

Cabinet

18 October 2017

Time 5.00 pm **Public Meeting?** YES **Type of meeting** Executive

Venue Training Room, Ground Floor - Civic Centre, St Peter's Square, Wolverhampton WV1 1SH

Membership

Chair Cllr Roger Lawrence (Lab)
Vice-chair Cllr Peter Bilson (Lab)

Labour

Cllr Claire Darke
Cllr Steve Evans
Cllr Val Gibson
Cllr Milkinderpal Jaspal
Cllr Andrew Johnson
Cllr John Reynolds
Cllr Sandra Samuels OBE
Cllr Paul Sweet

Quorum for this meeting is five Councillors.

Information for the Public

If you have any queries about this meeting, please contact the Democratic Services team:

Contact Philippa Salmon
Tel/Email Tel: 01902 555061 or philippa.salmon@wolverhampton.gov.uk
Address Democratic Services, Civic Centre, 2nd floor, St Peter's Square, Wolverhampton WV1 1RL

Copies of other agendas and reports are available from:

Website <http://wolverhampton.moderngov.co.uk>
Email democratic.services@wolverhampton.gov.uk
Tel 01902 550320

Please take note of the protocol for filming, recording, and use of social media in meetings, copies of which are displayed in the meeting room.

Some items are discussed in private because of their confidential or commercial nature. These reports are not available to the public.

Agenda

Part 1 – items open to the press and public

Item No. *Title*

MEETING BUSINESS ITEMS

- 1 **Apologies for absence**
- 2 **Declaration of interests**
- 3 **Minutes of the previous meeting** (Pages 5 - 10)
[For approval]
- 4 **Matters arising**
[To consider any matters arising from the minutes of the previous meeting]

DECISION ITEMS (RED - FOR DECISION BY THE COUNCIL)

- 5 **Digital Transformation Programme 2017-19** (Pages 11 - 32)
[To consider the ICT and Digital Strategy 2017 to 2022 and the underpinning Digital Transformation Programme to deliver the Strategy.]

DECISION ITEMS (AMBER - DELEGATED TO THE CABINET)

- 6 **Governance of West Midlands Fire Service** (Pages 33 - 92)
[To approve the content of the governance review and scheme for the West Midlands Fire Service.]
- 7 **Draft Budget and Medium Term Financial Strategy 2018-19 - 2019-20** (Pages 93 - 112)
[To approve matters relating to the draft budget for 2018-2019 and beyond as the basis of consultation with stakeholders.]
- 8 **Housing Enforcement and Charging Policy** (Pages 113 - 142)
[To approve a revised private sector housing enforcement policy incorporating the use of Civil Penalties charging structure and implications for private sector housing licensing schemes.]
- 9 **Housing Allocation Policy - Immediately Available Homes** (Pages 143 - 152)
[To approve the adoption of the Immediately Available Homes scheme as part of the Housing Allocation Policy, following the pilot.]

- 10 **Financial Support to Foster Carers for the Purchase of a Large Vehicle**
(Pages 153 - 164)
[To approve financial support to foster carers for the purchase of a large vehicle.]

- 11 **Hot Food Takeaway Supplementary Planning Document** (Pages 165 - 222)
[To approve the draft Hot Food Takeaway Supplementary Planning Document (SPD) for public consultation.]

- 12 **Exclusion of press and public**
[To pass the following resolution:

That in accordance with Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business as they involve the likely disclosure of exempt information on the grounds shown below.]

PART 2 - EXEMPT ITEMS, CLOSED TO PRESS AND PUBLIC

DECISION ITEMS (AMBER - DELEGATED TO THE CABINET)

- | | | | |
|----|---|---|-----|
| 13 | I9 Office Scheme – Development and Investment Proposal (Pages 223 - 254)
[To approve the business case for progressing with i9 as the next commercial phase of the Interchange masterplan.] | Information relating to the financial or business affairs of any particular person (including the authority holding that information) | (3) |
| 14 | Cricket Provision Capital Report (Pages 255 - 258)
[To outline the capital funds required to deliver cricket projects across the city.] | Information relating to the financial or business affairs of any particular person (including the authority holding that information) | (3) |

This page is intentionally left blank

Meeting of the Cabinet

Minutes - 13 September 2017

Attendance

Members of the Cabinet

Cllr Roger Lawrence (Chair)
Cllr Peter Bilson (Vice-Chair)
Cllr Claire Darke
Cllr Steve Evans
Cllr Val Gibson
Cllr Milkinderpal Jaspal
Cllr Andrew Johnson
Cllr John Reynolds
Cllr Sandra Samuels OBE

Employees

Mark Taylor	Strategic Director - People
Kevin O'Keefe	Director of Governance
Ross Cook	Service Director - City Environment
Alison Shannon	Deputy Section 151 Officer
Jaswinder Kaur	Democratic Services Manager
Greg Bickerdike	Democratic Services Officer
Oliver Bhurrut	Media Communications Officer

Part 1 – items open to the press and public

- | <i>Item No.</i> | <i>Title</i> |
|-----------------|--|
| 1 | Apologies for absence
Apologies for absence were received from Councillor Paul Sweet and Councillor Bhupinder Gakhal. |
| 2 | Declaration of interests
There were no declarations of interest. |
| 3 | Minutes of the previous meeting
That the minutes of the previous meeting held on 19 July 2017 be approved as a correct record and signed by the Chair. |
| 4 | Matters arising
There were no matters arising from the minutes of the previous meeting. |

5 Wolverhampton Interchange Programme

Councillor John Reynolds presented the Wolverhampton Interchange Programme report for recommendation to Council. The report provided an update on the Interchange Programme and sought approval for a revised funding strategy.

Resolved:

1. That Council be recommended to approve the utilisation of the existing borrowing provision to support the Interchange Programme.
2. That the submission of funding applications to the West Midlands Combined Authority and the Black Country LEP to support the Interchange Programme be approved.
3. That authority be delegated to the Cabinet Member for Resources and the Director of Finance to accept any grants awarded.

6 Business Rates Discretionary Relief

Councillor Andrew Johnson presented the Business Rates Discretionary Relief report, which proposed an extension to the Council's local scheme for business rate discretionary relief. Councillor Johnson thanked the Head of Revenue and Benefits for the work undertaken. The scheme was also aligned with the principles of other local schemes in the region and welcomed by the businesses impacted by the change.

Resolved:

1. That an extension to the local business rates discretionary relief policy be approved.
2. That it be noted the scheme would need to be reviewed and revised each year in line with the funding be noted.

7 Scrutiny Review of the City's Apprenticeship Offer

Councillor John Reynolds presented the report on behalf of Councillor Bhupinder Gakhal, the Chair of the Scrutiny Review. The report presented the findings of the scrutiny review of the City's apprenticeships offer and requested the approval of the recommendations, detailed in Appendix 1 of the report, to improve the City's offer.

Resolved:

1. That the recommendations detailed in Appendix 1 of the report be approved.

8 Electric Vehicle Infrastructure Scheme

Councillor Steve Evans presented the supplementary report on Electric Vehicle Infrastructure Scheme for recommendation to Council. Councillor Evans thanked the employees involved in producing the report for the work undertaken. The report requested that Cabinet recommends that Council approves the receipt of a grant from the Office of Low Emission Vehicles (OLEV) and for that grant to be transferred to a private delivery partner in due course.

Resolved:

1. That Council be recommended to approve the receipt of grant for £478,000 awarded by the Office for Ultra Low Emissions to the Council to install 24 electric vehicle charge points in the City.
2. That Council be recommended to approve the delegation of authority to the Cabinet Member for City Environment, in consultation with the Director of Finance, to transfer the full grant to the preferred private partner, once identified.
3. That Council be recommended to reduce the Capital Programme budget for Smart and Accessible City against which this programme was assigned to £478,000 to reflect the grant allocation.

9 **Private Sector Housing Assistance Policy**

Councillor Peter Bilson presented the Private Sector Housing Assistance Policy. The report sought to amend the existing policy, as detailed in the recommendations of the report and that the policy programmes would be delivered through Wolverhampton Homes. The revised policy would continue to be delivered within existing budgetary provision.

Resolved:

1. That the proposed amendments to the Housing Assistance Policy be approved and published as required by the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 for the purposes of:
 - i. to amend the policy to allow a wider range of adaptations to be undertaken including:
 - All stairlifts, modular ramps and ceiling track hoists – up to £8,000, including the provision of stairlift maintenance contracts
 - Bathroom adaptations to enable safe access to bathing and toileting facilities – up to £5,000
 - ii. to provide a more comprehensive approach to assisting vulnerable households by considering “whole home” solutions rather than addressing issues on a piecemeal basis by enabling a single housing assistance proposal to be delivered under a streamlined grant/loan process.
2. That the delivery of the Private Sector Housing Assistance Policy programmes through Wolverhampton Homes be approved.

10 **Memorandum of Understanding - Black Country Sustainability and Transformation Plan**

Councillor Roger Lawrence presented the Memorandum of Understanding – Black Country Sustainability and Transformation Plan. The report advised Cabinet of the draft Memorandum of Understanding (MoU) which had been developed to support the ongoing partnership of the Black Country and West Birmingham Sustainability and Transformation Partnership. Following a discussion, Cabinet requested an amendment to the recommendations to specify that associate member status would be pursued.

Resolved:

1. That the Council pursue Associate Member status of the Black Country and West Birmingham Sustainability and Transformation Partnership.
2. That the response to the Black Country and West Birmingham Sustainability and Transformation Partnership (STP) Draft Memorandum of Understanding (MoU) attached as Appendix 1 of the report be noted.
3. That the process and content of development of the Black Country and West Birmingham STP and the MoU attached as Appendix 1 of the report be noted.

11

Safer Wolverhampton Partnership Annual Report 2016-17

Councillor Andrew Johnson presented the Safer Wolverhampton Partnership Annual Report 2016-17 on behalf of Councillor Paul Sweet. Councillor Johnson thanked the Head of Community Safety for the work undertaken. The report provided a summary of Safer Wolverhampton Partnership progress during 2016-17 and sought support for identified areas of future development. Councillor Johnson proposed an amendment to the recommendations, which was agreed as detailed in recommendation 2, as a result of the successful collaborative work that had been accomplished in other areas, such as child sex exploitation.

Resolved:

1. That the Safer Wolverhampton Partnership Annual Report 2016-2017 be endorsed and identified areas be supported for development.
2. That further dialogue be sought with partners regarding how to respond to issues of concern and areas for further collaboration in light of potential regional changes to safer partnership arrangements.

12

Reorganisation of Educational Provision - Whitgreave Infant and Whitgreave Junior Schools

Councillor Claire Darke presented the report on the Reorganisation of Educational Provision relating to Whitgreave Infant and Whitgreave Junior Schools. The report requested the commencement of a period of informal consultation on the proposal to merge the infant and junior schools. Cabinet was informed that the governing bodies of both schools were in support of the proposal.

Resolved:

1. That the commencement of informal consultation on the proposed merger of Whitgreave Infant School with Whitgreave Junior School be approved.
2. That authority be delegated to the Cabinet Member for Education, in consultation with the Assistant Director - School Standards, to consider the outcome of informal consultation on the proposed merger of Whitgreave Infant School with Whitgreave Junior School and to determine whether or not to proceed to formal consultation.

At this point, Councillor Sandra Samuels OBE made the Chair aware that she had a pecuniary interest in item 6 (Business Rates Discretionary Relief) as she was the owner of a business in the City.

13 Exclusion of press and public

Resolved:

That in accordance with Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business as they involve the likely disclosure of exempt information relating to any individual, information which was likely to reveal the identity of an individual and/or information relating to the business affairs of any particular person (including the authority holding that information).

14 City of Wolverhampton College

Councillor Andrew Johnson presented the report that was exempt as it contained information relating to the financial or business affairs of any particular person (including the authority holding that information) under Schedule 12A of the Local Government Act 1972 (as amended), Part 1, Paragraph 3.

Resolved:

1. That the recommendations as detailed in the exempt report be approved.

15 Improving Pedestrian Safety

Councillor Roger Lawrence presented the report that was exempt as it contained information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime under Schedule 12A of the Local Government Act 1972 (as amended), Part 1, Paragraph 7.

Resolved:

1. That the recommendations as detailed in the exempt report be approved.

16 School Expansion Programmes

Councillor Claire Darke presented the report that was exempt as it contained information relating to the financial or business affairs of any particular person (including the authority holding that information) under Schedule 12A of the Local Government Act 1972 (as amended), Part 1, Paragraph 3.

Resolved:

1. That the recommendations as detailed in the exempt report be approved.

17 Procurement - award of contracts for works, goods and services

Councillor Andrew Johnson presented the report that was exempt as it contained information relating to the financial or business affairs of any particular person (including the authority holding that information) under Schedule 12A of the Local Government Act 1972 (as amended), Part 1, Paragraph 3.

Resolved:

1. That the recommendations as detailed in the exempt report be approved.

This page is intentionally left blank

Cabinet Meeting

18 October 2017

Report title	Digital Transformation Programme 2017-20	
Decision designation	RED	
Cabinet member with lead responsibility	Councillor Andrew Johnson Resources	
Corporate Plan priority	Confident Capable Council	
Key decision	Yes	
In forward plan	Yes	
Wards affected	(All Wards)	
Accountable Director	Mark Taylor, Strategic Director, People	
Originating service	Corporate Directorate	
Accountable employee	Andrew Hoare	Digital Transformation Programme Director
	Tel	01902 554044
	Email	andrew.hoare@wolverhampton.gov.uk
Report to be/has been considered by	Strategic Executive Board	2 October 2017
	Scrutiny Panel	10 October 2017

Recommendation for action:

That Cabinet recommends that Council approves:

1. The implementation of future phases of the Digital Transformation Programme over the period 2017-18 to 2019-20.
2. The allocation of projected capital resources totalling £3.0 million for the delivery of the next phase, Phase 2, of the City of Wolverhampton Council's Digital Transformation Programme over the period 2017-18.
3. The allocation of additional capital resources totalling £1.0 million for the further rollout of the ICT capital programme during 2017-18.

