed by HMRC regulations.

This statement is applicable to all employees of the West Midlands Fire and Rescue Authority who are eligible to be members of the 1992 Firefighters' Pension Scheme.

Policy

Each specific case will be judged equally and fairly on its own merits and would need to be funded by a lump sum contribution into the Pensions Fund by the Fire Authority. It is the Line Manager's responsibility to ensure that the recommendation is made and submitted to their SET managers for consideration. The value of the Lump Sum payment into the Pension account will be provided by the Pensions section on request and the remaining cost figures should be obtained from the Finance Liaison Officer.

This discretion will only be exercised by the Fire Authority in cases where it can be demonstrated that the Fire Authority can fund the cost of the release within a 3-year period.

This discretion will be exercised by the Strategic Enabler of People Support Services and Strategic Enabler of Finance & Resources.

STATEMENT OF POLICY

Under Rule K4 of the 1992 Firefighters' Pension Scheme:

A fire and rescue authority may, in their discretion, withdraw the whole or any part of the pension, except a pension under Part C (awards on death–spouses and civil partners), for any period during which the person entitled to it is employed by any fire and rescue authority in whatever capacity.

Part LA Section 9 of the scheme rules states that:

Where an authority exercises its discretion not to withdraw the payment in whole or in part of any pension under rule K4 (withdrawal of pension whilst employed by a fire and rescue authority), the authority shall in the financial year in which payment is not withdrawn, transfer into the Firefighters Pension Fund an amount equal to the amount of pension paid during that financial year to that person which could have been abated or withdrawn. West Midlands Fire Service will formulate, keep under review and publish their policy on the discretion contained within this rule.

This statement is applicable to all employees of the West Midlands Fire and Rescue Authority who are eligible to be members of the 1992 Firefighters Pension Scheme.

Policy

West Midlands Fire Service will withdraw the whole or part of the pension, except a pension under Part C (awards on death–spouses and civil partners), for any period during which the person entitled to it is employed by any fire and rescue authority in whatever capacity.

The amount of Pension withdrawn will be calculated by reference to the Aggregate Annual Pensionable Pay received in the twelve months prior to retirement increased on the same basis as the pension in payment. This figure will be known as the reference pay and will be increased annually in line with the annual pension increase order.

The pension will be reduced by an amount equal to the amount required so that the total income from the pension plus re-employment does not exceed the reference pay calculated above.

Pay in re-employment is the pay receivable under the contract of employment for the hours worked and excludes any payments made for non-contractual overtime. Where the pay in re-employment changes the amount of pension to be withdrawn will be recalculated.

STATEMENT OF POLICY

The Firefighters' Pension Scheme (England) Regulations 2014 contain various regulations where the opportunity for alternative courses of action arises. In these circumstances West Midlands Fire Service will exercise discretion in line with this statement of policy.

This statement is applicable to all employees of the West Midlands Fire and Rescue Authority who are eligible to be members of the Firefighters Pension Scheme 2015.

Power to Delegate

1. Delegation (Regulation 5)

The scheme manager must ensure that delegated powers are appropriate and current. [Regulation 5(2)]

Statement of Policy

The Fire Authority have recently confirmed that the Audit Committee will function as the Scheme Manager.

Opting Out

2. Opting into this scheme (Regulation 12)

An optant-in will become an active member of the scheme with effect from the beginning of the first pay period following the date on which the option is exercised. There is an option for the scheme manager to vary the date on which the person becomes an active member, to such other time as the scheme manager considers appropriate. [Regulation 12(5)]

Statement of Policy

The Organisation will not vary the date on which a member becomes an active member.

3. **Opting out after the first three months (Regulation 16)**

An optant-out ceases to be in pensionable service with effect from the first day of the first pay period following the date on which the option is exercised. If the scheme manager considers that day to be inappropriate, it may vary the date to the first day of any later pay period as the scheme manager does consider appropriate.
[Regulation 16(2)(b)]

Statement of Policy

The Scheme Manager will not vary the date on which an optant out ceases to be a member.

Pensionable Pay

4. **Pensionable Pay (Regulation 17)**

The Scheme Manager has discretion if continual professional development payments are to be treated as pensionable pay.
[Regulation 17(1)(d)]

Statement of Policy

Continual Professional development payments will be pensionable.

Retirement Benefits

5. **Active Membership (Regulation 19)**

A person who is on unpaid authorised absence can count the period as active membership if the Scheme Manager permits them to be treated as an active member during that period.
(Presumably this would be linked to Regulation 111(4) and subject to the member paying the appropriate contributions.) [Regulation 19(d)]

Statement of Policy

The Scheme Manager will permit a member on unpaid absence to count the period as active membership subject to contributions being paid.

Pensions Accounts

6. Establishment of pension accounts: general (Regulation 28)

The Scheme Manager must establish and maintain pension accounts for scheme members, but they may be kept in such form as the scheme manager considers appropriate.

Statement of Policy

The Scheme Manager will maintain pension accounts within an electronic Pension Administration System. The security and operation of these accounts will be reviewed regularly by the Local Pension Board.

7. Closure and re-establishment of active member's account (Regulation 37)

If a member has more than two active members account and ceases pensionable service with less than three months' qualifying service in respect of one account, that account must be closed and benefits aggregated with one of the others; the member may select which one.

Statement of Policy

The Scheme Manager will use their discretion on a case by case basis in the best interests of the member.

Retirement Benefits

8. Closure of deferred member's account after gap in pensionable service not exceeding five year. (Regulation 49)

If a deferred member re-enters pensionable employment after a gap of five years or less, the Scheme Manager must close the deferred member's account and re-establish the active member's account, transferring entries from the deferred account. If the person had more than one relevant deferred member's account, they must selection – within three months of re-entering scheme employment – which one should close. If they fail to make a selection, the Scheme Manager must make the choice for them. [Regulation 49(3) and (4)]

Statement of Policy

The Scheme Manager will use their discretion on a case by case basis in the best interests of the member.

9. Employer initiated retirement (Regulation 62)

An employer can determine that an active member aged 55 or over but under age 60 who on the grounds of business efficiency is dismissed or has their employment terminated by mutual consent, can receive immediate payment of retirement pension without the early payment reduction. An employer may only use this discretion if the employer determines that a retirement pension awarded on this basis would assist the economical, effective and efficient management of its function having taken account of the costs likely to be incurred in the particular case. [Regulation 62(1) and (2)]

Statement of Policy

The employer will use their discretion on a case by case basis with the overriding control that any costs incurred in using this discretion will be recoverable within a three year period.

10. Exercise of partial retirement option (Regulation 63)

An active member aged at least 55 who would be entitled to immediate payment of pension if they leave pensionable service and who claims payment of the pension, may opt to claim the whole of their accrued pension but continue in pensionable service. The person concerned must give appropriate notice to the scheme manager and the partial retirement option is taken to be exercised on a date agreed between the member and the Scheme Manager. [Regulation 63(5)]

Statement of Policy

Where a member wishes to make an application for partial retirement under Regulation 63 they must provide written notice to the Scheme Manager. On a case by case basis the Scheme Manager will agree a date with the member on which the option shall be exercised.

III-Health Benefits

11. Review of ill-health awarded or early payment of retirement pension (Regulation 68)

The Scheme Manager must have a policy for reviewing, at such intervals as it considers appropriate, the award of ill-health pensions where the recipient is under deferred pension age and has been receiving the award for less than 10 years, and for reviewing the early payment of deferred pensions on ill-health grounds for so long as the recipient is below deferred pension age. [Regulation 68(1) and (2)]

Statement of Policy

The Scheme Manager will review the award of ill-health pensions, where the recipient is under deferred pension age and has been receiving the awarded for less than 10 years, and deferred pensions in payment early on ill-health grounds and where the recipient is below deferred pension age on a three yearly basis.

12. Consequences of review (Regulation 69)

If, following the review of a lower tier ill-health pension under Regulation 68, the Scheme Manager determines that the recipient is capable of performing the duties appropriate to the role from which the person retired on grounds of ill-health, the employer must consider whether or not to make an offer of re-employment. [Regulation 69(3)]

Statement of Policy

The Scheme Manager will consider whether or not to make an offer on a case by case basis.

13. Commencement of pensions (Regulation 70)

If a deferred member requests, and is entitled to, the early payment of retirement pension on grounds of ill-health, the scheme manager must determine the date of payment as being the date on which the person became incapable of undertaking regular employment because of infirmity of mind or body or, if that date cannot be ascertained, the date of the member's request for early payment. [Regulation 70(7)]

If a deferred member requests deferral of payment of a deferred pension beyond deferred pension age, or requests early payment with an early payment reduction before deferred pension age, the Scheme Manager will decide the payment date after the claim for payment has been made.

Statement of Policy

The Scheme Manager will determine the date from which a deferred pension will become payable in the situations described in Regulation 70(7) and (8) on a case by case basis using information provided by the claimant, any appropriate medical professional, and with guidance from the Payroll and Pensions Manager.

Allocation

14. Allocation election (Regulation 72)

The Scheme Manager must give consent for the allocation of a portion of pension to a dependant, who is not the spouse, civil partner or cohabiting partner of an active or deferred member. (Consent can be withheld if the Scheme Manager is not satisfied that the person nominated is not substantially dependent of the active member.) [Regulation 72(3)(b) and (4)]

Statement of Policy

The Scheme Manager will give consent for the allocation of a portion of pension to a dependent where acceptable evidence of dependency is provided by the Scheme Member. At the time of application the Scheme Manager will confirm to the member what evidence is to be provided.

15. Adjustment of allocated benefit (Regulation 75)

If a member who has made an allocation election dies after reaching age 75, and the amount of allocated pension does not qualify as a dependant's scheme pension under section 167 of the Finance Act 2004 (pension death benefit rules), the amount may be adjusted in a manner determined by the Scheme Manager. [Regulation 75(1) and (2)]

Statement of Policy

The Scheme Manager will make any adjustments allowed under Regulation 75(1) and (2) on a case by case basis.

Death Benefits

16. Meaning of "surviving partner" Regulation 76)

A cohabiting partner may be considered a "surviving partner" and potentially qualify for a pension provided by meeting certain conditions, one of which is that they must have been in a "long-term relationship" – a continuous period of at least two years – at the date at which entitlement needs to be considered. The Scheme Manager has discretion to allow the person to qualify where the period is less than two years. [Regulation 76(1)(b)(v) and (2)]

Statement of Policy

The Scheme Manager will not use their discretion to allow a person to qualify as a "Surviving Partner" where the relationship has been in place for a period of at least two years.

17. Person to whom lump sum death benefit payable (Regulation 95)

The Scheme Manager has absolute discretion as to the recipient of any lump sum death benefit payable. [Regulation 95]

Statement of Policy

The lump sum death benefit will be paid to whosoever the Scheme Manager decides it should be. The discretion will be operated by the Payroll and Pensions Manager in consultation with the Strategic Enabler for People Support Services.

18. Payment of pensions under Part 6 "Death Benefits" (Regulation 100)

If a child's pension is due in respect of an eligible child under age 18, the Scheme Manager will determine to whom it should be paid and will give directions to that person as to how the payment should be applied for the eligible child's benefit. [Regulation 100(2)]

Statement of Policy

The child's pension in respect of an eligible child over the age of 7 will be paid to that child. A child's pension for a child over the age of 7 will be paid to that child's surviving parent with instruction that it should be applied for that eligible child's benefit.

19. Surviving partner's pensions and eligible child's pensions: suspension and recovery (Regulation 101)

A Scheme Manager has the right to cease paying a surviving partner's pension and/or eligible child's pension and recover any payment made in respect of a pension where it appears to the Scheme Manager that the recipient made a false declaration, or deliberately suppressed a material fact in connection with the award. (This does affect the Scheme Manager's right to recover a payment or overpayment under any other provision where the Scheme Manager considers it appropriate to do so.) [Regulation 101(2) and (3)]

Statement of Policy

The Scheme Manager will cease paying a surviving partner's pension and/or eligible child's pension and recover any payment made in respect of a pension where it appears to the scheme manager that the recipient made a false declaration, or deliberately suppressed a material fact in connection with the awarded except in cases where the Strategic Enabler for Finance and Resources deems it to be financially counter productive to do so.

20. Provisional awards of eligible child's pensions: later adjustments (Regulation 102)

If children's pensions have been made to certain persons on the basis that they were eligible children and there were no others, and subsequently it appears that any of those children were not eligible, or there was a further eligible child to whom no payment has been made, or that a child born after the member's death is an eligible child, the scheme manager has discretion to adjust the amount of pensions as required in view of the facts as they subsequently appear. The adjustments may be made retrospectively. (This does not affect the scheme manager's right to recover a payment or overpayment under any other provision where the scheme manager considers it appropriate to do so.) [Regulation 102(2) and (3)]

Statement of Policy

If children's pensions have been made to certain persons on the basis that they were eligible children and there were no others, and subsequently it appears that any of those children were not eligible, or there was a further eligible child to whom no payment has been made, or that a child born after the member's death is an eligible child the scheme manager will adjust the amount of pensions as required in view of the facts as they subsequently appear. These adjustments will be made retrospectively where required.

21. Adjustment of benefits to comply with fA2004 where members die over 75 (Regulation 104)

If a member dies after reaching age 75 and any part of a pension to which a person becomes entitled on the death would not qualify as a dependant's scheme pension for the purposes of section 167 of the Finance Act 2004 (the pension death benefit rules), the scheme manager has discretion to adjust the benefit payable to the person so that it would qualify under that section of the Act. [Regulation 104(1)(a) and (2)]

Statement of Policy

If a member dies after reaching age 75 and any part of a pension to which a person becomes entitled on the death would not qualify as a dependant's scheme pension for the purposes of section 167 of the Finance Act 2004 (the pension death benefit rules), the scheme manager will adjust the benefit payable to the person so that it would qualify under that section of the Act.

Contributions

22. Member contributions (Regulation 110)

Where there is a change in scheme employment or a material change which affects the member's pensionable pay in the course of a financial year and the revised amount falls into a different contribution rate band, the scheme manager must determine that this rate should be applied and inform the member of the new contribution rate and the date from which it is to be applied. [Regulation 110(5)]

When identifying the appropriate contribution rate, a reduction in pay in certain circumstances as listed in Regulation 110 are to be disregarded. In addition, the Scheme Manager can specify the circumstances in a particular case where a reduction in pensionable pay will be disregarded. [Regulation 110(7) (h)]

Statement of Policy

Where there is a change in scheme employment or a material change which affects the member's pensionable pay in the course of a financial year and the revised amount falls into a different contribution rate band, this rate will be applied from the first day of the pay period following the date on which the material change took effect. The member will be informed of the new contribution rate and the date from which it is to be applied within three months of the date when the new rate is first applied to their pay.

23. Contributions during absence from work due to illness, injury, trade dispute or authorised absence (Regulation 111)

Where an active member is absent from scheme employment because of illness or injury and not entitled to receive pensionable pay, or because of trade dispute or authorised unpaid absence, they may pay member contributions; if they do, the scheme employer may require that they should also pay employer contributions. [Regulation 111(2), (3) and (4)]

Statement of Policy

Where an active member is absent from scheme employment because of illness or injury and not entitled to receive pensionable pay, or because of trade dispute or authorised unpaid absence, they will be allowed to pay contributions. The contribution payable will be the total of both the member and employer contribution.

24. Deduction and payment of contributions (Regulation 114)

Member contributions due under Regulation 110 may be deducted by the scheme employer from each instalment of pensionable pay as it becomes due, unless another method of payment has been agreed between the scheme manager and the member. [Regulation 114(1)]

Contributions due in respect of absence from work on reserve forces service leave may be deducted from any payment made under Part 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951. [Regulations 114(2)]

Contributions which the member is required to pay, or has elected to pay under Regulations 111 and 113 may be paid by a lump sum or by deduction from instalments of pensionable pay as agreed between the member and the scheme manager. [Regulation 114(3)]

Statement of Policy

Member contributions due under Regulation 110 will be deducted from each instalment of pensionable pay as it becomes due.

Contributions due in respect of absence from work on reserve forces service leave will be deducted from any payment made under Part 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.

Contributions which the member is required to pay, or has elected to pay under Regulations 111 and 113 may be paid by a lump sum or by deduction from instalments of pensionable pay as agreed between the member and Payroll and Pensions Manager on behalf of the scheme manager.

Transfers

25. Statement of entitlement (Regulation 135)

The scheme manager must specify in a statement of entitlement the "guarantee date" date by reference to which the cash equivalent or club transfer value is calculated; this date must fall within the three months beginning with the date of the member's application for the statement of entitlement and within ten days ending with the date on which the member is provided with the statement. The scheme manager has discretion, if it believes reasonable, to extend this date to within six months of the date of the member's application if, for reasons beyond the scheme manager's control, the information needed to calculate the transfer value cannot be obtained before the end of the three-month period. [Regulation 135(4)]

Statement of Policy

The Scheme Manager will extend the "guarantee date" to within 6 months of the date of the member's application if, for reasons beyond the scheme manager's control, the information needed to calculate the transfer value cannot be obtained before the end of the three-month period.

26. Request for acceptance of a transfer payment (Regulation 141)

There is a time limit of one year from becoming an active member in which a person can request a transfer payment from a non-occupational pension scheme. The scheme manager has the discretion to extend this period. [Regulation 141(3)]

Statement of Policy

The Scheme Manager will not extend the time limit in which a person can request a transfer payment from a non-occupational pension scheme.

27. Transfer statement (Regulation 142)

The Scheme Manager can require an active member to ask the scheme manager of a previous non-club pension scheme to provide a statement of the amount of transferred pension that the member would be entitled to count provided that the transfer date falls within two months of the date of the statement.
[Regulation 142(2)]

Statement of Policy

The Scheme Manager will require an active member to ask the scheme manager of a previous non-club pension scheme to provide a statement of the amount of transferred pension that the member would be entitled to count where the transfer date falls within two months of the date of the statement

28. Club transfer value statement (Regulation 144)

The Scheme Manager can require an active member to ask the scheme manager of a previous club pension scheme to provide a statement of the amount of transferred pension that the member would be entitled to count provided that the transfer date falls within two months of the date of the statement. [Regulation 144(2)]

Statement of Policy

The scheme manager will require an active member to ask the scheme manager of a previous club pension scheme to provide a statement of the amount of transferred pension that the member would be entitled to count where the transfer date falls within two months of the date of the statement

Appeals and Determinations

29. Appeal concerning entries on the certificate (Regulation 148)

If a member is not satisfied with a certificate setting out the details in their pension account(s) as required under Regulation 146, they can require the Scheme Manager to deal with their disagreement under arrangements implemented by the Scheme Manager in accordance with the requirements of section 50 of the Pensions Act 1995 (resolution of disputes) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008. The Scheme Manager must have these arrangements in place. [Regulation 148(1)]

Statement of Policy

If a member is not satisfied with a certificate setting out the details in their pension account(s) as required under Regulation 146, the scheme manager will deal with their disagreement under arrangements implemented by the scheme manager in accordance with the requirements of Section 50 of the Pensions Act 1995 (resolution of disputes) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008.

The process for dealing with such disagreements will be published via the Intranet.

30. Determination by the Scheme Manager (Regulation 151)

It is the Scheme Manager that must determine whether a person is entitled to an award or to retain an award.
[Regulation 151]

Statement of Policy

On a case by case basis the scheme manager will determine whether a person is entitled to an award or to retain an award. This determination will be made by the Payroll and Pensions Manager in conjunction with the Strategic Enabler for People Support Services.

31. Role of IQMP in determinations by the Scheme Manager (Regulation 152)

The Scheme Manager must select an Independent Qualified Medical Practitioner to provide a written opinion in respect of medical matters which may only be decided by having regard to such an opinion. [Regulation 152(1)]

If a person wilfully or negligently fails to submit to medical examination by the selected IQMP and the IQMP is unable to give an opinion on the basis of the medical evidence available, the Scheme Manager can make the determination based on such medical evidence as the Scheme Manager thinks fit, or without medical evidence. [Regulation 152(7)]

Statement of Policy

The Scheme Manager will select an Independent Qualified Medical Practitioner to provide a written opinion in respect of medical matters which may only be decided by having regard to such an opinion.

Where a person wilfully or negligently fails to submit to medical examination by the selected IQMP and the IQMP is unable to give an opinion on the basis of the medical evidence available, the scheme manager will make the determination based on such medical evidence as the scheme manager thinks fit, or without medical evidence. This discretion will be exercised by the Strategic Enabler for People Support Services.

32. Review of medical opinion (Regulation 153)

Where a member requests a review of an IQMP's opinion in the light of new evidence received by the scheme manager within 28 days of the member having received the opinion, the Scheme Manager may agree to giving the IQMP the opportunity of reviewing the opinion. [Regulation 153(1)]

Upon receiving the IQMP's response the Scheme Manager must confirm or revise its original determination and advise the member accordingly. [Regulation 153(4) and (5)]

Statement of Policy

On a case by case basis, where a member requests a review of an IQMP's opinion in the light of new evidence received by the scheme manager within 28 days of the member having received the opinion, the scheme manager may agree to giving the IQMP the opportunity of reviewing the opinion.

Upon receiving the IQMP's response the Scheme Manager will confirm or revise its original determination and advise the member accordingly. The discretion will be exercised by the Strategic Enabler for People Support Services.