Recommendations for noting:

That Cabinet is asked to note:

1. That future phases of the Digital Transformation Programme over the period 2018-19 and 2019-20, is anticipated to have a total projected capital cost of £11.0 million and will be subject to Council approval.
2. That future funding for the ICT capital programme over the period 2018-19 and 2019-20, is anticipated to have a total projected capital cost of £5.0 million and will be subject to Council approval.
3. That the Digital Transformation Programme will build internal capability to support continuous improvement of digital services once the programme itself has been completed.
4. That Scrutiny Board have been asked to review the contents of this report and provide feedback to Cabinet ahead of making these decisions to implement future phases of the Digital Transformation Programme.

1.0 Purpose

- 1.1 The purpose of this report is to request that Cabinet agree to recommend that Council approve Phase 2 of the delivery of the Council's Digital Transformation Programme.
- 1.2 Furthermore, this report seeks Cabinet approval to recommend that Council agree to reprofile and increase the ICT capital programme for 2017-18.

2.0 Background

- 2.1 The City of Wolverhampton Council (the Council) has a responsibility to provide excellent services and value for money to the taxpayer. Driven by budget cuts, increases in demand, an aging population and new areas of responsibility the financial pressure we face is set to continue for the foreseeable future. Delivering cost effective services is becoming more of a challenge and the Council needs to achieve a budget reduction amounting to £15.5 million over the two-year period to 2019-20.
- 2.2 Usage of digital services in the community is increasingly common, with the banking, travel and retail sector taking the lead in delivering customer focused services that both increase user satisfaction and reduce the cost to provide services. Our customers now expect to transact with the Council in the same way. Through online self-service we can generate a reduction in costs whilst providing quicker, effective, more convenient and easier ways for customers to access council services.
- 2.3 The Council can also deliver more cost-effective services by making better use of the information it holds to enable decision making that results in improved outcomes and meets customers' expectations. In addition to providing insights that allow us to get it right first time, better manage demand and enable pre-emptive intervention.
- 2.4 Our employees are our most valuable asset and by enabling them with technology we aim to make work an activity we do, rather than a place we go to. Through agile working we will empower our people to work where, when and how they choose with complete flexibility of work to drive long-term organisational success. Whilst it can unlock value for both the employer and the employee, it will be driven by customer and business needs.
- 2.5 In summary, the programme aligns with and supports the council strategy and corporate plan by delivering on the strategic themes of the ICT and digital strategy which aims to:
 - Empower customers (citizens, residents, visitors, businesses and partners) capable of self-serving with the means to do so, ensuring the council can focus precious resources upon those in society most in need;
 - Enable employees to work more effectively while they are out and about or operating from different office sites making them more productive and reducing the cost to serve;

- Create a capable organisation that effectively implements and utilises information, technology, digital tools and approaches to give the council the ability to deal with challenges more effectively.

3.0 Progress

3.1 The Customer Platform, which was launched in February 2017, is a mobile-friendly gateway that makes it easy for residents and businesses to potentially access a wide range of services, benefits and to transact with the council. Through a central online account and associated digital services, customers can apply, report and pay for services online at their convenience. The Customer Platform workstream has:

- Implemented a single future proofed customer case management and Customer Relationship Management (CRM) solution to support contact centre consolidation and enable end to end digital service provisioning of services;
- Implemented a fully digital Healthy Life Styles operating model and business solution to support the move from the NHS;
- Created reusable components to enable 24/7/365 availability of all eligible council services. The project proved the concept by delivering bulky waste, tip permit and digital payment services;
- Launched an online customer account with 16,000 'My Account' registrations to date. Enabling the migration of the e-billing solution to the new customer 'My Account' portal.

3.2 Our business intelligence dashboards for Finance and HR reporting have been considered a step change by our peer councils. This has led to a number of speaking engagements at LGA forums with the Digital Transformation Director providing thought leadership for the sector. The business intelligence workstream has:

- Created a HR Dashboard capable of providing managers with full drill down visibility of employee details in their entire establishment;
- Created a finance capital budget management dashboard capable of providing budget holders with one place they can go for full real-time capital budget visibility of their area of responsibility;
- Produced a finance revenue budget management dashboard providing real-time visibility of budget managers revenue position;
- Built a data analysis module for the mainframe archive enabling quicker more informed responses to invoice payment queries, which has already saved the council thousands by stopping duplicate payments;

- Created an initial Customer Services Dashboard providing full drill down capability and ready for full automation in the next phase of the project.

3.3 The programme has established a single view of the customer across the Council with Data Stewards from the business area taking responsibility for on-going management and maintenance of the data. Enabling the Council to relate to the customer intelligently as a single organisation. The Single View workstream has:

- Collated three key data sources including council tax and housing benefits, adult social care and housing management into a single customer view;
- Established a data stewards team to enable and support continuous data quality and data governance procedures within business units;
- Improved council data sharing and data quality. The council now has over 160,000 cleansed data records which have been updated into the source systems;
- Uploaded customer data into CRM to provide initial customer information and will support the Customer Platform to provide a 360-degree view of the customer to service departments and the customer themselves through the 'My Account' feature.

3.4 The Council's investment in digital transformation over the last two years means that it is in a strong position to take advantage of the opportunities that continue to be presented. The foundation is in place to allow rapid progress to be made in digitalising all the council's services over the next two years.

4.0 **Programme workstreams**

4.1 Customer Platform - Enhancements to the Customer Platform especially the 'My Account' feature and the end to end digital enablement of all report it, request it, payments and application services by 2020.

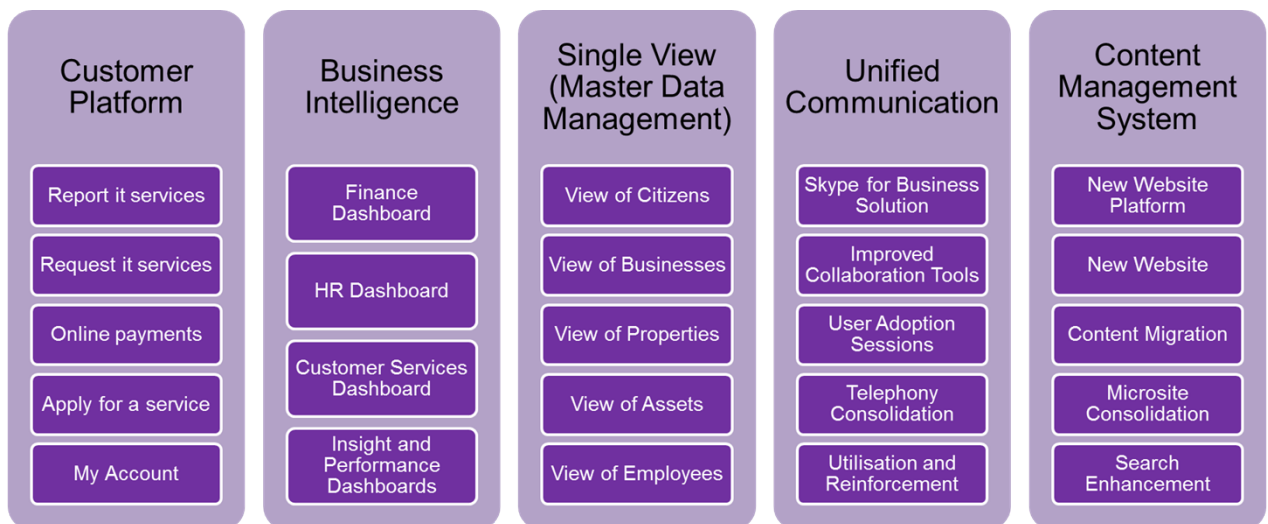
4.2 Business Intelligence - Enhancing the finance dashboard, full automation of the customer services dashboard and HR dashboard to include management of attendance, appraisals and training records. Utilising council data as a valuable asset for driving service delivery improvements.

4.3 Single View - Utilising data held in our systems to provide consolidated views of the customer, businesses and properties. Supporting change of circumstances and consent management for the General Data Protection Regulation (GDPR).

4.4 Unified Communications - Enabling our telephony services to support flexible and agile working practices to enable property rationalisation, employee work/life balance, maximise team collaboration, efficiencies and productivity.

- 4.5 Content Management System (CMS) - Replacing the council's website and migrating relevant content to the new website to better support digital customers. Implementing improved search capability and consolidating all council related websites.
- 4.6 End to end digital transformation can enable us to address our savings challenges. However, customer convenience is just the tip of the iceberg, greater benefits and savings will be achieved through:
- better long-term outcomes;
 - operational efficiency;
 - demand avoidance;
 - satisfactory customer outcomes delivered first time.

5.0 Future phases deliverables



- 5.1 The Customer Platform workstream will deliver full end to end digital customer services covering:
- Report it: missed bins, fly tipping, benefit fraud, child safeguarding, adult safeguarding and potholes;
 - Request it: bulky waste collection, new bin, home visit, parking dispensation and appointments;
 - Payment: council tax, parking fines, business rates, planning applications, school fines and other upfront payment opportunities;
 - Applications: blue badges, planning permission, taxi licenses, benefits and business licenses;

- My Account: edit details, change of circumstances, open cases, history and document upload.

5.2 The Business Intelligence workstream will deliver insights to enable our employees to make better more informed decision by providing:

- Finance dashboard that enables budget managers to have full real-time visibility of their budget position, compare against previous periods and forecast based on multiple variables;
- HR dashboard that enables managers to have full visibility of their establishment including sickness, management of attendance, mandatory training and appraisals;
- Customer Services dashboard that enables the full automation of real-time customer contact reporting and profiling of channel usage;
- Programme dashboard incorporating the financial position of programmes and project taking place across the council;

5.3 The Single View workstream will deliver consolidated views of customers, businesses and property to ensure that all the engagements with the council are holistic.

5.4 The Unified Communications workstream will deliver follow me telephony services which will enable remote and agile working. Benefits are gained from changing work practices, utilising new technologies and creating new working environments. These include:

- Benefits for the Council:
 - Increased productivity and efficiency
 - Space savings
 - Reduced property costs
 - Reduced cost of fuel and parking
 - Extended business hours
 - Meeting customer's expectations
 - Ability to match workforce to fluctuating demands
 - Better utilisation of skills
 - Increased innovation
 - Reduction in organisational and personal carbon footprint
 - Improved business continuity; less disruption due to weather, office security issues, travel problems etc
 - Improved staff performance
 - Ability to attract and retaining high quality talent
 - Reduced absenteeism and related costs
 - Reduced staff turnover with associated costs and reduction in lost knowledge, skills and experience Increased motivation and engagement of staff;

- Benefits for employees:
 - Reduced travel time and related cost
 - Personal productivity; fewer distractions, improved focus, concentration, creativity, better use of skills and less frustration linked to fewer barriers
 - Improved work life balance
 - Increase in wellbeing, health and happiness; reduced stress, better sense of control, ability to integrate healthy eating and exercise into the day
 - Increased engagement as a result of the autonomy and trust at work.

5.5 The Content Management System (CMS) workstream will deliver a new council website platform and a new website that is fit for purpose and enables:

- Transactional digital services;
- Targeted information;
- Improved search;
- Share customer and customer service agent knowledge base;
- Consolidation of all council related websites onto one CMS platform.

6.0 Benefits

6.1 The overall benefit of the future phases of the programme will be generated from utilising the foundations implemented in the previous phases to:

- Drive down the cost of service delivery;
- Deliver better customer outcomes;
- Reduce duplication of effort;
- Improve customer experience;
- Make best use of the technology investments we have already made;
- Make the best use of our data insights to inform decision making.

6.2 Based on last year's payment provider costs, by consolidating and migrating online payment to our new Customer Platform, the Council should be able to make sizeable cashable savings, based on the transactional charge reducing from 1.46% to a flat rate of 5p per transaction.

- 6.3 Based on the Customer Service Overall Performance report for March 2016 the Council answered 57,536 calls. Using industry average channel cost figures, the Council cost of provisioning this call answering service was in the region of £150,000. Based on this, if:
- 20% of customers used self-service, the Council would save approximately £30,000 monthly or £360,000 per annum;
 - 50% of customers used self-service, the Council would save approximately £75,000 monthly or £900,000 per annum;
 - 80% of customers used self-service, the Council would save approximately £120,000 monthly or £1.4 million per annum.
- 6.4 Based on the Customer Service Overall Performance report for March 2016 the Council had 14,484 visitors to Customer Services in the Civic Centre. Using industry average channel cost figures, the cost to the Council was in the region of £119,000. Based on this, if:
- 20% of customers self-served the Council would save approximately £24,000 monthly or £286,000 per annum.
- 6.5 It is important to note that the ability of the Council to realise these as cashable savings is yet to be determined. Some of these reductions will be realised as efficiencies rather than cashable savings.
- 6.6 Other benefits include:
- a) Reduction in the cost to serve the customer which will support the council to address the budget challenge. The programme aims to:
- Reduce duplication of effort and solution, increase productivity and deliver more with less by reducing avoidable contact, automating processes and handing off fulfilment to the most appropriate resources;
 - Achieve early and incremental benefits from investments by using agile programme and project delivery methodology, ensuring the council does not have wait until the end of the project to gain value;
 - Automate transactional tasks so that resources are freed-up to perform task that add value and reduce the cost to serve;
 - Support digital customers to use lowest cost contact channels by choice because it is the most convenient and easy to use channel.
- b) Improved customer experiences and customer satisfaction with council services and outcomes. The programme's aim is to:
- Enable 365/24/7 always on council services;

- Enable end to end digital customer self-service to report, request, pay (up front) and complete applications online;
 - Personalise, remember and relate to customers intelligently as a single organisation;
 - Provide customers the ability to openly track progress and status, view transaction and engagement history;
 - Provide information required by the customer in the most convenient way to enable the customer to deal with an event in their life;
 - Encourage feedback from customers to tell us what services are performing well or poorly and how they can be improved;
 - Connect customers to people who have similar needs and involve them in the re-design of services.
- c) New capabilities enabled to support customers and employees to deliver better outcomes at a reduced cost. The programme's aim is to:
- Enable customer multi-channel engagement so that they have a choice, but still get the same level of exceptional service;
 - Enable customers to assess their own needs so that they are empowered to make decisions for themselves;
 - Accurate, consistent and high-quality data to support the provision of all council services;
 - Provide a single view of customers, businesses and property to ensure appropriate collection of taxes, rates and best usage of council asset;
 - Informed and evidenced decision making based on seamless integration with back office applications.
- d) Future proof the organisation by ensuring that it can adapt and cope with the changing demands and expectations of the customer and employees. The programme's aim is to:
- Automate transaction processing by enabling digital processes;
 - Improve the management and utilisation of information;
 - Improve data security and meet compliance requirements;

- Reduce avoidable contact resulting in cost avoidance;
- Improve demand management and enable pre-emptive intervention resulting in few people being caught in the benefit trap.

7.0 Evaluation of alternative options

7.1 The alternative to continuing the delivery of the Digital Transformation Programme as outlined in this report are:

- Deliver a subset of the workstreams. The sum is much greater than its parts. This option would result in the loss of critical components that enhance the benefits of having a full integrated end to end digital solution. The customer experience would become inconsistent and unreliable resulting in a reduction in take-up, adoption and utilisation of the services provided;
- Stop the digital transformation programme. This option would result in the service areas not being able to deliver their contribution to the Council financial savings target. Digital transformation is a key enabler for the C3 transformation programmes.

8.0 Reasons for decisions(s):

- 8.1 The Digital Transformation Programme is an enabler for the Council's Confident, Capable Council (C3) transformation programme which underpins its drive to improve services and transform the way the council works. It is a requirement to enable us to deliver on our Corporate Plan.
- 8.2 End to end digitalisation of Council services will enable new ways of working and support better customer outcomes whilst meeting our financial challenge and delivering on our strategic priorities for the city 'a stronger economy, stronger communities, supported by a Confident, Capable Council.'
- 8.3 The Digital Transformation Programme will enable us to meet the changing behaviours, demands and expectation of customers who have become used to the convenience of digital technologies. At the same time, we will leverage the self-service opportunities that allow us to deliver services at a reduced cost.
- 8.4 The investment will enable the Council to better utilise the data it holds to inform decision making by providing actionable insight to the right people, in the right format at the right time.
- 8.5 The solution will enable the Council to comply with security and data protection legislation, including the new General Data Protection Regulation (GDPR) minimising the risk of data loss, data breaches and the associated penalties.

8.6 The investment will mean that the programme can enable the delivery of savings targets that are dependent on digital transformation. For example:

- Customer Services Transformation Programme is reliant on DTP to enable its savings target to be achieved;
- Digital enablement is required in order to begin the transformation of the Registrars services and achieve both operational efficiency and expected savings;
- Agile, flexible and mobile working is dependent on the delivery of follow me telephony in order to be fully operational. Future Space programme savings are dependent on a digitally enabled workforce.

9.0 What will be different?

9.1 Empowered Customer:

- The business model, processes and people will be reshaped around the customer journey, demands and expectation with the help of technology enablement.
- Customers will be empowered to help themselves through digital self-service channels that will be always-on, ensuring that access to public services using their choice of device at a time and place convenient to them.
- The Council's Customer Platform will continue to be enhanced, digitally enabling all council services by 2020 and promoting personalised customer self-service through the 'My Account' functionality.
- Through integrated feedback channels customers will have a voice that can be heard and will help co-create services that are customer focused, digital, convenient, consistent, simple to use, intuitive enough that users succeed the first time they engage and with the right mix of automated and human touch points.

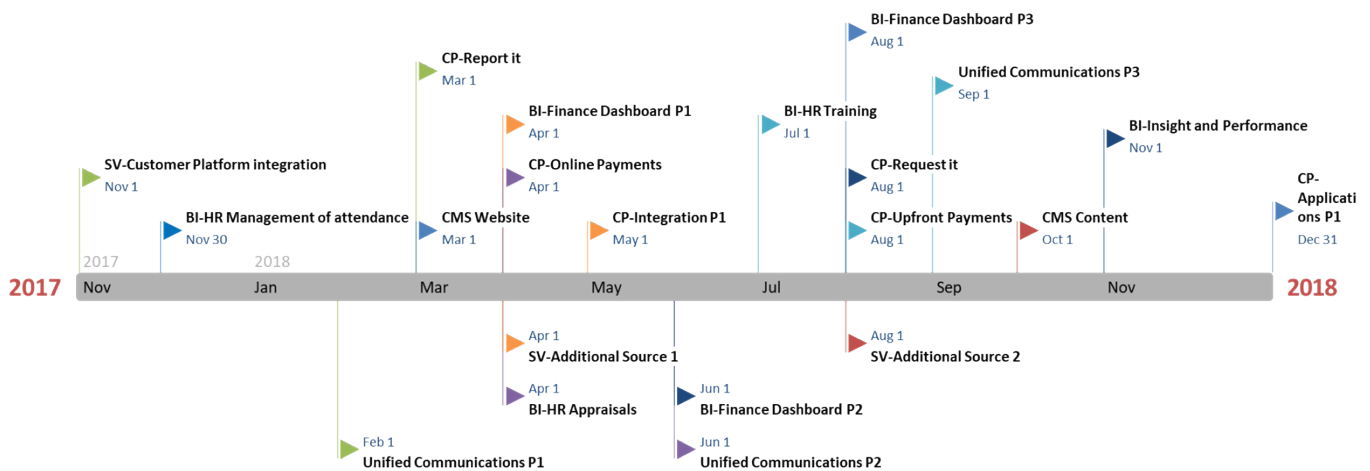
9.2 Enabled Employee:

- For City of Wolverhampton Council employees, work will become what you do not where you go. Employees will be provided with the tools and skills to be able to carry out their duties from any location, using any device and at any time.
- A suite of productivity software for collaboration and unified communications including follow me telephony will be implemented and accompanied by people change management activities to ensure adoption and utilisation.

9.3 Capable Organisation:

- Data will be recognised as a valuable asset for driving service delivery improvements. We will deliver the initiatives of 'Open Data' and 'Data Transparency' in line with Central Government policy and in collaboration with our partners and the community.
- We will apply digital thinking and agility across everything we do; how we engage, serve, and meet customer expectations; how we ensure services are secure, simple, standardised and shared; how we operate our internal processes; and how we source or commission business services.

10.0 Timescales



10.1 In quarter 3/4 2017-18 the programme will deliver:

- Two-way integration between the consolidated single view of the customer and the council's CRM solution to enable real-time customer detail updates;
- HR management of attendance dashboard to enable line managers to proactively manage attendance within their establishment;
- HR appraisals dashboard to enable manager to track and report on the status of appraisals in their establishment;
- Finance dashboard to enable financial visibility of budget and income through an easy to use platform;
- Fit for purpose unified communications infrastructure and configuration that can support the full requirements of the council;
- New website platform and website ready to be used as the front door for all council services;

- All the report it services accessible from the new website as self-service digital offering which is available 24/7/365;
- All payments available to customers online form the new council website as a self-service digital offer 24/7/365.

11.0 Approach

11.1 The Digital Transformation Programme Team has spent the last four months speaking to the different service owners throughout the Council to establish, gather, explore and prioritise the opportunities that they have identified in their business areas.

11.2 The list below are the priority areas that have been identified by the services owners as the areas that will bring the most value to the Council if digitally enabled.

Service Area	Directorate	Requirement (Title)	Theme
Various	Corporate	Online payments	Payments
Customer Services	Corporate	Enhancements to CEP solution (Report IT)	Report It/Request It
Various	Corporate	Upfront Payments	Payments
Adult Services	People	Self Assessment and Referral	Applications
Registrars	Corporate	Registrars	Request It
City Economy	Place	Workbox	Applications
Customer Services	Corporate	Knowledge Base	Information
Adult Services	People	Carers Portal	Various
The Hub	Corporate	Case Management Tracking	Various
Parking Services	Place	Customer visibility of parking appeals	My Account
Schools	Education	Integration with Capita One	Various
Customer Services	Corporate	Missed Bins	Report It
Governance	Corporate	GDPR Compliance	Request It
Various	All	Online appointments	Request It
Communications	Corporate	Campaign management	My Account
Revs and Bens	Corporate	Replacement of Billing Solution	Payments
Governance	Corporate	SAR (Subject Access Request) Management	Request It
Governance	Corporate	FOI Management	Request It
City Economy	Place	Loyalty Card	Various
Childrens Services	People	Foster Carer Portal	Various
Customer Services	Corporate	Complaints and Complements	Report It
Various	Corporate	My Account enhancements	My Account
Pest Control	Place	Pest Control	Request It
Customer Services	Corporate	Sports Pitches	Request It/Applications

11.3 The order in which the services will be delivered by the programme will be prioritised by the Senior Executive Board.

11.4 The products of the programmes will be delivered in an incremental manner that impacts a number of the council's services at the same time to enable early realisation of value and benefits. For example, the payment workstream will enable all online payment service across the whole council ensuring that all service benefit early from the online digital payments service.

- 11.5 Digital services will be delivered using a combined approach that starts by focusing on end to end services reviews in order to fully understand the breadth of the service before reverting to an incremental delivery approach to deliver fully functional features.
- 11.6 To align with the rapid pace of change, the programme will adopt an agile digital delivery framework that can supplement our existing in-house delivery approach, governance and assurance processes.

12.0 Possible savings

12.1 The programme underpins the delivery of existing and future savings required to meet the medium term budget challenge. This includes enabling:

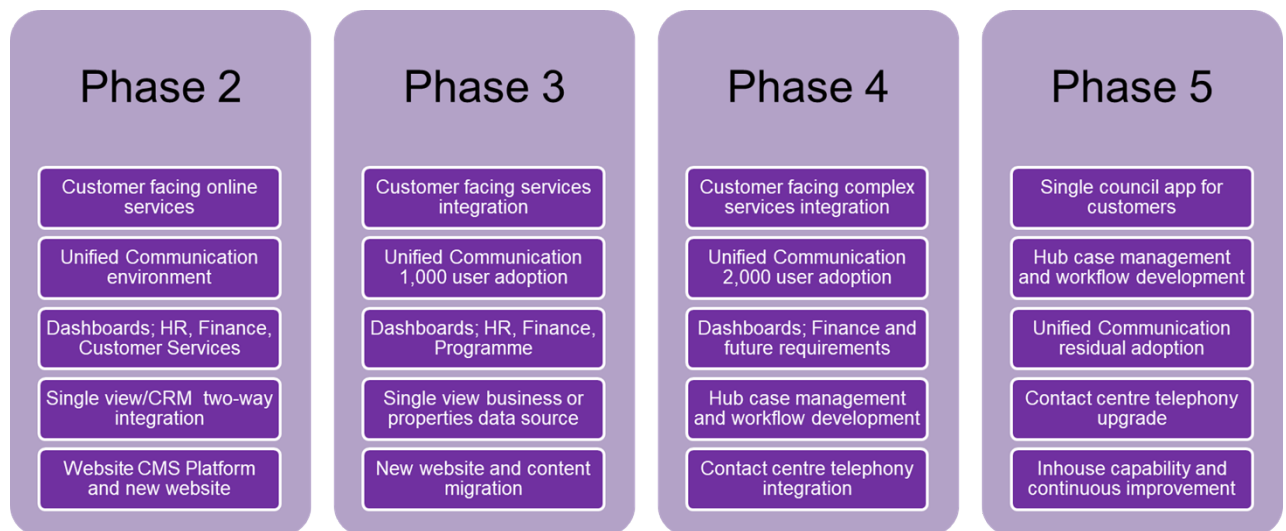
- Savings from releasing staff from transactional tasks so that they can focus on value add tasks;
- Increased productivity through technology enablement;
- Fraud reduction through better use of information about customers, businesses and properties;
- Cost avoidance through informed decision making;
- Enable proactive and predictive intervention through the better use of actionable insights;
- Enablement of further customer contact savings.

13.0 Investment summary

13.1 It is anticipated that the delivery of phases 2 to 5 of DTP would require capital resources totalling £14.0 million.

Workstreams	Investment £000	Revenue £000	Potential Benefits (Key: £££ = £1million+ ££ = £100,000+ £ = £10,000+)
Customer Platform	10,300		£££ - Enabler for end to end digital services
Business Intelligence	800		£ - Enabler for informed decision making
Single view	700		£ - Enabler for 360-degree view of the customer, businesses and properties
Unified Communications	550		££ - Enabler for flexible and mobile working
Content Management System	650	20	Enabler for customer online channel engagement
Contact Centre Telephony	1,000		Enabler for improved telephone channel engagement

13.2 The high-level deliverables for each phase of the programme are outlined below.



13.3 The anticipated profile of investment across the years 2017-2020 is shown below and the release of funds will be subject to Council approval based on delivery of agreed products of the phase.