33. Notice of appeal (Regulation 155)

If a member wishes to appeal against a determination made by the scheme manager and their grievance lies in the medical opinion upon which the determination was based, they can appeal to a board of medical referees. The appeal must be made within 28 days of the date on which the member receives the relevant documents under Regulation 154(4). If the appeal is not made within this time limit and the scheme manager is of the opinion that the person's failure to give notice within the required period was not due to the person's own default, the scheme manager has a discretion to extend the time limit for such period as the scheme manager considers appropriate, not exceeding six months from the date the Regulation 154(4) documents were supplied.
[Regulation 155(2)]

Statement of Policy

On a case by case basis the scheme manager will consider extending the time limit during which a member can appeal to a board of medical referees to a maximum of six months from the date the Regulation 154(4) documents were supplied.

34. Reference of appeal to the board (Regulation 156 – See also Regulation 161)

Where a member has given notice of appeal to a board of medical referees, before the board arranges a time and place for the interview and medical examination a member of the board will review the documents supplied to the board in accordance with Regulation 156.

If the board member is of the opinion that the board may regard the appeal as frivolous, vexatious or manifestly ill-founded the board member will notify the Secretary of State accordingly. This will be copied to the scheme manager who must, in turn, send a copy of it to the scheme member advising that if their appeal is unsuccessful, the member may be required to pay the scheme manager's costs and requesting notification from the member as to whether, in the circumstances, they wish to continue with, or withdraw, the appeal. [Regulation 156(8) to (12)]

Statement of Policy

If a member of a board of medical referees, who has reviewed appeal documents provided by the member, is of the opinion that the board may regard the appeal as frivolous, vexatious or manifestly ill-founded the board member will notify the Secretary of State accordingly. The Scheme Manager will send a copy of this notification to the scheme member advising that if their appeal is unsuccessful, they will be required to pay the Scheme Manager's costs and requesting notification from the member as to whether, in the circumstances, they wish to continue with, or withdraw, the appeal.

35. Procedure where appeal to be pursued (Regulation 157)

The Scheme Manager must decide which persons will attend the interview as its representatives. The Scheme Manager must also decide whether or not to submit written evidence or a written statement (and must decide a response to any written evidence or written statement from the appellant). [Regulation 157(6) to (9)]

Statement of Policy

On a case by case basis where an appeal is pursued the scheme manager will decide;

1. Which persons will attend the interview as its representatives.
2. Whether or not to submit written evidence or a written statement.
3. How to respond to any written evidence or written statement from the appellant.

This decision will be made by the Strategic Enabler for People Support Services.

36. Expenses of each party (Regulation 161)

If the medical appeal board determines in favour of the scheme manager and states that in its opinion the appeal was frivolous, vexatious or manifestly ill-founded, the scheme manager can require the appellant to pay it such sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as the scheme manager considers appropriate. [Regulation 161(2)]

If the appellant withdraws the appeal requesting cancellation, postponement or adjournment of the date appointed for interview and/or medical examination less than 22 working days before the date appointed, the scheme manager can require the member to pay it such sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as the scheme manager considers appropriate. [Regulation 161(3)(a)]

If the appellant's acts or omissions cause the board to cancel, postpone or otherwise adjourn the date appointed or interview and/or medical examination less than 22 days before the date appointed, the scheme manager can require the member to pay it such sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as the scheme manager considers appropriate. [Regulation 161(3)(b)]

Statement of Policy

If the medical appeal board determines in favour of the scheme manager and states that in its opinion the appeal was frivolous, vexatious or manifestly ill-founded, the scheme manager will require the appellant to pay it a sum equal to the total amount of the fees and allowances payable to the board under Regulation 160(1).

37. Appeals on other issues (Regulation 163)

If a member disagrees with a scheme manager's determination of award under Regulation 151 and the disagreement does not involve an issue of a medical nature, the member can require the scheme manager to deal with the disagreement under requirements which the scheme manager must have in place in accordance with section 50 of the Pensions Act 1995 (requirement for dispute resolution arrangements) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008. [Regulation 163]

Statement of Policy

If a member disagrees with a scheme manager's determination of award under Regulation 151 and the disagreement does not involve an issue of a medical nature, the scheme manager will deal with their disagreement under arrangements implemented by the scheme manager in accordance with the requirements of section 50 of the Pensions Act 1995 (resolution of disputes) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008.

The process for dealing with such disagreements will be published via the Intranet.

Payment of Pensions

38. Commutation of small pensions (Regulation 167)

If the pension entitlement of a member of the scheme, or the pension entitlement of a member's beneficiary, does not exceed the small pensions commutation maximum the scheme manager may pay the entitlement as a lump sum. This would, however, be subject to the consent of the recipient and must comply with the commutation provisions that apply in the circumstances. [Regulation 167(3)]

Statement of Policy

If the pension entitlement of a member of the scheme, or the pension entitlement of a member's beneficiary, does not exceed the small pensions commutation maximum the scheme manager will pay the entitlement as a lump sum, subject to the consent of the recipient and will comply with the commutation provisions that apply in the circumstances.

39. Payments for persons incapable of managing their affairs (Regulation 168)

If it appears to the scheme manager that a person other than an eligible child who is entitled to benefits under the scheme, is by reason of mental incapacity or otherwise, incapable of managing his or her affairs, the scheme manager may pay the benefits or any part of them to a person having the care of the person entitled, or such other person as the scheme manager may determine, to be applied for the benefit of the person entitled. If the scheme manager does not pay the benefits in this way, the scheme manager may apply them in such manner as it may determine for the benefit of the person entitled, or any beneficiaries of that person. [Regulation 168]

Statement of Policy

Where it appears to the scheme manager that a person other than an eligible child who is entitled to benefits under the scheme, is by reason of mental incapacity or otherwise, incapable of managing his or her affairs, the scheme manager will pay the benefits or any part of them to a person having the care of the person entitled, or such other person as the scheme manager may determine, to be applied for the benefit of the person entitled.

40. Payments due in respect of deceased persons (Regulation 169)

If, when a person dies, the total amount due to that person's personal representatives under the scheme (including anything due at the person's death) does not exceed the limit specified in the Administration of Estates (Small Payments) Act 1965, the scheme manager can pay the whole or part of the amount due to the personal representatives or any person or persons appearing to the scheme manager to be beneficially entitled to the estate, without requiring the production of grant of probate or letters of administration. [Regulation 169]

Statement of Policy

If, when a person dies, the total amount due to that person's personal representatives under the scheme (including anything due at the person's death) does not exceed the limit specified in the Administration of Estates (Small Payments) Act 1965, the scheme manager will pay the whole or part of the amount due to the personal representatives or any person or persons appearing to the scheme manager to be beneficially entitled to the estate, without requiring the production of grant of probate or letters of administration.

Forfeiture

41. Forfeiture: offences committed by members, surviving partners or eligible children (Regulation 171)

If a member, surviving partner or eligible child is convicted of a relevant offence, the scheme manager can withhold pensions payable under the scheme to a member, any person in respect of the member, a surviving partner or an eligible child, to such extent and for such duration as it considers appropriate. "Relevant offence" is defined in this Regulation.

The definition includes offences injurious to the State (including treason) or likely to lead to a serious loss of confidence in the public service. There are certain conditions set out in the Regulation, e.g. it is only the part of the pension that exceeds any guaranteed minimum pension that can be withheld. [Regulation 171(1), (2), (3) and (5).]

Where a pension is withheld, the scheme manager can at any time, and to such extent and for such duration as the manager thinks fit, apply the pension for the benefit of any dependant of the member or restore it to the member. [Regulation 171(4)]

Statement of Policy

If a member, surviving partner or eligible child is convicted of a relevant offence, the scheme manager will withhold pensions payable under the scheme to a member, any person in respect of the member, a surviving partner or an eligible child, to such extent and for such duration as it considers appropriate, subject to a maximum of the amount by which the pension exceeds any guaranteed minimum pension.

On a case by case basis where a pension is withheld, the scheme manager will consider at three monthly intervals, to any extent and for such duration as the manager thinks fit, applying the pension for the benefit of any dependant of the member or restoring it to the member.

42. Forfeiture of pensions: offences committed by other persons (Regulation 172)

If a surviving partner or eligible child is convicted of the murder of a scheme member from whose benefits their pension would be derived the scheme manager must withhold all of the survivor's or child's pension otherwise payable. However, if a surviving partner or eligible child is convicted of the manslaughter of the member or any other offence, apart from murder, of which the unlawful killing of the member is an element, the scheme manager has discretion as to whether or not to withhold the pension to which they would otherwise be entitled. The amount withheld must only be that part of the pension which exceeds any guaranteed minimum pension. If the conviction is subsequently quashed, the pension must be restored with effect from the day after the date on which the member died. If, after the conviction has been quashed, the person is again convicted of murder, manslaughter or an associated offence as outlined above, any restoration is cancelled. [Regulation 172(1) to (5)]

Statement of Policy

The discretion to withhold part of a pension under Regulation 172 (1) to (5) will be exercised on a case by case basis by the Strategic Enabler for People Support Services.

43. Forfeiture of lump sum death benefit: offences committed by other persons (Regulation 173)

If a person is convicted of a relevant offence, i.e. the murder or manslaughter of the member, or any other offence of which the unlawful killing of the member is an element, the scheme manager must withhold all of any lump sum death benefit payable to that person.

If, however, the conviction is subsequently quashed on appeal, the scheme manager may, to such extent and for such duration as it thinks fit, restore to the person the amount of benefit withheld. If, after the conviction has been quashed, the person is again convicted of murder, manslaughter or an associated offence as outlined above, any restoration is cancelled. [Regulation 173]

Statement of Policy

The discretion to restore part of a pension withheld under Regulation 173 will be exercised on a case by case basis by the Strategic Enabler for People Support Services.

44. Forfeiture: relevant monetary obligations and relevant monetary losses (Regulation 174)

If a member has a relevant monetary obligation or has caused a relevant monetary loss, the scheme manager may, to such extent and for such duration as it considers appropriate, withhold benefits payable to that person under the scheme. "Relevant monetary obligation" and "relevant monetary loss" are defined in the Regulation. There are certain limits, e.g. the amount withheld may only be that which exceeds the person's guaranteed minimum pension and the scheme manager may only withhold it if there is no dispute about the amount or, if there is, there is a court order or the award of an arbitrator.

The monetary obligation must have been incurred to the employer after the person became an active member and arising out of or connected with the scheme employment in respect of which the person became a member of the scheme, and arising out of the person's criminal, negligent or fraudulent act or omission. The procedure is set out in Regulation 176.
[Regulation 174]

Statement of Policy

The discretion to withhold part of a pension under Regulation 174 will be exercised on a case by case basis by the Strategic Enabler for People Support Services.

45. Set-off (Regulation 175)

A scheme manager has a discretion to set off a "relevant monetary obligation" against a member's entitlement to benefits under the scheme, subject to certain conditions which are similar to those contained in Regulation 174 (Forfeiture). The procedure is set out in Regulation 176.] [Regulation 175]

Statement of Policy

The scheme manager will set off any "relevant monetary obligation" against a member's entitlement to benefits.

Payment and Deduction of Tax

46. Payment on behalf of members of lifetime allowance charge (Regulation 178)

At a scheme member's request, the scheme manager may pay on the member's behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the Finance Act 2004. The scheme manager may only comply with the request if the member pays it the amount in question on or before the date on which the event occurs or the member authorises the deduction of the amount from a lump sum becoming payable to the member under the scheme at the same time as the event occurs.
[Regulation 178]

Statement of Policy

At a scheme member's request, the scheme manager will pay on the member's behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the Finance Act 2004. The scheme manager will only comply with the request if the member pays it the amount in question on or before the date on which the event occurs or the member authorises the deduction of the amount from a lump sum becoming payable to the member under the scheme at the same time as the event occurs.

47. Evidence of Entitlement (Regulation 184)

The scheme manager can require any person who is in receipt of a pension or may have entitlement to a pension or lump sum under the scheme to provide such supporting evidence as the scheme manager may reasonably require so as to establish the person's identity and their continuing or future entitlement to the payment of any amount under the scheme. [Regulation 184(1) and (2)]

If a person fails to comply with the scheme manager's requirements in this respect, the scheme manager can withhold the whole or part of any amount that it otherwise considers to be payable under the scheme. [Regulation 184(3)]

Statement of Policy

The scheme manager will require any person who is in receipt of a pension or may have entitlement to a pension or lump sum under the scheme to provide appropriate evidence to establish the person's identity and their continuing or future entitlement to the payment of any amount under the scheme.

If a person fails to comply with the scheme manager's requirements in this respect, the scheme manager will withhold the whole or part of any amount that it otherwise considers to be payable under the scheme.

48. Amount of accrued added pension may not exceed overall limit of extra pension (Schedule 1, Part 1, Paragraph 4)

The total amount of accrued added pension must not exceed a certain limit. If it appears to the scheme manager that a member who has elected to make periodical contributions will exceed the limit the scheme manager may cancel the election (by written notice to the member). [Schedule 1 Part 1, Paragraph 4]

Statement of Policy

If it appears to the scheme manager that a member who has elected to make periodical contributions will exceed the limit prescribed in the regulations the scheme manager will, having provided written notice to the member, cancel the election.

49. Member's Election to make periodical contributions for added pension (Schedule 1, Part 1, Paragraph 7)

If a scheme member wishes to make periodical payments for added pension, the scheme manager can set a minimum amount which must be paid. [Schedule 1, Part 1, Paragraph 7(3)]

Statement of Policy

The scheme manager will not allow a member to make periodic payments for added pension of less than £10 per month.

50. Periodical payments (Schedule 1, Part 2, Paragraph 8)

If a scheme member wants to make periodical payments for added pension, but does not want them to be deducted from pensionable pay, the scheme manager may agree another method of payment. [Schedule 1 Part 2, Paragraph 8 (3)]

Statement of Policy

The scheme manager will not allow a member to make periodical payments for added pension except by deduction from pensionable pay.

51. Periodical payments during periods of assumed pensionable pay (Schedule 1, Part 2, Paragraph 10)

After a period of assumed pensionable pay or a period of reduced pay, the member may give written notice to the scheme manager authorising the employer to deduct the aggregate of payments – which would have been made but for the leave – from the member's pay during the period of six months from the end of the period of reduced pay. The scheme manager can extend this period of six months. [Schedule 1 Part 2, Paragraph 10(4)]

Statement of Policy

Where a member gives written notice authorising the deduction of aggregate payments from their pay the scheme manager will extend the period of repayment to a maximum of two years. This discretion will be exercised by the Payroll and Pensions Manager.

52. Meaning of "tapered protection closing date" (Schedule 2, Part 1, Paragraph 3)

The tapered protection closing dates for tapered protection members are given in the 1992 scheme tables in Schedule 2 Part 4. In most cases the appropriate closing date can be ascertained by reference to the band of dates in which the firefighter's birthday falls. The tapered protection date for a tapered protection member of FPS 2006 to whom paragraph 9(5) or 21 applies (members returning to pensionable service) is determined by the scheme manager. [Schedule 2 Part 1,

Paragraph 3(3); Schedule 2 Part 2, Paragraph 9(5); and Schedule 2 Part 3, Paragraph 21]

Statement of Policy

The tapered protection date for a tapered protection member of FPS 2006 to whom paragraph 9(5) or 21 applies (members returning to pensionable service) is determined by the scheme manager. This determination will be exercised by the Payroll and Pensions Manager.

Job	Remuneration (including allowances)	Base Salary Range (excluding allowances)		Pay Relationship to CFO
		Min	Max	
BRIGADE MANAGERS				
Chief Fire Officer **	£170,878	N/A	N/A	Set by Appointments Committee
Deputy Chief Fire Officer **	£136,912	N/A	N/A	Set by Appointments Committee
Assistant Chief Fire Officer (Service Delivery) **	£128,421	N/A	N/A	Set by Appointments Committee
Lowest Paid Employees (Grey Book)				
Firefighter (Control)	£29,006	£22,669	£29,006	0.16
Lowest Paid Employees (Green Book)				
Cleaner	£17,364*	£17,364*	£17,364*	0.09
GREY BOOK EMPLOYEES (Operational)				
Firefighter	N/A	£23,862	£30,533	0.14-0.18
Crew Manager	N/A	£32,452	£33,851	0.19-0.20
Watch Manager	N/A	£34,583	£37,854	0.20-0.22
Station Manager ***	£52,114	£39,374	£43,428	0.23-0.25
Group Manager ***	£60,324	£45,347	£50,270	0.27-0.29
Area Manager ***	£70,076	£53,238	£58,397	0.31-0.34
GREY BOOK EMPLOYEES (Fire Control)				
Firefighter (Control)	N/A	£22,669	£29,006	0.13-0.17
Crew Manager (Control)	N/A	£30,829	£32,158	0.18-0.19
Watch Manager (Control)	N/A	£32,854	£35,961	0.19-0.21
Station Manager (Control)***	£49,508	£37,405	£41,257	0.22-0.24
Group Manager (Control)***	£57,308	£43,080	£47,757	0.25-0.28

GREEN BOOK EMPLOYEES

Pay Point 102	N/A	£104,581	N/A	0.61
Pay Point 101	N/A	£65,527	N/A	0.38
Pay Point 100	N/A	£59,435	N/A	0.35
Pay Band Manager 1 – SCP 51-59	N/A	£47,600	£57,177	0.28-0.33
Pay Band Manager 2 and Professional 1 - SCP 36-50	N/A	£38,813	£46,464	0.23-0.27
Pay Band Manager 3, Professional 2 and Technical 1 - SCP 27-35	N/A	£30,507	£37,849	0.18-0.22
Pay Band Professional 3, Technical 2 and Administrative 1 - SCP 15-26	N/A	£22,911	£29,636	0.13-0.17
Pay Band Technical 3 and Administrative 2 - SCP 5-14	N/A	£18,795	£22,462	0.11-0.13
Pay Band Administrative 3 and Operative 1 - SCP 2-5	N/A	£17,711	£18,795	0.10-0.11
Pay Band Administrative 4 and Operative 2 - SCP 1	N/A	£17,364	£17,364	0.10-0.10

NOTES:

*WMFS is committed to ensuring all employees are paid no less than the National Living Wage which on 5 November 2018 increased to £9 per hour, equivalent to £17,364 per annum. Lowest paid employees salary was increased in November to the Living Wage and they will continue to benefit from this increase but will not be entitled to any increase applied to NJC rates unless this results in their existing spine point exceeding the National Living Wage. All these figures are subject to change if/when pay awards are determined. The NJC Pay award from 1st April 2019 has now made the lowest pay point payable equal to the Living Wage. The lowest paid employees will however continue from increases to the living wage as these become payable and exceed the NJC rates.

***Salaries incorporates on-call/continuous cover*

**** Salaries inclusive of 20% Flexi Duty Allowance*

8 APRIL 2019

1. **CORPORATE PERFORMANCE INDICATORS 2019/20**

Report of the Chief Fire Officer

RECOMMENDED

THAT Authority members approve the Corporate Performance Indicators (PIs) and targets for 2019/20 as set out in Appendix 1.

2. **PURPOSE OF REPORT**

This report is submitted to seek approval for the corporate PIs and targets for 2019/20 and to provide information to Authority members about the rationale that formulates the revised targets.

3. **BACKGROUND**

- 3.1 In accordance with its planning framework, the Service has reviewed its rolling three-year corporate strategy – The Plan 2019 – 2022. As part of this approach at the meeting on the 18 February 2019 the Authority approved the revised outcomes. These are set out in The Plan and are enablers to achieving our vision of “Making West Midlands Safer, Stronger and Healthier”.
- 3.2 Following approval of the outcomes set out in The Plan, the ACFO Service Delivery, as the lead officer for scrutiny matters, has worked with stakeholders to:-
- Consider past performance results.
 - Review the internal strategies and approaches and external influencers that will shape the 2019/20 performance and drive the target setting.
 - Identify the appropriate PIs for 2019/20.

- 3.3 In accordance with the Service's commitment to enabling governance through effective engagement and transparency and in line with the constitution, officers presented the draft performance indicators to Authority members at the Policy Planning Forum (PPF) on the 25 March 2019 and subsequently with the Scrutiny Committee Chair on 27 March 2019 to consider any comments and feedback from PPF. At this meeting the Scrutiny Committee Chair recommended that the proposed corporate PIs and targets for 2019/20 be submitted to the Authority for approval.

Setting PI targets 2019/20

- 3.4 Graduated Tolerances were introduced in 2017/18, this assists when the numbers are small at the beginning of the year. A bigger tolerance is allowed in Quarter 1 which decreases when we get to Quarter 4. This is to aid the interpretation of performance indicators that could mislead by being red when the numbers are only marginally above the target.
- 3.5 The performance indicator numbers for 2019/20 remain the same as 2018-19.
- 3.6 The targets that have been set for 2019/20 have considered the commitment to improving services and outcomes to the community. All the targets have been set either below or at the three-year average performance outturn.
- 3.7 PI5 – Safe and Well Referred by Partners target will be 40%. This represents a 15% reduction on the 2018/19 target because of a Quality Assurance exercise undertaken throughout the year which has highlighted a number of recording issues and promoted a more qualitative approach to both developing and recording referral pathways and partnerships for Safe and Well visits.
- 3.8 PI 6 - The Safe and Well Points target will be 259,680. This is a reduction of 13% or 40,320 on the number of Safe and Well visits against the 2018/19 target. The revised target is based on reduced resource availability through the flexible staffing strategy approved at Fire Authority on 18 February 2019.
- 3.9 PI 9 – The number of deliberate fires in non-domestic premises is reported as the lowest number since records began in 1998/99. The decrease in the number of incidents at HM Birmingham Prison has played a major part in this

reduction. The 2019/20 target of 162 incidents is a reduction of 5%.