Phase 2 £000	Phase 3 £000	Phase 4 £000	Phase 5 £000
3,000	4,000	4,000	3,000

14.0 ICT Capital Programme

- 14.1 The Digital Transformation Programme is a major delivery stream of the Council's Future Works programme; one of the seven 'Future' streams of the Council's C3 portfolio. The Future Works programme is predominantly funded through the ICT Capital Programme. The period between the end of phase 1 of DTP and the proposed start of phase 2 of DTP has been funded from the ICT Capital Programme in addition to funding commitments for other priorities such as the upgrade of the Council's social care solution.
- 14.2 The Council's ICT infrastructure needs to be continually updated to remain operational and up to date. Most ICT solutions have a finite shelf life and have to be replaced or upgraded at regular intervals in order to remain current, working and supported; failure to do this could lead to Council ICT solutions breaking and, therefore, being unable to support the Council in its duty to deliver services to citizens. The rolling ICT capital programme which makes budgetary provision for this.
- 14.3 The existing ICT Capital Programme, following a report to Cabinet (Resources) Panel on 23 May 2017, incorporated a range of projects totalling £4.8 million. As a result of the requirement to realign the ICT Capital Programme to support the delivery of some of the Digital Transformation Programme, previously agreed funding for longer term strategic objectives now needs to be reallocated in order to allow the ICT Capital Programme to continue. This realignment has taken place.
- 14.4 Increased funding totalling £1.0 million for the period 2017-18 will be required to support the delivery of the proposed ICT Capital Programme during this period taking the total to £4.4 million. This is shown in Appendix A.
- 14.5 Funding for DTP and the ICT Capital Programme are intrinsically linked. Revenue implications arising from the funding options for both programmes will affect the Council's Medium Term Financial Strategy (MTFS) as well as the ICT revenue budget. These considerations are explored in the Financial Implications of this report.

15.0 Financial implications

- 15.1 The Digital Transformation Programme was first implemented in November 2015. The first phase of the project utilising capital resources totalling £3.6 million, delivered efficiencies across the organisation.
- 15.2 It is projected that the capital cost arising as a result of Phase 2 of the Digital Transformation Programme will be in the region of £3.0 million; fully utilised in 2017-2018. The increase in the capital programme arising as a result of this request will require additional prudential borrowing. The revenue implications of borrowing £3.0 million, including interest costs and the provision for redemption of debt, will be in the region of £490,000 per year over an average asset life of 7 years.
- 15.3 In addition to this, Cabinet approval is sought to increase the ICT capital programme by £1.0 million in 2017-2018. The proposed increase in the capital programme will require

additional prudential borrowing. The revenue implications of borrowing £1.0 million, including interest costs and the provision for redemption of debt, will be in the region of £220,000 per year over an average asset life of 5 years.

- 15.4 It is anticipated that the revenue costs arising as a result of borrowing can be met from within Corporate Budgets in 2018-2019.
- 15.5 At the point of writing, it is anticipated that Phases 3 to 5 of the Digital Transformation Programme will be in the region of £11.0 million, whilst the further rollout of the ICT capital programme over the period of 2018-2019 to 2019-2020 is anticipated to be in the region of £5.0 million.

Any increase in the capital programme arising as a result of the additional requests will be considered as part of the 2018-2019 budget setting process.

[MH/02102017/S]

16.0 Legal implications

- 16.1 Although there are no immediate legal implications in implementing the recommendations a number of implementation contracts will be required to be entered into at a future point. Legal and procurement advice will be given throughout this process. The Information Governance and HR policies meet legal requirements surrounding information risk and the appropriate use of ICT assets.

[RB02102017/N]

17.0 Equalities implications

- 17.1 An initial Equality Analysis has been undertaken which has identified that there are implications for three equality strands (Age, Disability and Race). As the programme develops there will be an ongoing review of the Equality Analysis to look at how these can be addressed.

18.0 Environmental implications

- 18.1 There are no environmental implications as a result of this report.

19.0 Human resources implications

- 19.1 The programme will build in-house digital transformation capability and capacity, developing skills and competencies to ensure sustainable continuous digital transform post the programme end date.
- 19.2 There will be a resource requirement to enable the delivery of the programme. Recruitment will be in accordance with HR policies and procedures, where possible

secondment opportunities will be advertised across the organisation to ensure transfer of knowledge and skills.

19.3 The programme supports the Agile Working Protocol introduced in March 2017.

19.4 Any future impact on services will be mitigated through the normal consultation processes associated with the redesign of services and teams.

[HR/AP/AH/048]

20.0 Corporate landlord implications

20.1 At its peak the Programme will require accommodation/banks of desks to house approximately 30 to 40 people during the duration of the Programme.

Appendix A

ICT Capital Programme Q2 2017-2018		2017-2018
		£000
Main Programme:		
Provision for Future Developments		75
		75
Emergency Projects		75
		75
<u>Security Enhancement</u>		
Penetration Testing & ITHC		23
Internal Security Testing Tools		10
		33
<u>Refresh</u>		
Microsoft Enterprise Agreement (Core)		823
Microsoft Enterprise Agreement (Dynamics/servers)		250
Microsoft Azure Commitment		100
		1,173
<u>Storage Refresh</u>		
Increase Storage Capacity		60
Upgrade / Replace Filers		93
		153
<u>Upgrades</u>		
Active Directory upgrade		10
		10
<u>Infrastructure Upgrades</u>		
Telephony Improvement		50
Network Hardware Refresh		57
Expand production VM environment and production DMZ environment		30
SCCM / SCOM		5
Expand SDC Virtual Server Farm		5
Civic Centre Infrastructure Upgrade		230
Auditing Tools and Log Management Solution		10
Telephony Refresh		10
Civic Centre Wireless Upgrade		20
Replace/Upgrade System Centre Appliance		40
Unified Communications		100

ICT Capital Programme Q2 2017-2018		2017-2018
		£000
Project resource to support agile working		90
Large format printer		20
Additional digital signage equipment / AV		300
Just in Time Development		300
Resilient Express Route installation		20
		1,287
<u>Data Centres</u>		
Additional Data Cabinets		2
Air conditioning		20
Data centre decommission and deep clean		5
Replace UPS Batteries		5
UPS DC & AC Capacitor Replacement		15
		47
Main Programme		2,853
Desktop Refresh		1,018
Disaster Recovery		5
Service Led ICT Projects:		
Migrate Care First to Eclipse		450
WV Active Kiosk		36
Council Chamber / Mayoral Parlour refurbishment		50
Service Led ICT Projects		536
Total ICTS Capital Programme		4,412

This page is intentionally left blank

Cabinet Meeting

18 October 2017

Report title	Governance of the West Midlands Fire Service	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Roger Lawrence Leader of the Council	
Corporate Plan priority	Confident Capable Council	
Key decision	Yes	
In forward plan	Yes	
Wards affected	All	
Accountable Director	Jennifer Brake, Service Director, Public Service Reform	
Originating service	Corporate	
Accountable employee	Jennifer Brake Tel Email	Service Director Public Service Reform 01902 555332 Jennifer.Brake@wolverhampton.gov.uk
Report to be/has been considered by	Met Chief Executives Board Strategic Executive Board	29 September 2017 3 October 2017

Recommendation(s) for action or decision:

The Cabinet is recommended to:

1. Approve the governance review and scheme.
2. Agree to move forward to public consultation for the scheme and proposed governance model.
3. Approve to delegate authority to the Leader of the Council, in consultation with the Managing Director, to make minor amendments to the Governance review and Scheme on completion of the Local Authority approval process and prior to public consultation.

4. Support/lead on the public consultation in the City of Wolverhampton region on behalf of the WMCA.

Recommendations for noting:

The Cabinet is asked to note:

1. The timeline of governance route to Mayoral West Midlands Combined Authority.

1.0 Purpose

- 1.1 The purpose of this report is to consult constituent authorities on the now prepared Governance review (Appendix A) and scheme (Appendix B) for the proposed governance model of the West Midlands Fire Service (under the Mayoral West Midlands Combined Authority) prior to going out for formal public consultation.

2.0 Background

- 2.1 In response to the Policing and Crime Bill (2016) consultation, the West Midlands Fire and Rescue Authority (WMFRA) set out a direction seeking the future sustainability of services under a Mayoral WMCA model of governance.
- 2.2 In recognising the need for an independent review of the possible future governance options, WMFRA commissioned an appraisal panel in April 2016. The Groups outcomes and conclusions are detailed in the attached Governance Review (Appendix A).
- 2.3 The outcomes of the group were then built upon through a public consultation undertaken during December 2016 to January 2017, seeking public and partner opinion regarding the future strategy to deliver risk-based services across the West Midlands. A Reformed Fire Authority (RFA) and Mayoral Combined Authority were identified as the 'desirable' options for the future governance of West Midlands Fire Service (WMFS).
- 2.4 Accepting the findings of both the Group and the public consultation, considering these against the Strategy of WMFS, the priorities of the WMCA and the expectations of government, the route to future Mayoral WMCA governance was agreed by WMFRA on the 20 February 2017.
- 2.5 The WMCA supported the WMFRA's broad proposal for the transfer of its functions to the Mayoral Combined Authority on 3rd March 2017.
- 2.6. Alongside this, work is underway to implement a RFA as an interim measure until WMFRA functions are transferred to and assumed by the Mayoral Combined Authority.
- 2.7 On the 8 September 2017 the WMCA board noted the timeline for the mayoral governance route and approved the development of a governance review and scheme, for Mayoral Combined Authority governance of WMFS pursuant to Sections 111 and 112 (1d) of Local Democracy, Economic Development and Construction Act 2009. The Scheme is detailed in Appendix B. The timeline referred to here is provided in this report in paragraph 3.1.
- 2.8 The benefits of the Mayoral WMCA governance model provides huge opportunities for the joint transformation of public services to West Midlands communities, providing value for money in the delivery of public safety. These opportunities have been detailed in the Governance Review.

- 2.9 The Governance Review in Appendix A provides a review of existing governance arrangements and functions, this includes the proposed new model under the Mayoral combined authority.
- 2.10 The Scheme detailed in Appendix B details the roles, accountabilities, and powers required by each individual /body in the proposed governance model.
- 2.11 Following constituent authority consultation on the Governance Review and Scheme, the Scheme must enter a formal public consultation in adherence to section 113 (3) Local Democracy, Economic Development and Construction Act 2009.
- 2.12 The Government will use these documents and the results of the consultation to approve the model and create an order to amend existing legislation, in order to confer the necessary powers on the Mayoral WMCA to carry out the functions currently exercised by the WMFRA.

3.0 Progress

- 3.1 Timeline (indicative) for this journey:

Details	Date
WMCA approve the Governance Review and for a Scheme to be developed.	8 September 2017
development of governance review and scheme, which will consider the business case for the change in governance.	September 2017
Constituent Authority approval of content of governance review and scheme.	October - November 2017
WMCA approval of content of Governance Review and Scheme.	8 December 2017
Consultation of proposals set out in the scheme on behalf of the Secretary of State (6 weeks minimum)	January – February 2018
Analyse consultation responses locally	March 2018
Governance Review, Scheme and analysis of consultation reviewed by Secretary of State (4-12 weeks)	April 2018
Government development of Order detailing changes required in legislation to abolish WMFRA and amend legislation to enable future Mayoral WMCA governance	May – June 2018
Constituent Authority/ CA approval of detail of Order	July - September 2018
Order amended where needed locally enters Parliamentary Process	September - October July 2018
Secretary of State approves Order	November 2018
WMFRA functions transfer to the WMCA	November/ December 2018

4.0 Evaluation of alternative options:

- 4.1 The route to future Mayoral WMCA governance was agreed by WMFRA on the 20 February 2017 and full details are listed within the Governance Review.

5.0 Reasons for decision:

- 5.1 At the WMCA meeting on 8 September 2017 it was agreed that there was a requirement for all constituent authorities to approve the content of the review and scheme, pursuant to section 113 (3) Local Democracy, Economic Development and Construction Act 2009.

6.0 Financial implications

- 6.1 The cost of this governance route has and will continue to be met from within existing approved budgets which have largely been delivered through WMFS. Support has also been provided by the WMCA and local authority Legal Services.
- 6.2 Future reports will detail any additional costs that will need to be met.

[MH/05102017/S]

7.0 Legal implications

- 7.1 The legal implications and process for devolving powers to the WMCA are set out above in this report.
- 7.2 The proposals in this report will meet the government's expectations that all Fire and Rescue Services consider one of the alternative routes leading to reform.
- 7.3 WMFRA have been consulting with the legal heads of service from all seven constituent local authorities for advice and guidance.
- 7.4 All relevant legislation pertaining to this governance route has been detailed in the Governance Review and Scheme.

[RLB/04102017/V]

8.0 Equalities implications

- 8.1 There are no direct equalities implication at this stage, however participants from all the equality strands will be invited to comment during the consultation process. Once consultation has been completed an equality impact assessment will be undertaken in line with the City's equalities procedures.

- 8.2 It is a requirement of the Secretary of State's consultation process that the consultation responses 'reflect the identities and interests of local communities' in the West Midlands (Local Democracy, Economic Development and Construction Act 2009 section 111 3a).

9.0 Environmental implications

- 9.1 There are no environmental implications currently.

10.0 Human resources implications

- 10.1 There are no human resources implications currently.

11.0 Corporate landlord implications

- 11.1 There are no corporate landlord implications currently.

12.0 Schedule of background papers

- 12.1 WMFRA report: 'Route Map to Mayoral Governance' (20 February 2017)
WMFRA Report - Future Governance Working Group (20 February 2017)
Future Governance Working Group Report (February 2017)
West Midlands Combined Authority (WMCA) report (3 March 2017)
WMFRA report – 'Route map to Mayoral West Midlands, Combined Authority Governance - a Reformed Fire Authority (RFA) and decision (10 April 2017)

WMCA Board Report - 8 September - Mayoral WMCA Governance of WMFS
<https://governance.wmca.org.uk/documents/s617/Report.pdf>

West Midlands Combined Authority SCHEME

This scheme is prepared and published following/pursuant to the decision of the West Midlands Combined Authority (WMCA) on 8 September 2017.

The proposals in this scheme will be subject to a further public consultation.

The scheme provides as follows:

1.1 It is proposed that the functions exercisable by the West Midlands Fire and Rescue Authority (WMFRA) across the area that the WMCA covers, should become functions of the WMCA pursuant to sections 105 A of the Local Democracy, Economic Development and Construction Act 2009.

These functions are those as set out in the following acts and where relevant identified sections:

- Local Government Act 1985 (including Part IV, schedule 10)
- Local Government in Housing Act 1989
- Fire and Rescue Service Act 2004
- Fire and Rescue Order 2007
- National Framework for Fire and Rescue Services in England 2012.
- Regulatory (Fire) Reform Order 2005
- Civil Contingencies Act 2014

The requirements for change are set in 1.13 to this scheme.

1.2 It is proposed that the properties, rights and liabilities of the WMFRA would become functions of the WMCA.

1.3 It is proposed that the functions relating to fire and rescue referred to in 1.1 should become WMCA functions.

1.4 It is proposed that the fire and rescue functions once they become functions of the WMCA are exercisable only by the Mayor (section 107D (1) Cities and Local Government Devolution Act 2009).

1.5 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 EPB or combined authority) (1).

1.6 It is proposed that the WMCA has the same borrowing powers in respect to its functions, relating to fire and rescue as are currently exercised by the WMFRA.

1.5 It is proposed that the WMCA retain the same core grant and precept funding arrangements in respect to its functions relating to fire and rescue, as currently exercised by the WMFRA.

1.6 Any decisions/acts made before abolition of the WMFRA should have effect as if agreed by, or, in relation to the Mayoral WMCA. For example, the setting of the precept for, under section 40 Local Government Finance Act 1988 to the constituent councils in respect of the financial year beginning before transfer in governance, should have effect as if issued by the Mayoral WMCA.

1.7 It is proposed that Members of the WMCA may assist the Mayor in the exercise of the fire and rescue functions in line with delegations, provided that the functions may not include:

- Functions relating to the budget and setting of the precept
- Functions relating to statutory plans such as the Integrated Risk Management Plan (IRMP) and strategies
- Functions relating to all properties, rights and liabilities
- The appointment of the Chief Fire Officer and Principal officers

Mayoral Fire Advisory Committee

1.8 It is proposed that the Order should contain provision for the Mayor to arrange for a committee of the WMCA (the Mayoral Fire Advisory Committee), consisting of members appointed by the constituent councils, to advise and support the Mayor in relation to West Midlands Fire Service (WMFS).

1.9 It is proposed the committee appointed should consist of 15 Elected members from across the constituent councils, proportionally balanced, the Police and Crime Commissioner (in accordance with the Policing and Crime Act 2017) and two further co-opted members from Health and Ambulance to promote greater challenge, transparency and further collaboration.

1.10 The following additional provisions are proposed to apply to the Mayoral Fire Advisory Committee (the Committee): (section 107D(6))

Governance:

- Appointment of elected members from each of the constituent councils will be made so that the members of the committee taken as a whole, reflect as far as reasonably practicable, the overall balance of political parties prevailing amongst the constituent councils.
- The majority of members of the committee must be members of the constituent councils, all of those members have one vote.
- Where a member is not from a constituent council they don't have a vote automatically, but can be given one by resolution of the WMCA.
- Two-thirds of members must be present for a meeting to be quorate.
- The Chair of the Committee will be appointed by the Mayor.

Functions:

- The Committee will not be a decision-making committee this responsibility will remain with the Mayor and Chief Fire Officer, as appropriate.
- The Committee will advise the Mayor, support the Mayor and review decisions made by the Mayor.
- Where decisions are reviewed, the Committee will submit a report to the WMCA Overview and Scrutiny Committee.
- The Committee will support the Mayor in providing advice around exercising fire functions, to ensure the right level of detail and understanding is provided to inform the Mayors role as the Authority.
- The Committee will represent the priorities and strategy of the Mayor and WMFS in their respective local authorities and will report on performance in relation to fire functions.
- The Committee will represent the priorities and strategy of the Mayor and WMFS within the 7 constituent councils, regionally with other Fire and Rescue Services, nationally through the National Joint Council and Local Government Association.
- The Committee will seek to influence the Government on behalf of the Mayor in matters related to the delivery of fire and rescue services locally, regionally and nationally.
- The Committee will enable the development of partnerships and services to the community through constituent council engagement.

A member's allowance scheme for the committee will be payable by the WMCA.

1.11 The Chief Fire Officer (CFO) as head of paid service will be accountable to the Mayor in the operation of their duties.

1.12 It is proposed that the CFO maintains full accountability for the operational functions of the Fire Service. This will include:

- The management of the Fire and Rescue Service
- The appointment and development of staff
- The delivery of WMFS Strategy (including matters relating to exercising functions of the Fire and Rescue Services Act 2004, etc.)
- The delivery of staffing structures and models which support current and future Strategy
- The deployment of resources to meet risk
- The transformation of services and reform of the workforce to meet WMFS and Mayoral/WMCA priorities.

1.13 Modification requirements of enactments in their application to the WMCA as a Fire and Rescue Authority.

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 “the WMCA as a fire and rescue authority”.

Greater Manchester Act 1981

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

(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. Section 23(1) of the Local Government Act 2003 (meaning of “local authority” for purposes of Part 1)(a) the reference in paragraph (k) to “a joint authority established by

Part IV 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.”;

(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.

6. In section 1 of the FRS 2004 Act(1), after subsection (4) insert—

“(5) This section is also subject to an order under Part 6 of the Local Democracy, Economic Development and Construction Act 2009 which transfers the functions of a fire and rescue authority to a combined authority established under section 103 of that Act.”.

Secondary legislation

7. 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”.

8. 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”.

9. 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 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”.

10.— (1) The Local Government Pension Scheme Regulations 2013(f) are modified as follows.

(2) After regulation 64(8), insert—

“(8A) Paragraph (8B) applies where the exiting employer is the WMFRA and the liabilities of the fund in respect of benefits due to the WMFRA’s current and former employees (or those of any predecessor authority) have been or are to be transferred to the WMCA by virtue of this Order.

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

11. In regulation 2(1) of the Explosives Regulations 2014 (interpretation)(g) 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”.

12. In regulation 2(1) of the Control of Major Accident Hazards Regulations 2015(a) 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, the WMCA as a fire and rescue authority;”.

Review of Governance and Functions of the WMCA (Annex A)

This review is a subsequent review to the WMCA governance review and scheme. The review deals with:

- The transfer of functions and governance arrangements in relation to the exercise of fire and rescue functions in the West Midlands, and
- Overview of the governance arrangements

1. EXISTING ARRANGEMENTS:

Existing Fire and Rescue Arrangements:

1.1 West Midlands Fire and Rescue Service (the Service) provides prevention, protection and response services to the 7 metropolitan councils in the West Midlands. These core services are prescribed under legislation, assurance for which is provided through the West Midlands Fire and Rescue Authority (the Authority). The Authority is accountable to the public for the services provided to local communities. The most pertinent service delivery legislative provisions are as follows:

- The Fire and Rescue Services Act 2004
- The Fire and Rescue Services (Emergencies) (England) Order 2007
- The Regulatory Reform (Fire Safety Order) 2005
- The Civil Contingencies Act 2004

Further detail of these legislative provisions is provided in Appendix 1.

The Fire and Rescue Service is a unique public body that plans for risk not demand. Appendix 2 delivers the understanding behind this and how it meets that risk through its prevention, protection and response services. This review will demonstrate the reliance and value these services add beyond local level delivery, with consideration given to regional, national and specialist international capabilities and interventions.

1.2 In addition to providing services to the West Midlands, given that the Service shares approximately 53 km of border with Hereford & Worcester FRS, 90km with Staffordshire FRS and 113km with Warwickshire FRS, it provides services to the region

in the form of over-the-border mobilisations into neighbouring FRS's and vice versa where required. This is catered for under s13 of the Fire and Rescue Services Act 2004 and is termed Section 13 Mutual Assistance Agreements.

1.3 Further, the Service provides significant support to the national resilience arrangements. This is supplemented by supporting the United Kingdom in its International Search and Rescue (ISAR) capability, having supported numerous interventions to some of the world's largest and most devastating disasters, including earthquakes in Haiti, Japan and Nepal.

1.4 The Authority as it stands was legally established as a joint authority by the Local Government Act 1985. This Act stipulated the requirement to appoint 27 members to the Authority and the number of Members appointed from each of the 7 West Midlands Metropolitan councils.

1.5 Currently, members are drawn made up according to the following political ratio:

- 17 Labour
- 8 Conservative
- 1 Liberal Democrat
- 1 UKIP

1.6 The Authority undertakes the following strategic and statutory duties

- It is accountable to the community for the services provided through the Integrated Risk Management Plan (IRMP) and the service's rolling 3-year corporate strategy, 'The Plan'.
- It approves the budget for the delivery of these services and the setting of the precept for council tax.
- It employs all WMFS staff and owns all properties, rights and liabilities.
- It has ultimate accountability for decision making, however, the Authority delegates many decisions to its sub-committees such as Scrutiny and Audit and day to day operational control to the Chief Fire Officer (CFO) on matters *"concerned with maintaining operational effectiveness and the deployment of resources both physical and employees"*.

1.7 The CFO is the designated Head of Paid Service as required by the Local Government and Housing Act 1989 and is responsible for the management and development of all staff, land and resources to enable and ensure the delivery of services, including the exercise of all the powers of the Authority as an enforcement authority under relevant legislation. Accordingly, the CFO is

accountable to the Authority. The operational independence of the CFO is secured by virtue of the skills, knowledge and experience required to deliver on the legislative prescriptions with clear lines of demarcation between Authority and the CFO detailed in the Authority's [Constitution](#), agreed to by the Authority.

1.8 Whilst there is plenty of legislation that all public bodies are required to be compliant with, those detailed below are deemed to be most pertinent to informing the governance arrangements and the responsibilities placed upon the Authority:

- Local Government Act 1985
- Local Government and Housing Act 1989
- The Local Government Act 1972

Further detail with respect to the legislative responsibilities and a more detailed breakdown of current roles and responsibilities of the Authority is provided in Appendices 3 and 4.

1.9 The Authority has a number of sub-committees. These can be broadly divided into those that convene regularly and those that are convened upon requirement:

- Appeals Committee (convenes upon requirement)
The Appeals Committee operates as a quasi-judicial body in determining appeals relating to pensions and superannuation matters. This Committee convenes upon requirement and hears and decides upon: -
 - Appeals under the Firefighters Pensions Scheme, New Firefighters Pensions Scheme and the Firefighters Compensation Scheme.
 - Appeals under the Local Government Superannuation Regulations.
- Appointments Committee (convenes upon requirement)
The Appointments Committee convenes upon requirement to make appointments of the Chief Fire Officer, Deputy Chief Fire Officer and Assistant Chief Fire Officer.
- Audit Committee
The Audit Committee is a key component of the Authority's corporate governance and includes an independent Member to provide independent assurance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards. Its purpose is to provide

independent assurance to the Members of the adequacy of the risk management framework and the internal control environment. It provides independent review of the governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

- Executive Committee

The Executive Committee deals with all matters of an urgent nature which in the opinion of the Clerk/Monitoring Officer, cannot reasonably be delayed until the next ordinary meeting of the Authority or appropriate committee. It considers recommendations from the Scrutiny Committee in respect of completed reviews and to respond to the Scrutiny Committee on what action it proposes to take. It also approves transactions that exceed delegated authority.

- Policy Planning Forum - proportionality not applied

The Policy Planning Forum comprises all elected members and independent members of the Authority. The Forum is not a decision making body, but provides a forum for discussion of important issues affecting the Service prior to formal submission and discussion with members via the Committee framework as appropriate. It is a successful feature of the Authority's governance arrangements used as a particularly effective way of engaging Members and officers on key issues faced by the Authority. The Forum also acts as a vehicle to provide training to members.

- Scrutiny Committee

The Scrutiny Committee supports the Authority in achieving its strategic objectives and ensuring that its policy and budgetary framework is followed and developed to reflect the changing needs and demands in meeting its statutory obligations.

The main purpose of the scrutiny function is to:-

- i) Inform policy development
- ii) Hold officers and the Service to account
- ii) Hold the Authority to account
- iv) Conduct reviews into specific issues.

In carrying out its role the Committee may look at both operational and strategic issues.