- 3.10 PI 10 – The number of deliberate vehicle fires has been steadily rising since 2012/13, despite all the interventions and activities that we have been delivering. However, a decline began during 2017/18 which continued into 2018/19. This decline is due to vehicles being impounded more efficiently. Subsequently the target for 2019/20 has been reduced by 8% on the three-year average. A systems approach to driving down the deliberate vehicle fires will be used, incorporating more collaboration with West Midlands Police and the West Midlands Combined Authority.
- 3.11 PI 11 – The number of deliberate rubbish fires has seen a steady decline since 2007/8 when the total for that year was 5,647. The proposed target for 2019/20 is 1,664, a 7% reduction on the three-year average; this is due to operational personnel working proactively with Local Authorities and creating rubbish referrals.
- 3.12 PI 12 – The target for the number of deliberate fires in derelict buildings has been reduced by 31%, a total of 100 for the year 2019/20. This is due to the excellent working arrangements that operational personnel have with Local Authorities in obtaining the boarding up of derelict properties in a timely manner.
- 3.13 PI 16 - The target for the number of female uniformed staff for 2019/20 has been set at 162 members of staff. The aim is for 50% of new entrant recruitment to be female, the actual number being dependent upon the success of that percentage target. The positive action strategy for attraction and selection supports this ambition.
- 3.14 PI 17a – The percentage of uniformed staff from BAME communities was a new indicator in 2017/18. The target for 2019/20 is 11.1%, which equates to 35% of new entrant recruitment. The links to actual numbers of people recruited and the positive action strategy is as mentioned in 3.13.
- 3.15 PI 24 and 25 – To reduce gas and electricity use at Fire Authority premises respectively. There are target reductions of 2% for gas and 1% for electricity, to be achieved through upgrades of boilers, replacement windows and doors, re-roofing and rewires on selected sites. This fulfils

improvements to energy efficiency derived from programmed facility management. These PI's will continue to be reported upon annually and not quarterly which commenced during 2018/19.

4. **EQUALITY IMPACT ASSESSMENT**

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

5. **LEGAL IMPLICATIONS**

There are no direct legal implications arising from this report.

6. **FINANCIAL IMPLICATIONS**

There are no direct financial implications arising from this report. It should be noted that the Authority's approved 2019/20 budget is aligned to and will support the delivery of The Plan.

7. **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications arising from this report.

The contact name for this report is Assistant Chief Fire Officer Gary Taylor who can be contacted on 0121 380 6914.

BACKGROUND PAPERS

Fire Authority Agenda Item 10, 18 February 2019,
The Plan 2019/22.

CHIEF FIRE OFFICER
PHIL LOACH

Appendix 1

Number	Performance Indicator	Overall target expressed as a % - /+ against 3 year performance average	Overall Target 19/20*
PI 1	The Risk Based Attendance Standard	N/A	5 mins
PI 2	The number of accidental fires in dwellings	-1%	1,594
PI 3	Injuries from accidental fires in dwellings (Taken to hospital for treatment)	-13.5%	47
PI 4	The number of deaths from accidental fires in dwellings	We seek to minimise deaths from fires	No target set
PI 5	Safe and Well Referred by Partners	N/A	40%
PI 6	Safe and Well Points	N/A	259,680
PI 7	Killed or Seriously Injured	-4%	940 YTD **
PI 8	The number of deliberate fires in dwellings	-2.5%	206
PI 9	The number of deliberate fires in non-domestic premises	-5%	162
PI 10	The number of deliberate vehicle fires	-8%	792
PI 11	The number of deliberate rubbish fires	-7%	1,664
PI 12	The number of deliberate fires in derelict buildings	-31%	100
PI 13	The number of accidental fires in non-domestic premises	0%	435
PI 14	The number of false alarm calls in dwellings and non-domestic premises	-5%	5,642
PI 15	The percentage of employees that have disclosed their disabled status	+5%	100%
PI 16	The number of female uniformed staff	+63%	162
PI 17	The percentage of all staff from BAME communities	+1.6%	12.4%

PI 17A	The percentage of uniformed staff from BAME communities	+36%	11.1%
PI 18	The average number of working days/shifts lost to sickness - all staff	-9%	7.4
PI 19	The average number of working days/shifts lost to sickness – uniformed staff and Fire Control staff	-9%	8.8
PI 20	The average number of working days/shifts lost to sickness - non-uniformed	-9%	6.9
PI 21	The total number of injuries (employees & non-employees)	0%	126
PI 22	The total number of RIDDOR injuries	0%	14
PI 23	To reduce the Fire Authority's carbon emissions	0%	5,848
PI 24	To reduce gas use of Fire Authority premises	-2%	9,969
PI 25	To reduce electricity use of Fire Authority premises	-1%	5,219

* Based on 2016/17, 2017/18 out-turn and 2018/19 estimated end of year out-turn and may need to be amended in line with the actual out-turn when these figures are available in May 2019.

** This figure is until the end of January 2019 due to the availability of up to date data.
The target of 940 is based on a 4% reduction to the end of January 2020.

Minutes of the Governance and Transformation Committee

28 January 2019 at 09:30 a.m.
at Fire Service Headquarters, Vauxhall Road, Birmingham B7
4HW

Present: Councillor Aston (Chair).
Councillors Barrie, Brackenridge, Edwards, Hogarth
and Young (Vice Chair).
Professor Brake.

Apologies: Councillor Walsh.

Observer: Tim Martin, Head of Governance, West Midlands
Combined Authority (WMCA).

1/19 Declarations of Interest in contracts or other matters

There were no declarations of interest.

2/19 Minutes of the Governance and Transformation
Committee held on 10 December 2018

Resolved that the minutes of the meeting held on 10
December 2018 be approved as a correct record.

3/19 Scoping the Role of the Mayoral Fire Committee

Karen Gowreesunker, Clerk to the Authority and Strategic
Enabler of the Strategic Hub, provided an overview of the
report:

The report was submitted to the Committee for Members to
formally agree the proposals for the advisory role of the
Mayoral Fire Committee (MFC) which had been developed in

the workshops held at the November and December meetings of the Committee.

The report set out the backdrop to the MFC and outlined the work undertaken so far including the elements that were considered whilst developing the recommendations for the role of the MFC.

The proposals that had been agreed by the Committee as the role of the MFC was developed were detailed within section 3.6 of the report:

- Section 41 Leadership Principle
- Local, Regional and National Representation for West Midlands Fire Service (WMFS)
- A briefing Planning Forum
- Audit and Risk
- Scrutiny
- Firefighters' Pension Appeals
- Appointment and dismissal of the Chief Fire Officer
- Joint Consultative Panel
- Constitution of the MFC
- Governance and Transformation Committee

A report detailing the full outcomes of the work of the Governance and Transformation Committee was provided within Appendix A.

In addition, Members were updated on developments regarding the draft WMCA (Fire Functions) Order 2019.

In answer to Members' questions, the following points were raised:

- The proposals for the advisory role of the MFC had been positively received by the Mayor and it had been agreed that the section 41 leadership principle was an important function.
- With regard to the membership of sub-committees, it would be for the parent committee to determine membership. However, it was noted that not all existing members of the parent committees represented a West

Midlands constituency and this would need to be a consideration when determining membership.

- With the proposals for the advisory role of the MFC agreed, this meant that the MFC was effectively ready to be implemented as and when required (subject to developments around the progress of the draft Order and subsequent transfer).

Resolved that the Committee approved the proposed role for the MFC.

The meeting finished at 10:12 am.

Contact Officer: Stephen Timmington Strategic Hub West Midlands Fire Service 0121 380 6680

**4 February 2019 at 10.30 am
at Fire Service Headquarters, Vauxhall Road, Birmingham**

- Present:** Members of the Authority
Councillor Edwards (Chair)
Councillor Iqbal (Vice Chair)
Councillors Barlow, Barrie, Brackenridge, Craddock,
Dehar, Hogarth, Jenkins, Miks, Spence, Tranter and
Young
Professor Simon Brake and Sarah Middleton
Mr Ager
- Officers:** West Midlands Fire Service
Chief Fire Officer (P Loach)
Deputy Chief Fire Officer (P Hales)
Assistant Chief Fire Officer (G Taylor)
A Afsar, S Barry, H Begum, B Brook, S Burton, J
Connor, J Danbury, W Doolan, N Griffiths, M Hamilton-
Russell, N Spencer, S Taylor, S Timmington, S Vincent
- Clerk and Monitoring Officer**
K Gowreesunker (Clerk)
S Sahota (Monitoring Officer)
M Griffiths (Treasurer)
- Apologies:** Councillors Aston and Walsh
The Police and Crime Commissioner
- Observers:** A Street, Mayor of the West Midlands Combined
Authority
H Kippin, West Midlands Combined Authority

1/19 Chair and CFO Announcements

Cllr John Edwards, Chair of WMFRA, welcomed all attendees to the Policy Planning Forum.

Policy Planning Forum 4 February 2019

Andy Street, Mayor of the West Midlands Combined Authority (WMCA), and Henry Kippin, Director of Public Service Reform, WMCA, were welcomed to the meeting.

Members were informed that the official opening of the relocated Fire Control would be taking place following the Fire Authority meeting scheduled on 18 February.

Members were invited to a Local Government Association event entitled 'Diversity and Inclusion in the Fire and Rescue Service – Masterclass' which would be hosted at WMFS Headquarters on 20 February.

2/19 Governance Update

Cllr John Edwards, Chair of the Authority, provided a Governance update.

An independently chaired working party, the Future Governance Working Group, had collated and analysed the evidence regarding the options for change. The group identified the potential move of the Service into the Mayoral WMCA as the most appropriate change.

A huge amount of work had been carried out by both the Service and WMCA to develop and progress the proposed change in governance. The work had been supported by the Home Office. The seven Local Authorities (LA) had maintained a keen interest and were fully signed up to the proposals.

During the development of the change in governance, a number of 'red line' areas had been identified:

- The establishment of a Mayoral Fire Committee (15 members plus co-optees), representing the LAs and ensuring links were maintained. Amended so that the Mayoral Fire Committee would be comprised of a maximum of 15 members, rather than a minimum.
- The ring-fencing of the Service's budget and reserves (not in the Order but included within the Constitution of the WMCA with agreement from the seven LA leaders).

Policy Planning Forum 4 February 2019

- Chief Fire Officer (CFO) accountabilities, ensuring that the CFO was empowered to lead the Service. The simplest method to ensure this would be to have the CFO recognised as Head of Paid Service, however legislation only provided for one Head of Paid Service within a public sector organisation (the WMCA Chief Executive Officer). However, accountabilities were agreed with the Home Office and were recognised within the Order.