- Joint Consultative Panel - proportionality not applied

The Panel comprises elected members of the Authority and recognised elected officials of the Trade Unions/Representative Bodies. The Panel establishes regular methods of consultation between the Authority, management and its employees as part of the employee relationship framework to consider and make recommendations to the Authority or the Chief Fire Officer as appropriate on:

- any problems which may arise
- any relevant matter referred to it by the Service or by the relevant employee organisation
- the application of the terms and conditions of service for employees
- matters referred to it by the Joint Consultative Committee, including failure to consult and failure to agree as defined in the constitution of the Joint Consultative Committee.

The Panel also discharges such other functions that are specifically assigned to it.

- Standards Committee (convenes upon requirement)
The Standards Committee convenes upon requirement and investigates allegations of breach of the member Code of Conduct and will make decisions on allegations made.

1.10 In addition to providing the accountability detailed above the Authority also represents the Service through strategic relationships and engagements in order to support the delivery of The Plan:

- s41 principles of local accountability – The lead s41 members represent the Authority at each of the 7 constituent councils providing the opportunity for two-way engagement.
- The Local Government Association (LGA) – the Chair is a member of the Fire Services Management Committee (FSMC) and the Fire Commission. The Chair is also supported by the Vice Chair at the latter. The Chair is also a member of the National Joint Council Employers panel and supports the engagement between the employers and the workforce at a national level through dialogue with the Employees panel, which consists of representative bodies.
- The Authority is an observer of the WMCA and through representation by the Chair the Authority is able to contribute to the regions key strategic priorities.
- Regional Chief Fire Officers and Chairs Fire Service Engagement – the Chair represents the Authority in discussions with regional Fire and Rescue Authorities and Warwickshire County Council to support the Service around key initiatives such as collaboration. This discussion incorporates Staffordshire FRA, Hereford and Worcester FRA, Shropshire FRA and Warwickshire County Council.

- The Staffordshire & West Midlands Joint Fire Control Governance Board – The Chair represents the Authority at the board as a Co-Chair. The Board oversees governance arrangements of the joint fire control.
- Local engagement with representative bodies and staff – The Chair undertakes regular engagement with the local Fire Brigade Union (FBU) and Unison representatives as part of promoting industrial relations. The Chair also represents the Authority as part of its engagement with staff by undertaking communication visits to every Community Fire Station and WMFS Headquarters. This engagement is informal and is not part of established processes.
- Local Councils – the Chair represents the Authority through focused engagement with Council Leaders as part of supporting the Service in efforts to build and develop collaborative and strategic relationships.
- Emergency Services – the Chair represents the Authority through engagement with the West Midlands Police and Crime Commissioner (PCC) and delegates at the Office of the West Midlands PCC, to support the Service in efforts to build and develop collaborative relationships.
- The Association of Metropolitan Fire and Rescue Authorities (AMFRA) – The Chair represents the Authority at AMFRA, which consists of the metropolitan fire and rescue authorities that provide services to the main conurbations in England. AMFRA discusses and progresses issues affecting the metropolitan fire authorities and engage at all political levels and work cross-party to support improved outcomes. Engaging through this group has supported a greater recognition and understanding of the challenges affecting the metropolitan Authorities, which in turn has impacted upon expectations for future efficiencies. The Chair of the Authority chairs AMFRA.

Existing WMCA Arrangements:

1.11 The WMCA governance arrangements consists of the WMCA Board and a number of other Boards / Committees:

- WMCA Board
 - Overall responsibility for developing and delivering the Strategic Economic Plan (SEP)
 - Overall responsibility for developing the strategy and delivering Public Service Reform (PSR)
 - Deliver the current devolution deal
 - To negotiate and deliver further devolution deals
 - Approval of future devolution deal development, to determine strategy on investment decisions
 - Allocating resources through the Combined Authority budget & income streams such as devolution deals
 - Determination of Transport strategy and spending priorities

- To operate a Cabinet model with Constituent Member Leaders ‘sponsoring’ a portfolio
- To consider and determine applications for Constituent, Non-Constituent and observer status
- To work with partners to develop the Midlands Engine
- To work with Government to develop and influence national policy
- To set up the fees for membership

- Audit, Risk & Assurance Committee

The Audit, Risk and Assurance Committee is a key component of the West Midlands Combined Authority’s corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards. The purpose of the Audit, Risk and Assurance Committee is to provide independent assurance to the Authority of the adequacy of the risk management framework and the internal control environment. It provides independent review of the governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

- Overview & Scrutiny Committee

To ensure that decisions made by the Combined Authority, help make the West Midlands region a better place to live, work, study and do business. To undertake call-in arrangements for the Combined Authority. To make recommendations for appointment to the Combined Authority Board.

- Transport Delivery Committee

The Transport Delivery Committee will be a sub-committee of the Combined Authority Board.
 The Transport Delivery Committee will be part of the Transport for West Midlands (TFWM) activities.
 To provide oversight of operational delivery of transport across the West Midlands. As requested by the Combined Authority Board or Leader with Transport responsibilities, advise on transport policy matters.
 Be responsible for the discharge of specified transport functions delegated by the Combined Authority Board.

The Board membership consists of each of the 7 constituent councils, which cover the West Midlands conurbation – Birmingham, Coventry, Walsall, Dudley, Wolverhampton, Solihull and Sandwell.

Ten non-constituent members also form part of the Board and have limited voting rights – Cannock Chase District, North Warwickshire Borough, Warwickshire County, Nuneaton and Bedworth Borough, Redditch Borough, Rugby Borough, Shropshire, Stratford on Avon District, Tamworth Borough and Telford and Wrekin Councils.

The PCC and the Authority also sit on the Board as Observers. Whilst they do not possess voting rights, they are able to contribute to the strategic discussion and add value.

1.12 The WMCA has a number of priorities which are vested in the Mayor and WMCA portfolio lead members:

- HS2 growth and Health and wellbeing – devolution deals and communications & engagement, mental health, mental health commission and health devolution
- Economic growth – delivery of Strategic Economic Plan (SEP), access to finance for business, Collective Investment Fund (CIF), WMCA growth company, international trade and exports, digital strategy and the arts and cultural activity
- Housing and land – land commission, Land Remediation Fund (LRF) housing delivery, one public estate
- Skills and productivity – skills and productivity commission (including employability), learning for the future and Further Education (FE) area reviews
- Cohesion & Integration and Public service reform – public service reform agenda, troubled families, criminal justice, welfare reform, shared services and social inclusion.
- Transport – delivery of Strategic Transport Plan, Midlands Connect, West Midlands Rail, HS2 delivery transport and Transport Delivery Committee
- Finance and investment – delivery of the WMCA investment agenda
- Environment

2 THE NEED TO REVIEW THE CURRENT FIRE ARRANGEMENTS

- 2.1 Public Services locally across the West Midlands are changing significantly and will continue to do so with the inception and progression of the WMCA. Central governments expectations around increased efficiencies and reform place an additional expectation on this continued change and transformation.
- 2.2 The fire and rescue services in England are not exempt from these expectations and will have made efficiencies in the region of £450m by 2019/20 since the introduction of comprehensive spending review (CSR) in 2010/11. Reductions have been experienced both in front line and support service staff. In many areas across England reductions have been seen in the number of fire stations and appliances available to attend emergency calls. As budgets and physical firefighting resources continue to be cut, it is becoming increasingly difficult to meet local needs and address risk in the communities.
- 2.3 In the West Midlands the Service has sought to implement a programme of transformation to ensure the risk based needs of local communities, targeting the vulnerable, continues to be met in order to deliver stringent service delivery performance standards. A review of the discharge of the Authority's responsibilities provides an opportunity to review the external influences on the Service's ability to sustain its service delivery arrangements. These influences range from changes in Government policy, expectations around reform and financial pressures to the wider benefit that can be leveraged from the services that WMFS are legislatively prescribed to deliver across the public sector in the West Midlands. They include the contribution the Service can make to the achievement of the Mayoral WMCA's strategic ambitions and priorities by supporting growth and reducing the total cost of delivering public services through a coordinated, integrated and collaborative delivery of services.

Background:

The Comprehensive Spending Review and the Service's Approach to Service Transformation

- 2.4 The Authority has fully supported service wide transformation and has embraced plans to meet the circa 50% (£38m) reduction in central government grant (core) over the course of the CSR, covering the period 2011/12 to 2019/20.
- 2.5 As cited earlier ongoing transformation over the past 6 years has impacted on both service support and service delivery functions. The Service has met the required reductions in funding through exploring and implementing more challenging and innovative approaches to the delivery of internal and external community facing services. Whilst the Service has had to make decisions that have increased risk in some areas of response, prevention and protection, these have been assessed through an evidence based approach, using integrated risk management analysis to minimise the impact on services to the community and importantly, to ensure service delivery standards and expectations continue to be met.

- 2.6 Service transformation in this way has reinforced the Services' priorities and outcomes as set out in The Plan. The Service Delivery Model (SDM) sits at the heart of The Plan and is underpinned by planning and analysis that determines the level of resources needed to be able to respond to high risk (life and property) incidents, within a risk based 5-minute attendance standard. This attendance standard evidentially enables the Service to act assertively, safely and effectively thus reducing the risk to firefighting and increasing the survivability of the victim, as well as reducing the impact of the fire on the local community and economy.
- 2.7 The SDM is pivotal to supporting an integrated approach to the delivery of the Service's prevention, protection and response services to the communities of the West Midlands. Amidst the challenges that the CSR presents to the Service, the SDM cannot be compromised particularly given the positive impact the SDM has at a time when the region has prioritised economic growth.

The Government's Fire Reform Programme

- 2.8 In addition to the significant financial challenges for the fire and rescue services there has also been significant policy challenges through reviews such as those conducted by Sir Ken Knight, (Facing the Future 2013), and Adrian Thomas (Independent review of conditions of service for fire and rescue staff in England February 2015). These reviews continue to set the backdrop for the reform of the fire and rescue sector and is reflected in the Home Office's policy development. However, they have been less challenging because the Service has and remains an agile public service committed to efficient and effective service delivery.
- 2.9 On the 11th September 2015 the Government released a consultation entitled 'Enabling Closer Working between the Emergency Services' which progressed the fire reform programme. This was soon followed by a move of government department for the fire and rescue service on the 5th January 2016, from the Department for Communities and Local Government to the Home Office. The fire reform programme has also encapsulated the reform of the professional voice of the England and Wales fire and rescue services, the Chief Fire Officers' Association (CFOA), with the Home Office contributing to its priorities. CFOA has undergone structural change mirroring the National Police Chiefs Council (NPCC), in addition to a name change resulting in the National Fire Chiefs Council (NFCC).
- 2.10 On the 24th May 2016 the then Home Secretary, the Rt Hon. Theresa May, issued a statement which outlined a clear desire from central Government to affect change and generate impetus for further reform wider than the delivery of services - reform of Fire and Rescue Authorities. The Government and the Home Office remain committed to implementing governance

structures which provide increased scrutiny, transparency and accountability of decision making, building on the reform of Police Authorities.

- 2.11 The outcomes to the above consultation introduced the Policing and Crime Bill, which received Royal Assent in January 2017 (Policing and Crime Act 2017, PACA 2017). It introduced a new duty of collaboration on each of the emergency services. This Act also introduced new powers for elected Mayors to take on the governance of Fire and Rescue Services. It also delivered the same powers to the PCCs, where local agreement can be achieved.

Changing Governance and Future Opportunities

- 2.12 Government policy developments has also incorporated local councils with legislation enabling the inception of the West Midlands Combined Authority (WMCA) in June 2016 and a Mayor elected in May 2017. This change has provided a further opportunity to review the contribution that public services in the West Midlands can collectively make to the achievement of regional strategic priorities in a more efficient, effective and economical way.

- 2.13 The WMCA priorities are detailed in paragraph 1.12.

- 2.14 In view of the changing landscape and government expectations driven through policy and legislative reform, the Authority recognised that staying the same was not an option. The Authority identified four possible routes for the potential future governance structures for the Service:

- A Reformed Fire Authority (RFA),
- A Police and Crime Commissioner (PCC),
- A Mayor as part of the WMCA and
- A Combination of regional Fire and Rescue Services.

These possible governance structures were subsequently subject to an appraisal by an independently chaired Future Governance Working Group (the Group) in 2017. The work of the Group is discussed in paragraph 2.21. A more detailed description of each of these governance models is provided in Appendix 5.

- 2.15 These governance structures are enabled through a number of pieces of legislation. Governance through a PCC or a Mayor as part of a Combined Authority represents the newest structures and the policy of the current Government, enabled through the PACA 2017.
- 2.16 With the introduction of the WMCA came the first devolution agreement for the West Midlands in 2015, providing the region with additional £36.5 million a year of funding allocation over 30 years in addition to devolved responsibilities.
- 2.17 Amongst these priorities the 2015 devolution agreement for the WMCA encouraged the exploration of further opportunities for devolution on the basis of an appropriate relationship between the functions of a Mayor, the PCC's and the fire and rescue services. This intent is further outlined with respect to exploring such relationships in the mayoral manifesto.
- 2.18 These local and national changes have set the environment, pace and expectation of change to ensure the best outcomes for local communities.

WMFRA commitment to future governance

- 2.19 In view of Home Office expectations around the reform of the fire and rescue service developing apace, the Authority has embraced the developments and considered how it works with, responds to, and influences the changes to ensure the maintenance of risk-based services to local communities, delivered in a value for money way. The Authority acknowledged that a failure to address this could cause the Service to lose relevance, credibility and impact public confidence (an emerging corporate risk) from the uncertainty around the future governance of the Service, with the potential to impact on the priorities in The Plan.

The Evidence Base

- 2.20 The Authority committed itself to exploring an evidence based approach to understand how each of the future governance options, in light of the changing external influences highlighted in this review, may support the delivery of services to local communities, enable collaboration, whilst incorporating increased scrutiny, transparency and accountability of decisions; in a value for money way.

Future Governance Working Group

2.21 The Authority commissioned a Future Governance Working Group (the Group) to provide an options appraisal for the Authority to be able to make an evidence based decision on the best option for governance of the Service in the future and the best approach to achieving this. The group was independently chaired by professional services firm Price Waterhouse Coopers and consisted of a number of key stakeholders from across both the public and private sector:

- WMCA
- Office of the West Midlands Police and Crime Commissioner
- NHS England
- Home Office
- West Midlands Ambulance Service – Board of Governors
- West Midlands Fire and Rescue Authority
- Greater Birmingham Chamber of Commerce
- Coventry and Rugby Clinical Commissioning Group

The approach to assessment:

2.22 Initially and importantly the Group considered how collaboration currently existed as well as the potential for the provision of future collaborative services across blue light emergency services, local councils, WMCA and the NHS. A critical part to this was the impact the governance model would have on the community and the ability to deliver improved public service to the local community, with increased scrutiny, transparency and accountability of decisions in a value for money way.

2.23 Each of the governance models were assessed against the achievability of this through a set of high level community outcomes, recognising both strengths and opportunities for each of the governance options as well as the possible barriers and risks to progression. The analysis undertaken by the group suggested that:

‘a two-stage process (two changes in governance, i.e. from Authority to PCC, then to Mayor) increases costs, risk and reduces benefits and as such should be avoided.’

‘The Mayor will happen and this will create opportunity in improving public services. WMFRA need to ensure they remain engaged in this to ensure the best opportunity for the delivery of outcomes for the future’.

It also added that:

- The benefits of the WMCA model included the ability to work directly with all 7 of the metropolitan councils, the potential for working with the Police, and the non-constituents in enhancing public safety and management the demand services. It referenced the Telecare Service provided by the Service to 3 of the 7 constituent councils as good examples of this. It also discussed the potential for a regional emergency planning function and the WMCA as an appropriate footprint to integrate wider services in order to spread cost and outcomes as widely as possible.
- It referenced health as a central issue for the WMCA through its Mental Health Commission: *“As public sector reform is pursued, effective working across the local authority/health boundary will be required, as is hoped for in the STP process. The Mayor will also have convening powers which will at least require health to be at the table. There is certainly further collaboration opportunity for the Service with Health, with several good examples from elsewhere.”*

The Group conclusions can be found in Appendix 6.

- 2.24 The Group’s conclusions provided an evidence base to inform the Authority’s considerations and an avenue to provoke discussion about the merits of each of the options.

The Integrated Risk Management Plan (IRMP) Public Consultation:

- 2.25 The Service also undertook a public consultation during December 2016 to January 2017 to engage with the community and partners as part of its Integrated Risk Management Plan (the Consultation) on the future strategy to deliver risk based services across the West Midlands. As part of efforts to enable the community to develop its understanding about the changing landscape affecting the Service and to provide transparency, the consultation extended to future funding and governance. From a governance perspective the consultation outcomes identified a Reformed Fire Authority and a Mayoral Combined Authority as ‘desirable’ models for future governance for best supporting the delivery of its prevention, protection and response services to the communities of the West Midlands.
- 2.26 The influences of external change and a developing evidence base have provided the Authority with the justification to move forward and pursue the engagement of the WMCA and Mayor in determining the next steps in a proposed change in governance for West Midlands Fire Service.

3 HOW THE REGION CAN BENEFIT FROM A CHANGE IN GOVERNANCE MODEL AND INTEGRATING WMFS AS PART OF THE WMCA:

- 3.1 A transfer of governance functions to the WMCA will need to satisfy the following statutory requirements:

Section 105B(1) of the Cities and Local Government Devolution Act 2016 requires that:

'appropriate consent is given and the Secretary of State considers that the making of the order is likely to improve the exercise of statutory functions in the area or areas to which the order relates'.

Section 113(3) of The Local Democracy, Economic Development and Construction Act 2009 requires that:

'The Secretary of State must have regard to the need -

- (a) To reflect the identities and interests of local communities and
- (b) To secure effective and convenient local government'

- 3.2 This review will demonstrate how governance delivered through the Mayoral Combined Authority will improve the exercise of the statutory functions in the WMCA area to which this review and associated scheme relates, whilst reflecting the identities and interests of local communities and securing effective and convenient local government.
- 3.3 This will be achieved by delivering a stronger focus on collaboration across the region providing a joined up strategic approach, which is key to the Service's strategic direction and delivery of its SDM. The opportunities the WMCA presents to widen and strengthen the delivery of collaborative prevention and protection based services was recognised as part of the options appraisal undertaken by the Group (cited in section 2). This is based on the strong track record the Service currently has in collaborating with local councils and other agencies to deliver joined-up services which focus on reducing vulnerability and creating stronger communities. This can be seen in the leadership the Service is currently providing to the WMCA work streams through the CFO leading on Public Service Reform. This change will meet the statutory requirements in 3.1. At the same time these changes will deliver public safety, value for money, increased scrutiny, transparency and accountability to communities, through the singularly elected individual the Government desires, in addition to providing the best opportunity for improving collaboration. The proposed arrangements are set out in section 5.

A workforce to support joined up services and reduce vulnerability

- 3.4 The Service's strategy is 'Making the West Midlands Safer, Stronger and Heathier'. The integrated SDM and five-minute attendance standard relies on an essential mix of resources and skills, provided through a whole-time multi skilled workforce delivering prevention, protection and response services.
- 3.5 The Service tackles the 'causes of the causes' and the over-arching risk in the West Midlands in this way. An example of its prevention activities is the holistic 'Safe and Well' visits. The Service gains access to more than 27,000 targeted-homes each year across the West Midlands as a direct result of the Service's unique public standing in the community. These visits do not just focus on the potential causes of fire and safety issues, but go deeper to identify and address the wider health and or lifestyle issues which may, further down the line, lead to an emergency incident or acute intervention from the wider public services.
- 3.6 Under a WMCA governance arrangement promoting greater collaboration, greater benefit will be leveraged through interventions such as the holistic Safe and Well visits enabling the further reduction of vulnerability and providing added value within existing funding streams on a wide range of issues as recognised by [Professor Sir Michael Marmot \(Institute of Health Inequality\)](#) and [Shirley Cramer \(Chief Executive of Royal Society of Public Health\)](#).
- 3.7 The more joined-up delivery of services in this way, along with other initiatives such as better data and business advice (see Appendix 2) will not only address vulnerability within the community, strengthen the business community and enhance public safety in its widest context, but it will also deliver the economic savings referred to by the Group, as referenced in paragraph 2.23. The Service's 21st century professional, flexible, integrated SDM has the potential to deliver significantly improved value based outcomes to the communities through a more joined up public workforce.
- 3.8 Having considered the potential to deliver significantly improved value based outcomes through the WMCA this review acknowledges the duty the PACA 2017 places on emergency services to consider collaboration where it would be in the interests of efficiency or effectiveness. The Service has long standing collaborative relationships with West Midlands Police (WMP) and the West Midlands Ambulance Service (WMAS). Some examples are listed in Appendix 7.

Continued improvement and transformation

- 3.9 It is clear that as funding for public services continues to reduce, there will be a need to further reform services to improve collaborative working. This reform has to deliver improved value to local communities and should also provide greater value to the public spend.

- 3.10 The Service's commitment to transformation and reform whilst maintaining its commitment to the delivery of its integrated SDM is detailed above and as such the Service is one of the leanest Fire and Rescue Services in the country. This scale of reform has been achieved through working with the Authority, staff, representative bodies, partners and communities, implementing innovative concepts to new ways of working, which have enabled efficiencies to be achieved whilst maintaining and improving services delivered to local communities.
- 3.11 This service transformation continues as the Service seeks to understand how future services can be delivered in a more efficient and effective way, whilst ensuring public safety is clearly met through the right ratio of resources to risk.
- 3.12 Being part of the WMCA will create further opportunities to progress transformation and create greater efficiencies enabled through a single structure. This is supported by the Group's appraisal of the WMCA as the model which provides the best opportunity to realise these benefits as detailed in paragraph 2.23.

Effective decision making

- 3.13 A model which enables accountability and leadership to be aligned effectively will enable transparent and effective decision making and reduce bureaucracy. The WMCA will provide a stable and statutory body for the Service and the Mayor will provide an accountable figure for the Service and decisions made to local communities.
- 3.14 The Mayor as an accountable figure will satisfy the Home Office's desire for 'single accountability' across public services, which together with the benefits from increased integration, greater collaboration across public services, increased public safety and value for money provide a sound rationale for the benefits of transferring the governance of the Service from the Authority to the proposed model. As discussed throughout this section this change could enable increased value to the communities through the delivery of joined-up services across the West Midlands.
- 3.15 The current governance arrangements for the Service through the Authority provides a model where accountability is spread across all 27 of its members. Representation is provided for across all seven constituent councils with a particular focus on 'lead members' for each local authority and political representation is proportional to the West Midlands area. Moving to a model of single accountability through the Mayor will provide an increased political focus on this role. The detail around the proposed model set out in section 5, below, aims to ensure that whilst accountability cannot be spread, the Mayor would be supported by a 'Mayoral Fire Advisory Committee' (the Committee) in the delivery of this role. The Committee will not be a decision making committee, this responsibility will remain with the Mayor and Chief Fire Officer, as appropriate. The Committee will advise the

Mayor, represent the Mayor and review decisions made by the Mayor. Further details around the role of the committee is set out in section 5 and Appendix 8.

- 3.16 The Mayor will provide a more visible figure of accountability for the Service, which will support the expansion of collaborative opportunities in line with Government expectations set out in the 'duty to collaborate', whilst enabling, through the model proposed below, focused engagement with constituent councils in the delivery of local services.
- 3.17 Clear and transformational leadership across the West Midlands, will also ensure the continuation of the progressive process of devolution of funding and powers as set out in the WMCA first devolution agreement, to achieve the right outcomes for the communities of the West Midlands.

4 THE DIRECTION FOR THE FUTURE GOVERNANCE OF THE SERVICE

- 4.1 The options appraisal undertaken by the Group together with the outcome of the consultation, the current and future strategic directions of the Service, the WMCA and the overall direction set by the Government (both policy and legislation), supports the Authority as it seeks alignment to a governance model through the Mayor as part of the WMCA. The Authority believes this model would provide the best approach to the future delivery of services to the communities of the West Midlands as set out in paragraph 3. This is particularly so given the Authority maintains its belief that the Service is the largest and most complex Fire and Rescue Service outside of London, complexities recognised by Adrian Thomas as part of his review.
- 4.2 The route to a WMCA governance model has provided the opportunity to explore the relationship between the functions of a Mayor, the PCC and the Authority through local determination. This journey has triggered significant engagement with the Mayor, the WMCA, the PCC, the constituent council Chief Executives and the Leaders of the constituent councils. Support for the strategy to reform the Authority through joining the WMCA as proposed within this Review was unanimously provided at WMCA Board on the 3rd March 2017. This was preceded by approval of the overall direction and timeline for future governance of the Service by the Authority on the 20th February 2017. Subsequently the WMCA Board has approved the preparation of the Governance Review and Scheme on the 8th September 2017. These reports are referred to in the background papers, below.
- 4.3 It is proposed that the Service transfer into the WMCA at this stage to enable it to achieve the benefits identified by the Group and those listed above, whilst delivering on the duty to collaborate with the emergency services prescribed by the PACA 2017. This move will progress the intent in the first devolution agreement as set out in paragraph 2.17 whilst the Mayor and the WMCA

explore the basis of an appropriate relationship between the functions of a Mayor and the PCC as further outlined in the mayoral manifesto.

- 4.4 A critical element to a change in governance to the WMCA will be the interim governance arrangements in continuing to provide the highest levels of public safety, supporting increased collaboration, without the associated costs an unnecessary change governance option would incur; as well as the risk of impact on engagement with staff, community and trust. In recognition of this the Authority believes that a Reformed Fire Authority (RFA) option can provide a more robust interim approach to governance, this was a key consideration of the Group. In its conclusions the Group determined that, 'the Authority should consider how its own governance should change, to enhance opportunities for further reform and collaboration'. As such, it is anticipated that the RFA will be implemented in June 2018 to support the progressive change to a WMCA governance model.
- 4.5 An important local dynamic within the reform of the Authority is the enabling power the PCC has to seek representation on the Authority by virtue of the PACA 2017. The PCC has followed up on the Authority's invitation to request a place on the Authority. This will be a key part of the RFA, subject to approval at full Authority. This evidences further progress around the intent to explore relationships within the West Midlands.

5.0 **PROPOSED GOVERNANCE MODEL:**

- 5.1 A Mayoral combined authority governance model for Fire and Rescue Services is very new. Changes implemented in Greater Manchester and those legislated for in London provide examples of how Mayoral models for governance for Fire and Rescue Services are developing. Further detail is set out in Appendix 9a – Mayoral Governance Models for Fire and Rescue Services and Appendix 9b – Comparison of London and Manchester models.

A WMCA Governance Model

- 5.2 As part of this model it is proposed the WMCA take on the Authority's functions and as such will be to the employer of the Service's staff and own all properties, rights and liabilities in this proposed governance model. The WMCA as a 'corporate body' will have the right structures in place to support the requirements of employer status, as well as any liabilities that result from this. These functions are set out by the following legislation and detailed further in Appendices 1 and 4.