As part of the parliamentary process for laying the Order, three sets of legal checks were carried out. The third and final set of checks undertaken by the Joint Committee on Statutory Instruments (JCSI) had led to amendments being made to the Order regarding the CFO accountabilities, diluting the safeguards within the Order and therefore the CFO accountabilities. The amendments were deemed not to be acceptable. Cllr Edwards and the CFO agreed to use the emergency powers of the Fire Authority to notify the seven LA leaders of the amendments who supported the opinion of the Service. As a result, the Home Office were notified that the amendments and therefore the Order were not accepted locally. Next steps would involve examining ways forward including the potential for a local agreement in a similar fashion to the ring-fencing of the Service's budget / reserves.

Andy Street, Mayor of the WMCA, noted that this meeting of the Policy Planning Forum had been in his diary before the recent developments regarding the Order, as he was keen to hear about the Service's strategy and the budget. He had been following the transfer very closely and it had seemed to be going very well. The irony was that everyone wanted the same outcome. However, the assurances that the CFO quite rightly required were not provided within the Order.

The likelihood of the JCSI changing its view was unlikely. Therefore, there was a need to find local and robust arrangements, assuring the CFO and the Service, and providing assurance to the seven LA leaders. Assurances were to be included within the Constitution of the WMCA and to include double locks so that if changes were proposed in the future, unanimous agreement would be required. An urgent report would be submitted to the WMCA Board on 8 February to provide an update to the seven LA leaders. If there was unison across the various third parties, progress would

Policy Planning Forum 4 February 2019

then include the submission of a report to the Fire Authority at its meeting on 18 February, and a final report submitted to the WMCA Board on 22 March.

The following points were raised by Members and responses provided:

- A Member noted that an awful lot of work regarding the transfer had been carried out to date by officers and asked if the proposals were definitely the way forward.
- Andy Street replied, that yes it was the way forward and there was a determination that this was not lost due to an administrative bump in the journey.
- A Member noted that it was a shame that the JCSI had taken the view that they had. The Authority had made a lot of comprises including the reformation of the Authority which had seen its membership reduce to 15 (plus the Police and Crime Commissioner and co-optees). It was important that the CFO had the powers required to undertake his role and operational independence was ensured.
- Cllr Edwards noted that there was a contradiction between pieces of legislation (the Local Democracy Act) which the JCSI had identified as the reason for the amendments to the Order (in part to avoid potential issues in the future / the setting of a precedent). It was possible to raise this with the Fire Minister but there were doubts as to how successful such discussions would be. Therefore, it was more important to concentrate on a local agreement.
- Andy Street noted that it was important that any local agreement was also agreed by the Home Office (to ensure their support for the proposals).
- A Member noted that the proposals put forward demonstrated the key factors. Operational independence was important. It looked like the model put forward by the Future Governance Working Group could be achieved.

3/19 Developing the Strategy 2019 - 2022

Phil Loach, Chief Fire Officer, introduced a presentation on developing the Strategy for the period 2019 to 2022.

Policy Planning Forum 4 February 2019

The presentation covered what the Service had been working to, developing the options to meet the Service's financial deficiency.

The Service had previously developed a strategy to deliver alternative services, however it had been unable to achieve the outcomes of the strategy, and therefore it had been unable to deliver income generation.

The Service was now in the eighth year of the comprehensive spending review / austerity and in that time it had sought to make the Service as lean as possible, apart from those areas that the Service had sought to protect such as frontline services.

The Service had explored opportunities whilst maintaining the risk based approach to prevention, protection and response. The fleet was distributed to meet the risk based five minutes attendance standard, which evidence showed increased the chances of survival at incidents.

It was also noted that the Service was in the middle of its inspection by Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services, who were providing support to the compelling evidence base presented by the Service.

An integrated approach to prevention and protection and all factors had been taken into account whilst dealing with the £3M reduction in budget, as well as continuing the response approach and ensuring that the Service remained a positive and effective partner with other organisations.

With regard to the £3M deficit, recognising that the Grenfell Tower incident had shone a light on the enforcement of the Regulatory Reform Order, investment in protection services meant the deficit equated to £3.6M.

Additionally, further investment would be required, recognising that risk management was not purely about service delivery, ensuring that the Service was meeting and adhering to its requirements regarding health and safety, competencies, etc. This required reinvesting in some of the support areas, equating to a further investment of approximately £600K. This meant the deficit would equate to £4.2M.

Policy Planning Forum 4 February 2019

The Service was balancing the budget via fleet availability. However, the Service tended to underspend against budgets, and would therefore use any underspend and make savings in other areas first, where possible.

An illustration of the changes was displayed as part of the presentation; changes to the fleet would be undertaken on a dynamic basis as required. There would be no impact upon category one incidents but there could be a minor impact upon the attendance of a second appliance (the Officer in Charge would still be able to determine the tactical mode to be assumed upon arrival, ensuring safe, effective and assertive firefighting). There would be an impact upon category three and four incidents, however the Service currently continues to outperform against its targets within these incident types. The changes to the fleet would have an impact upon the number of Safe and Well checks delivered.

Tools were available to officers to show the distribution of the fleet and the effect on the service delivery model and response times. Some appliances would be pre-stated unavailable weeks before the event but changes would also be made dynamically to meet requirements at any specific time, for example based on sickness absences.

Members were advised that although staff moved stations at the moment, disagreement and disapproval from staff being made to change station could be expected. Additionally, it was expected that all Members would experience an impact upon fleet availability within the areas they represented at some point over the next year.

In addressing the 2019/20 £3m deficit within the Authority's Financial Efficiency Plan, at the Fire Authority meeting on 19 November 2018, the CFO presented to Members an assessment of five options:

- Staff/resource availability
- Resource configuration
- Shift arrangements (risk based crewing)
- On-call firefighters
- Management Review

The report that would be submitted to the Fire Authority at the February meeting would recommend that Members delegate

Policy Planning Forum 4 February 2019

responsibility to the CFO to dynamically manage the fleet to meet the budget.

The following points were raised by Members and the following points were raised in answer to Members' questions:

- A Member noted that the proposals represented the best of some bad options, and supported the proposals over any of the other options.
- It was confirmed that the proposals had been discussed with the representative bodies. The representative bodies had not identified any alternative proposals. The representative bodies had confirmed their requirement that the first Pump Rescue Ladder (PRL) appliance be staffed with a crew of five. This was the desire of the Service although it was noted that there could be occasions where a PRL could be staffed with a crew of four for a short period of time such as whilst waiting for a replacement crew member in the event of a sickness absence being reported.
- In answer to a Members question if there would be any reduction in the number of firefighters: the optimal number of firefighters had been calculated to be 1322. The Service was currently operating with 1168 firefighters, which was managed via fleet availability.
- A Member suggested that a reduction in the number of Safe and Well visits delivered could lead to an increase in pressures on the Service. In answer to the Members question, it was noted that the number of incidents was no longer declining and had plateaued with a marginal increase observed in the number of accidental dwelling fires. Additionally, the WMCA were planning on building additional housing stock across the county including affordable housing, the type of properties in which the Service experienced the majority of fires. In an attempt to address this, the Service was developing a radical prevention model, based on the trust of firefighters. Although the Service was prioritising this area, ultimately the budget deficit remained.
- The Service had protected the front line whilst dealing with the budget reductions, however the Service had now reached a tipping point where it was having to look at reductions in the front line response. The Service had soaked up so many reductions so far, but there were no

Policy Planning Forum 4 February 2019

more places to look, and there were further financial challenges to come in what could be a difficult period.

- A Member noted that the reduction of approximately 4500 Safe and Well visits was significant. The work of the Service in delivering Safe and Well visits had proved to be invaluable, not just in terms of fires and fire safety, but also social care and safeguarding. It would be useful to see what the radical prevention model would look like and what the reduction in capacity means.
- In reference to the proposed commitment of the WMCA to build 200K new homes, a Member asked if any conditions were to be set for builders to fit sprinklers in the properties.
 - It was confirmed that the Service would be included within discussion regarding the planning stage of such developments.
 - The Mayor advised that it was not a requirement for a Local Authority but it would be wise to include such a stipulation. The WMCA were currently in the process of drawing up a planning framework to enable a shared set of aspirations.
 - A Member suggested that there were short term opportunities that could be achieved by looking at design, mitigating some of these risks.
 - A Member advised that concerns had previously been raised by Officers that they did not necessarily have the time to consider all applications.
 - It was noted that protection would look at applications, and protection was being re-invested in to provide additional capacity.

4/19 The Budget 2019/2020

Mike Griffiths, Strategic Enabler Finance and Resources, delivered a presentation on the Budget 2019/2020:

The Service had endured core funding reductions of £38M over the previous eight years. The current Comprehensive Spending Review (CSR) period had resulted in a £10M core funding reduction which had now been confirmed.

A number of emerging issues and pressures remain as concerns:

Policy Planning Forum 4 February 2019

- Pay awards; assumptions had been based on a 1% increase at the start of the current CSR period which had been uplifted to 2%. Negotiations at a national level, particularly regarding firefighters' pay, had not been concluded yet and it was unknown if any eventual pay rise in excess of 2% would be funded centrally or locally. It was noted that every 1% percent increase as a result of a pay award equated to an approximate full year cost of £650K for the Service.
- Pensions; the Treasury had reviewed all unfunded pension schemes and a significant shortfall in arrangements for the Firefighters' Pension Scheme had been discovered. The impact on the fire sector was approximately £107M, with an impact upon the Service of approximately £5.3M. The Government had agreed funding of approximately 90% of the shortfall and the cost to the Service had been offset by a specific grant of £4.9M. It was noted that there was a potential ongoing additional annual cost of circa £5M beyond 2020 if continuing Government support was not confirmed.
- Pensions: the Court of Appeal judgement on the new 2015 Firefighters' Pension Scheme found the transitional protection arrangements unlawfully discriminatory on grounds of age. The Government have submitted an application for permission to appeal to the Supreme Court. The potential estimated annual cost to the Service could equate to £1.5M.

The budget report would be submitted to the Fire Authority at its February meeting.

It was noted that the Service was now in the last year of the current CSR. At the time of the meeting there were no indicators for the public sector as to the next CSR period and due to no clarity regarding future budget allocations, the assumption was that further reductions in core funding could be expected.

The council tax precept and referendum principle for 2019/20 had been confirmed at 3%.

In terms of general balances, £1.5M was anticipated to be ~~had~~ ~~been~~ used within 2018/19 to provide a balanced budget. The further use of general balances during 2019/20 and 2020/21 had been built into the Medium Term Plan. A budget shortfall of £1.7M

Policy Planning Forum 4 February 2019

was currently predicted for 2021/22 but due to all the uncertainties, as highlighted above, the assumed budget shortfall in 2021/22 would need to be reviewed and monitored throughout the next year.

The Service continued to set the lowest council tax precept in England and Wales. The proposed increase in council tax equated to an additional £1.77 per year for a Band D property (based on the highest percentage increase allowed without triggering the referendum principle).

It was noted that projected capital spend over the next three year period would predominantly be funded by earmarked reserves. There was no specific capital funding for the fire sector. The lack of capital allocations was being referred by the sector to Government to address.

In answer to Members' questions, the following points were raised:

- In the event of any unanticipated requirements, an estimated £5M of general balances would be available for use. There was no official absolute guideline for the amount of general balances to be held although there was a broad consensus that general balances should equate to approximately 5% of an organisation's annual budget. It was felt that the general balance of approximately £5M was a reasonable amount and would continue to be monitored.

5/19 The Plan, Priorities and Outcomes 2019-2022

Phil Loach, Chief Fire Officer, delivered a presentation on The Plan, Priorities and Outcomes for 2019 to 2022:

The Plan was publically available and was published on the Service's website.

The Integrated Risk Management Plan (IRMP), budget and a range of internal and external factors, including emerging issues and political landscape, were reviewed as part of the development and production of The Plan.

Policy Planning Forum 4 February 2019

The priorities for response, prevention and protection, and the outcomes for value for money, digital and innovation, and people were outlined.

Response; fleet and staff were distributed to provide assertive and effective response to emergencies, maintaining the risk based five minute attendance standard. Prevention and protection activities carried out by staff created capacity within the workforce, enabling staff to do more, supporting vulnerable people and helping to maintain and increase affluence. The extra capacity did not come at an additional cost as it was an integral part of the service delivery model. Alternative approaches to delivering such additional services could increase costs. The current approach meant the organisation was lean.

Prevention; included the work involved in Safe and Well visits and the work of the Service with the commercial elements of our communities, keeping businesses in business (enforcing the Regulatory Reform Order (RRO) was important but it was also important to support businesses and to allow them to grow). Road safety was another important element of the prevention work undertaken by the Service.

Protection; the Service was at the forefront of technology to deliver its responsibilities under the RRO, developing and using systems such as the Risk Identification and Data Gathering Engine (RIDGE). However, despite using innovative approaches, more capacity was required within protection, in part due to the Grenfell Tower incident, and an increased fire safety awareness of crews was generating more referrals for the protection teams to address.

Value for Money; the Service was working closely with other organisations, and collaborating with partners, an essential part of being able to deliver its services effectively and efficiently.

Digital and innovation; there was need to start thinking that digital was now the norm. Service delivery was to be underpinned by technology, and where it was delivered was to be underpinned by technological analysis.

People; increasing diversity, inclusion, cohesion and equality, the Service had taken the most innovative approach to enabling a more diverse workforce. It was an approach that had been

**Policy Planning Forum
4 February 2019**

approved by the Fire Authority and one in which the Service had applied the Equality Act.

It was noted that the Service had a forward looking strategy, one that continued to be progressive despite limitations and pressures being imposed.

In answer to Members' questions, the following points were raised:

- The Service was at the forefront of road safety education and worked closely with partner agencies including the Police.

The meeting closed at 12:11 hours.

Contact Officer: Stephen Timmington Strategic Hub West Midlands Fire Service 0121 380 6680

4 February 2019

at Fire Service Headquarters, Vauxhall Road, Birmingham

Present: Councillor Brackenridge (Chair)

Councillor Barlow, Edwards, Iqbal and Miks

Employees Side:

Steve Price-Hunt – Fire Brigades Union (FBU)

Sasha Hitchins – FBU

John Routley - UNISON

Officers:

Wendy Browning-Sampson, People Support Services

Sarah Warnes, Strategic Enabler People

Karen Gowreesunker, Clerk to the Authority

Satinder Sahota, Monitoring Officer

Helen Sherlock, People Support Services

1/18 Notes of the Joint Consultative Panel held on the 5 November 2019

The notes of the Joint Consultative Panel held on the 5 November 2019 were received.

2/19 Verbal Update Cultural Review

Sarah Warnes confirmed that the snapshot for the Cultural Review had been completed. A Member of the Fire Authority, Trade Union Representatives and a cut across the organisation had been given the opportunity to respond to the questions.

39 Recipients responded out of 200

There had been differing levels of percentages of response.

The themes that had emerged were management, training, promotions, targets and communications.

Officers would be consulting with the Fire Brigades Union on the procurement document and timeframes.

The timeframes are agreed and a high percentage of the procurement document had been completed. With the paragraph referencing the collective agreement yet to be agreed.

The framework, principles and how it will be taken forward through a procurement process have been discussed and three individuals identified.

Neither of two initial names put forward will be considered to provide impartiality. However, three completely independent names have been identified that were not known to Sarah Warnes.

Councillor John Edwards enquired about the timescale and if the Unions would be involved in the interviews to choose the preferred person.

Sarah Warnes confirmed that Jackie Perkins, Contracts Manager and a member of the Management Team would undertake this work as a normal part of the procurement process. It was not appropriate for Representative Bodies to be involved.

A suite of assessment questions had been formulated and the FBU had been asked for comments and feedback on the questions.

Steve Price-Hunt confirmed that the FBU were content with process as long as it was open and transparent and conducted by an independent body. The timeline would be:

Closing dated 21 February 2019

Evaluation 7 March 2019

Contract awarded 14 March 2019

Individual carry out review March to June 2019 (6 weeks)

Report and Recommendations to CFO by September 2019

The FBU had agreed the procurement process and how an Independent Chair would be selected and the time scales. They would be meeting to start the process on Friday 8 February in order to meet the timescales.

The FBU had proposed some amendments to the Terms of Reference (TOR) written by Officers, but these were not agreed and the TOR had been amended.

One final paragraph which was a straight lift on the collective agreement was yet to be agreed and then the FBU would be content to have a robust process in place.

Sarah Warnes asked whether it was appropriate for the Joint Consultative Panel to be discussing the Terms of Reference for the Cultural Review.

The collective agreement was supported, the Terms of Reference would be a professional front facing document and it was suggested that a catch all statement, which supports the cultural review would be more appropriate than a straight lift from the collective agreement referring to Point 5 of the Trade Dispute.

Satinder Sahota, the Monitoring Officer, stated it would be highly unusual for the words to be lifted from the collective agreement in a procurement document.

Steve Price-Hunt also questioned whether the Fire Authority should have been consulted on the Terms of Reference as they commissioned the Cultural Review.

He stated that a collective agreement had been signed to end the trade dispute and a Cultural Review would take place, and it was felt that anyone carrying out the Review should understand the reason for it.

Sasha Hitchens felt that the direct lift of the collective agreement process should be a requirement of the document to go out to business and the FBU were only asking for one paragraph to be included rather than the three initially requested.

It was considered important the management and the FBU should be able to work together on the process.

Steve Price-Hunt was also conscious of time and thought the Cultural Review should have been up and running in 2018 as it had taken several months to reach agreement.

Councillor Edwards suggested that this did not constitute a failure to agree and that as long as the Terms of Reference were provided to the person who wins the tender, they should be able to understand the context of the Trade Dispute when they come into the organisation and would then have access to all the information needed to carry out the review.

Sarah Warnes agreed that the procurement document was 95% complete and they just needed to move forward with the recommended words. The Trade Union views had been recognised on the collective agreement and all relevant information would be provided to the appointed Chair. The trade unions would have the opportunity to discuss their position with the Chair.

John Routley, Unison, took the views on board but felt that whoever took on the contract wouldn't do so without looking at the small print and this would be included in the contract.

The Chair was keen to get things moving and wanted everyone to have confidence in the process. He took on board the FBUs comments about the changes. He wanted a fully independent, open and transparent Cultural Review of the organisation. He hoped the wording could be agreed at the meeting.

Steve Price-Hunt re stated earlier points and that the FBU had conceded on all other points on the contract and the situation wasn't helping industrial relations. The JCP were asked to consider the additional paragraph.

Karen Gowreesunker stated that the Members were not sufficiently prepared or cited on the Contract as the information had not been submitted using the recognised reporting framework to the JCP prior to the meeting, therefore there had not been time for it to be considered before the meeting.

Interested parties would also be able to contact the representative bodies.

Steve Price-Hunt stated that the Authority were tasked and could supercede the JCP if not agreed today. They had been waiting since July for the cultural review.

Satinder Sahota echoed Cllr Edwards point that the issue did not constitute a failure to agree.

It was confirmed that the Cultural Review was not just based on collective agreement, but across a range of key stakeholders.

Sasha Hitchens stated the FBU did not have an issue with the process but were trying to be reasonable and had only asked for one paragraph and were attempting to address the culture of the organisation.

Councillor Edwards stated the person carrying out the work would be conducting a whole organisation cultural review and would be looking at the Authority, Management and Trade Unions. This would be made clear from the outside and a generic statement would be set out.

It was considered that there had been some good suggestions from the comments received today and the management and union were not that far apart. And did not need Authority Members to negotiate.

Councillor Iqbal suggested that the small point should be accepted and they could carry on.

Karen Gowreesunker recommended that the matter should be discussed at the JCC, if it could not be resolved beforehand.

Sarah Warnes agreed that immediate discussions between the FBU and management could take place to resolve this and build on the work carried out so far.

Steve Price-Hunt stated that the FBU had waited a long time for the Cultural Review and were prepared to be patient for the small amendment to be included. The organisation had produced 95% of the document and didn't think it unreasonable for the paragraph to be included.

The Chair wanted the issue to be resolved as soon as possible and through the proper processes and asked for the matter to be discussed at the JCC scheduled for the 5 February 2019, if there

was not resolution beforehand. If there was still no resolution and they could not agree, he suggested a special meeting of the JCP be called to resolve the issue.

The next Fire Authority was scheduled for 18 February 2019 and they could be asked to agree to a special JCP to be held on the same day.

Cllr Miks agreed with Councillor Edwards but understood the concerns and was happy for the management to meet with the Unions.

It was confirmed that the Chair, Vice Chair and Cllr Barlow would be informed of the outcome of the discussions prior to and following JCC.

3/19 Employment Law Training Session

Wendy Browning Sampson presented an Employment Law Training Session and discussed managing a Disciplinary Process.

Timeframes and the cost to the organisation would be discussed at the next Joint Consultative Panel when the Dispute Resolution Report would be considered.

The meeting finished at 1421 hours.

Julie Connor

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Minutes of the Scrutiny Committee

27 February 2019 at 10:00 a.m.
at Fire Service Headquarters, Vauxhall Road, Birmingham
B7 4HW

Present: Councillor Tranter (Chair).
Councillors Barlow, Barrie, Brackenridge, Spence,
and Young

Apologies: Councillor Jenkins
S Middleton

Observer: Nil

1/19 Declarations of Interest in contracts or other matters

There were no declarations of interest.

2/19 Minutes of the Scrutiny Committee held on 14 November 2018

Resolved that the minutes of the meeting held on the 14 November 2018 be approved as a correct record.

At the November meeting, it had been agreed that the following points would be addressed:

- a breakdown and profile of call challenge would be provided to Members

It was noted that a report of the Service's approach to call challenge had been submitted to the Committee under item 5 of the agenda (see below).

- in relation to PI 21 The total number of injuries, further information regarding Breathing Apparatus communications would be provided to Members.

Gary Taylor, Assistant Chief Fire Officer provided an update to Members regarding Breathing Apparatus (BA) communications:

There had been 13 near hits reported for BA communication failures, nine of which had been related to tactical ventilation training at the Oldbury high rise training facility. The Service had worked together with Drager to investigate the causes for the near hits, with the aim to improve the reliability of BA communications.

Investigations had discovered that the amount of heat generated was not an issue but had found that the metal casing that formed part of the construction of the facility generated communication black spots. It was noted that although the number of near hits was high, the figure represented a small percentage when compared to the approximate 1500 incidents involving BA over the last four years (equating to 0.8% of incidents for 2017/18, and 0.3% to date in 2018/19).

In answer to Members' questions, the following points were raised:

- The communication black spots were a result of how the facility had been built, in that it was effectively a metal box, which was convenient and effective for the Service, but was not a type of construction that would be found publicly.
- It was possible for communication black spots to be present in other buildings and where identified, would be recorded within the appropriate Site Specific Risk Information (SSRI) for that particular premises. The tunnels at the Black Country Museum were one such example, where the SSRI had identified the need for additional resources to be put in place if an incident involving the tunnels were to occur.

3/19 Update on the Review of Safeguarding

Alan Lotinga, Associate Consultant, West Midlands Association of Directors of Adult Social Care, provided an update and presentation on the progress made so far in the review of safeguarding.

The presentation covered the following areas:

- Overview of the brief and key lines of enquiry
- Outcomes expected
- Progress to date – current position
- Highlights – positives
- Highlights – areas for improvement
- Next steps

Mr Lotinga wished to thank Andrea Simmonds and Pete Wilson, plus all officers and Members who had contributed to and taken part in the review. Everyone involved had been open and constructive to improve, and keen to listen and learn. It was a sign of a healthy organisation.

It was noted that any outcomes of the review would remain proportionate (based on relatively limited resources serving a large population) and context would be provided to recommendations. The areas for improvement identified would be developed into recommendations.

The following points were raised as a result of the update and presentation:

- A Member noted that as a Service, safeguarding was not solely about the people it served, but also for those who delivered the services.
- A Member noted that it was vitally important that the outcomes of the review were raised and discussed with the representative bodies. In particular, considering the expanding roles of Fire and Rescue Services as a key part of the national framework. There needed to be sufficient training, guidance and support in place for staff.

- It was noted that a degree of clarity was required in terms of the difference between enforcing procedures with reference to the disciplinary policy and/or the conduct policy. It was not perceived that any individual would choose not to follow safeguarding procedures, but there was a risk that an individual did not follow such procedures due to a lack of awareness of them.
- The Metro Court Review highlighted an example of where the fire sector had not made the link between safeguarding and risk / vulnerability to fire. There was a need to educate the sector, as the innovative use of safeguarding legislation was another tool which Fire and Rescue Services could use to protect people from the risk of fire.
- It was confirmed that the recommendations from the review would be fed into the Competency Risk Assessments.

Gary Taylor, thanked Mr Lotinga for the work carried out to date and noted that the update and presentation had been very helpful and brought into focus a number of issues and that there was a need to fully understand safeguarding and the link with vulnerability to fire.

4/19 **Analysis of Progress of Quarterly Performance against The Plan Quarter Three 2018/19**

Gary Taylor, Assistant Chief Fire Officer provided an overview of the report:

PI 1 The risk based attendance standard: performance was below target and below the lower tolerance (rated blue) with a quarterly figure of 4 minutes 43 seconds.

Attendance times for category two, three and four incident types remained well within the respective targets:

- Category 2 incident types: 5 minutes 31 seconds (target is under 7 minutes)
- Category 3 incident types: 4 minutes 58 seconds (target is under 10 minutes)

- Category 4 incident types: 6 minutes 36 seconds (target is under 20 minutes)

PI 2 The number of accidental dwelling fires: there had been 1203 incidents year to date. The Home Office had acknowledged that nationally the number of incidents were increasing. However, in the West Midlands the number of incidents year to date were the lowest ever recorded. It was noted that although a data quality check on a small number of incidents had found no errors, a larger check would be carried out at the end of the financial year to ensure the figures were correct.

PI 3 Injuries from accidental fires in dwellings (taken to hospital for treatment): there had been 17 injuries during quarter three, 35 year to date.

PI 4 The number of deaths from accidental dwelling fires: there had been four fatalities experienced year to date.

PI 5 The percentage of Safe and Well visits referred by our partners: performance was below target and below the lower tolerance level (rated red). Examination of the data had shown that the system that was used to track partnership referrals had been used to track additional work streams including initiatives and faulty smoke alarms. This had inadvertently skewed the figures and resulted in a lower than previously expected number of partnership referrals. More work to understand the situation would continue and the Service would have a more informed view of the issue come the end of the year.

PI 6 The number of Safe and Well points achieved by the Service: 238,091 Safe and Well points had been achieved year to date, above the target and the upper tolerance level (rated blue).

PI 7 The number of people killed or seriously injured (KSI) in road traffic collisions: delays with the data continued. It was hoped that more timely and robust figures would be available in the near future. The Service was a key stakeholder in the recently published West Midlands Regional Road Safety Strategy.

The suite of performance indicators for deliberate fires (PIs nine to 12) were all classed as performing within the tolerance levels or over performing. This reflected the proactive work undertaken by staff and partners to reduce the number of incidents.

PI 8 The number of deliberate fires in dwellings: there had been 170 incidents experienced year to date, above target but within the tolerance levels (rated green).

PI 9 The number of deliberate fires in non-domestic premises: performance was below the target and below the lower tolerance level (rated blue). Significant reductions in the number of deliberate fires had been observed at HMP Birmingham.

PI 10 The number of deliberate vehicle fires: performance was below target and within the tolerance levels. Although the number of incidents had spiked nationally, the numbers in West Midlands remained low.

PI 11 The number of deliberate rubbish fires: performance was below the target and below the lower tolerance level.

PI 12 The number of deliberate fires in derelict buildings: performance was below the target and below the lower tolerance level. It was noted that in addition to the securing of sites / target hardening, a number of sites were now in the process of being redeveloped which reduced the potential for these types of incident.

PI 13 The number of accidental fires in non-domestic premises: performance was above target but within the tolerance levels (rated green).

PI 14 The number of false alarm calls due to fire alarm equipment in dwellings and non-domestic premises: performance was above target and above the upper tolerance level. However, a significant reduction in the number of incidents had been observed compared to the previous quarter. It was noted that it was accepted that there were limited tolerances for premises but the Service liaised

with site managers to try to ensure that the number of incidents remained at a minimum.

Helen Sherlock, Senior Business Partner, People Support Services provided an overview of the people related performance indicators:

PI 15 The percentage of employees that have disclosed their disabled status: performance remained relatively constant with a disclosure rate of 94.7%. Performance was with the tolerance levels (rated green).

PI 16 The number of female uniformed staff: performance was just one below target and within the tolerance levels (rated green).

PI 17 The percentage of all staff from Black Minority Ethnic (BME) communities: performance was just below the target and within the tolerance levels (rated green).

PI 17 The percentage of uniformed staff from BME communities: 9.8% of uniformed staff were from BME communities, the same figure as quarter two and within the tolerance levels.

PI 18 The average number of working days / shifts lost due to sickness – all staff: performance was above the target and the upper tolerance level (rated red). An average of 2.27 working days/shifts per person were lost due to sickness during quarter three, equating to 6.02 year to date. The figure was significantly higher than the target and the figures for the previous year. Work was being undertaken to break the figures down into areas with a view to develop better understanding.

PI 19 The average number of working days / shifts lost due to sickness – uniformed and Fire Control staff: performance was above the target and the upper tolerance level (rated red). An average of 2.17 working days/shifts per person were lost due to sickness during quarter three, equating to 5.75 year to date, significantly above the target (and a 17.1% increase compared to the same period during 2017/18).

PI 20 The average number of working days / shifts lost due to sickness – non-uniformed staff: performance was above the target and the upper tolerance level (rated red). An average of 2.64 working days/shifts per person were lost due to sickness during quarter three, equating to 6.93 year to date. Again, sickness levels were significantly above target (representing a 40.9% increase compared to the same period during 2017/18).

Missing sickness details/data remained an issue and work was continuing to understand and improve.

It was noted that the work being undertaken to address the significant under performance would be reported back to the Committee as part of the quarter four update.

PI 21 The total number of injuries: performance was above target but within the tolerance levels (rated green). Slips, trips and falls remained the main cause of injuries (22 of 91 injuries). A 15% increase in near hit reports had been observed, reflecting a positive culture towards health and safety, and that members of staff felt confident to raise such issues. Issues regarding satellite navigation remained one of the main trends; the Service had emphasised to staff that this was an assistive solution and was an additional tool to accompany topography/local knowledge.

PI 22 The total number of RIDDOR injuries: performance was slightly below target and within the tolerance levels (rated green). One significant safety event had been recorded which was being jointly investigated by the Service and Fire Brigade's Union, and would be followed up by the Health and Safety Executive.

In answer to Members questions, the following points were raised:

- With regard to staff declaring their disability status, it was possible that some staff members were not declaring their status as they may not be confident about the system that holds the data. However, some staff members may simply not wish to declare, and

there is no mandatory requirement for a member of staff to declare such information.

- A Member asked if the information on protected characteristics could be broken down further and reported to the Committee. It was noted that:
 - Information regarding protected characteristics were recorded via sub-PIs.
 - The information was collected and reported through the quarterly performance review framework, which flowed into the Scrutiny Committee via this report.
 - The Service reported annually against the set of equality objectives. This could potentially be reported through the Committee.
 - Ways in which further information on protected characteristics could be reported to the Committee would be explored.
- The Chair noted that there was an open invite to all Members if they wished to attend the quarterly performance review meetings.

Resolved that the Committee noted:

- the status of the Service's key performance indicators in the third quarter of 2018/2019
- the progress made in delivering the three strategic priorities contained in The Plan 2018-2021
- the update on the performance information system.

It was agreed that:

- Ways in which further information on protected characteristics could be reported to the Committee would be explored

5/19 **West Midlands Fire Service – Call Challenge**

Gary Taylor, Assistant Chief Fire Officer, presented a report on the Service's approach to call challenge:

The report had been submitted to the Committee as a result of a request raised by Members at the Committee's meeting held on 14 November 2018.

The report outlined the Service's Emergency Call Management protocol which was a generic system for the successful management of emergency calls based on the principle that an emergency call can be dealt with within three distinct stages (primary questions, assessment questions, and pre-arrival guidance). The overall aim of using the protocol was to ensure that the response was appropriate to the types of risk and calls attended, reducing the risk to responders and improving public safety.

6/19 **Scrutiny Committee Work Programme 2018-19**

The Committee noted the Work Programme for 2018/19.

The meeting finished at 11:56am.

Contact Officer: Stephen Timmington Strategic Hub West Midlands Fire Service 0121 380 6680