Local Government Act 1985

Local Government and Housing Act 1989

The Local Government Act 1972

The Fire and Rescue Services Act 2004

The Fire and Rescue Services Order 2007
Civil Contingencies Act 2004
Regulatory Reform (Fire Safety) Order 2005
The National Framework for Fire and Rescue Services in England 2012

5.3 This model proposes that the Mayor (only) as a singularly accountable figure, will have the power to exercise these functions, delegating decision making and operational functions as appropriate. The essential roles, responsibilities and accountabilities of Mayoral governance, should incorporate functions transferred to the WMCA but exercised only by the Mayor as follows:

- Fire and rescue functions as required of the Fire and Rescue Service Act 2004 and other enabling legislation (detailed above and in Appendix 1).
- Decisions and functions relating to all properties, rights and liabilities in relation to the exercising of fire and rescue functions
- Accountability for the Integrated Risk Management Plan
- Accountability for the Corporate Strategy
- Approval of Budget and setting of precept
- Appointment and dismissal of the CFO

5.4 **The Mayoral Fire Advisory Committee (the Committee)**

1. Enable leadership for the Service and Mayoral priorities across each of the 7 local constituent authorities of the WMCA.

It is proposed that through the Committee arrangements the philosophy of collective representation across all seven constituent authorities remain and that the Committee reflects the membership and balance derived from the approved arrangements for the West Midlands Reformed Fire Authority. This will enable proportionality across each of the constituent councils, as well as enabling continuity and equitable spread in roles and responsibilities.

It is proposed that lead members will represent the priorities and strategy of the Mayor and WMFS in their respective councils and will report on performance in relation to fire functions.

Committee members will also support their local community fire stations in engaging with the community and through providing a link into respective constituent councils.

2. *Composition*

It is proposed the committee appointed should consist of 15 elected members from the WMCA constituent councils, the Police and Crime Commissioner (in accordance with the PACA 2017) and three further co-opted members from health, Ambulance and the WMCA to promote greater challenge, transparency and further collaboration.

Existing political balance will be applied to the Committee.

The Chair of the committee will be appointed by the Mayor.

It is recognised within this proposed model that the Mayor will gain greater accountabilities and this will need to be balanced effectively with both existing and future roles and responsibilities. It is proposed that the Committee members will support the Mayor in providing advice around fire related issues to ensure the right level of detail and understanding is provided to inform the Mayors role as the Authority.

The Committee will support the Mayor in providing advice around exercising fire functions to ensure the right level of detail and understanding is provided to inform the Mayors role as the Authority.

3. *Keep under review decisions made by the Mayor*

It is proposed that the role of reviewing decisions made by the Mayor is delegated to the Committee. Such reviews will be aligned to the National Framework for the Fire and Rescue Service and through prepared reports, will inform the WMCA about decisions made in relation to the exercising of fire and rescue functions. This will enable a continuation of knowledge and expertise in relation to fire at the outset of transferring the role of fire into the WMCA.

The Committee will review decisions made by the Mayor.

The proposed role of the Committee would be to report back to the WMCA on decisions made.

The Committee will not be a decision-making committee this responsibility will remain with the Mayor and Chief Fire Officer, as appropriate.

4. *Act as the 'voice' of the fire service within the 7 Constituent councils, regionally with other Fire and Rescue Services, nationally through the National Joint Council and Local Government Association.*

The Committee will support the Mayor by continuing with the strategic engagements cited in paragraph 1 thereby adding value to and influencing local, regional and national engagements through its sector expertise.

5. *Engage with and influence government policy on behalf of the Mayor in matters such as the impact of CSR on the ability to provide continuity of services to the West Midlands communities.*

Working regionally and nationally with the Fire Sector to engage with and influence issues such as flooding, funding, etc. The Committee will continue to be a key resource in enabling a wider awareness of the challenges faced locally both from a fire-fighting and community perspective. It will continue to represent the Service through bodies such as AMFRA listed in paragraph 1.

6. *Enable the development of collaboration, partnerships and services to the community through engagement with local councils, emergency services and beyond, thereby fulfilling the requirements of the duty to collaborate.*

The Committee will provide the support required to fulfil the legislative obligations prescribed by the PACA 2017.

- 5.5 This proposed model seeks to create an efficient and effective decision making structure, which will support the Mayor in focusing on strategy and setting direction for the Service.
- 5.6 This proposed model compares favourably with the model recently implemented in Greater Manchester. The model for London which is yet to be implemented is different in that the London Commissioner role also acts as the governing body. It is understood that the scrutiny role of the Greater London Assembly can in the case of fire be delegated to its fire committee.
- 5.7 An overview of the proposed governance framework incorporating roles and responsibilities of the Mayor, committee and CFO/Officers is set out in Appendix 8.
- 5.8 **CFO/Officer roles**

This model will enable the Mayor to delegate functions to the CFO enabling the CFO to be directly accountable for:

- the management of the Service

- the delivery of WMFS Strategy (incl. matters relating to exercising functions of the Fire and Rescue Services Act 2004, etc.)
- the delivery of a staffing structure and model which supports current and future Strategy
- the deployment of resources to meet risk
- the transformation of services to meet WMFS and Mayoral/WMCA priorities.

5.9 The above areas of accountability would enable the CFO as head of paid service of West Midlands Fire Service to effectively manage staff, employee relations, workforce development, resources and assets to support the delivery of day to day functions, as well as the development of future delivery of services aligned to the strategy agreed with the Mayor. Such a proposal appears well placed when considered alongside Chief Officers for other emergency services.

5.10 In accordance with section 2(3) of The Police Reform and Social Responsibility Act 2011 a Chief Constable has direct control of the police force and civilian staff of a police force. This is therefore equivalent to the head of paid service conferred by s4 of the Local Government and Housing Act 1989. Furthermore, a Chief Constable is also a corporation sole by virtue of s2 of Schedule 2 of The Police Reform and Social Responsibility Act 2011.

6. The legislative route to enabling Mayoral governance

6.1 The main pieces of legislation enabling the change to be enacted in governance can be listed as follows:

- The Local Democracy, Economic Development and Construction Act 2009 and
- The Cities and Local Government Devolution Act 2016
- The Policing and Crime Act 2017 (PACA 2017)

6.2 The preferred route to achieve Mayoral governance of WMFS is through the Cities and Devolution Act 2016. This legislation enables the WMCA to take on additional functions, either local authority and/or other public authority functions. This route will enable, through a devolution deal, the powers and functions of WMFRA to be devolved to the WMCA and exercised only by the Mayor.

6.3 The justification and evidence base to support this route has been provided throughout this review and is listed in the scheme. The scheme will be consulted upon and approved locally prior to being submitted to government. The process is detailed below.

6.4 Process and timeline:

The following timeline demonstrates the next steps and stages required to effect the change in governance as outlined in this review. The timeline is indicative but it is envisaged that the governance could be implemented within a 15-18-month period. It should be noted that if the transfer of the Authority functions to the WMCA were to be achieved within this period, the RFA as an interim governance change may not be necessary move.

October - November 2017: Constituent Authority approval of content of governance review and scheme.

8th December 2017: WMCA approval of content of Governance Review and Scheme.

January – February 2018: Consultation of proposals set out in the scheme on behalf of the Secretary of State (a minimum of 6 weeks)

March 18: Analyse consultation responses locally

April 18: Governance Review, Scheme and analysis of consultation reviewed by Secretary of State (4-12 weeks)

May - June 18: Government development of Order detailing changes required in legislation to abolish WMFRA and amend legislation to enable future WMCA governance

July - September 18: Constituent Authority/ CA approval of detail of Order

September - October July 18: Order amended where needed locally enters Parliamentary Process

November 18: Secretary of State approves Order

November/ December 18: Authority functions can transfer to the WMCA

7. Schedule of background papers

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

WMFRA Report - Future Governance Working Group (20 February 2017)

Future Governance Working Group Report February 2017

West Midlands Combined Authority (WMCA) report (3 March 2017)

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

West Midlands Combined Authority (WMCA) report (8 September 2017)

8. Appendices

Appendix 1 – The Most Pertinent Legislatively Prescribed Service Delivery Provisions:

The most pertinent legislatively prescribed service delivery provisions are as follows:

- **The Fire and Rescue Services Act 2004**

As a requirement of the Fire and Rescue Services Act 2004, the Government published the Fire and Rescue National Framework setting out the priorities and objectives for Fire and Rescue Authorities in England. FRA's must have regard to it in carrying out their duties. The Framework places responsibility on Fire and Rescue Services to prepare an Integrated Risk Management Plan (IRMP). The plan must include targets and objectives for reducing risks, balancing prevention and intervention, and determining response standards and resource allocation. In West Midlands this is called The Community Safety Strategy. The CFO will manage and advise the Mayor on the IRMP, subject to the Mayor's approval.

- **The Fire and Rescue Services (Emergencies) (England) Order 2007**

Section 58 of the FRS Act 2004 specifies other emergencies for which fire and rescue authorities must make provision. These are set out in the above Order 2007 and specifies functions in connection with emergencies involving chemical, biological, or radio-active contaminants, structural collapse or a train, tram or aircraft ("transport emergencies"), but does not apply in relation to transport emergencies, unless the incident is likely to require a Fire and Rescue Authority to use resources beyond the scope of its normal day to day operations.

In addition, where a Fire and Rescue Authority has specialist resources, including specialist trained personnel, to enable it to deal with emergencies of a kind described in this Order, and such an emergency occurs or is likely to occur in the area of another Authority; this Order requires the Authority with the specialist resources, if asked to do so, to use those resources in that other Authority's area so far as is reasonable for the purpose of dealing with the emergency. The CFO will manage the configuration of the resources as part of day to day business, however, the Mayor will retain oversight and be able to provide time critical resilience to emergencies on a regional and national scale.

- **The Regulatory Reform (Fire Safety Order) 2005**

This places emphasis on business continuity and containing and preventing the spread of small fires. It provides a minimum fire safety standard in all non-domestic premises. It designates a person (e.g. employer, manager or owner) as a responsible person who is then required to carry out certain fire safety duties, which include ensuring that general fire precautions are satisfactory and that fire risk assessments are conducted.

Fire Authorities are the primary enforcing agencies for all fire legislation in non-domestic use. The Authority has delegated the power to prosecute to the Chief Fire Officer. However, the Mayor will retain oversight.

- **The Civil Contingencies Act 2004**

The Civil Contingencies Act 2004 delivers a framework for civil protection. It establishes a statutory framework of roles and responsibilities for local responders; of which the Authority is one, and on emergency powers, establishing a framework for the use of special legislative measures that might be necessary to deal with the effects of the most serious emergencies. The Act also divides local responders into two categories. The Fire Authority is a Category 1 responder. This means that it is at the core of emergency response. Upon transfer of governance the CFO will continue to manage operational handling and the Mayor will retain oversight.

Appendix 2 – A Risk Based Service and Risk Based Service Delivery

The Service is a unique public body in that it is funded to provide adequate cover against risk, informed by demand, as opposed to restricted to demand.

Risk is analysed by employing sophisticated processes to manage performance in responding to emergency incidents, based upon the principle of proportionality, dependent on the risk involved. Local geography is analysed, based on factors such as deprivation and the history of dwelling fire incidents within locations to determine the weighting of the risk. In this way, a picture is painted of the future likelihood of high risk incidents occurring in particular areas allowing a reliable Risk Map for assessing foreseeable future risk to be developed. The Area Risk Maps (ARM's) are then used as the basis for planning prevention, protection and emergency response strategies. This data is key not only relevant to WMFS but also to partners in authorities such as constituent councils, health and social care.

It serves a population of more than 2.8 million people with some of the most diverse and multi-cultural communities in the country, in a relatively small geographical space. The population demographics, socio-economic and health and well-being challenges means that the Service has amongst the highest levels of social risk in England, which makes its communities particularly vulnerable to fire, road traffic and other emergency incidents. The West Midlands has a disproportionate percentage of the total number of incidents with more fires per head of population in the West Midlands compared to the rest of the country including London. There are also proportionately more serious life threatening incidents in the West Midlands as is shown by analysing the Primary Fires. There is a similar pattern when total incidents - not just fires but all manner of emergencies.¹ Serving a relatively small geographical space means that WMFS' fire stations serve more people compared to the rest of the country, serving the highest levels of population outside of London, typically double the population of other non-Metropolitan FRS's.² Serving larger number of high risk people means WMFS stations are amongst the busiest in the country, attending more than double the number of incidents per Fire Station.³

Prevention, Protection and Response Services:

Prevention – creating a healthier community through changing behaviours to improve outcomes

¹ CIPFA Fire Statistics

² CIPFA Fire Statistics

³ CIPFA Fire Statistics

As well as responding to risks when they do happen WMFS is about preventing those incidents and protecting communities in the first instance – That is where its key successes and improvements have been. Nationally, the FRS has undergone a major cultural change to embrace prevention and develop a sophisticated understanding of community risk. This has brought about a dramatic reduction in fires (58%), deaths (38%) and injuries (35%) through services' engagement with communities.⁴ The Service plays a very practical and essential role in managing and responding to the risks that face society and they are also uniquely placed to reduce some of the risk in the community through their unrivalled standing and high levels of public trust, satisfaction and confidence by situating firefighters at the very heart of the West Midlands community. This allows the community to have comprehensive contact with firefighters who are then able to cross the front doors of residents in the high 80% of the time without any prior contact. This means WMFS firefighters are able to go further when conducting their comprehensive Safe and Well Checks in providing critical interventions, promoting health messages and making referrals to appropriate services to help keep people safe and reduce incidents of harm – *fire-fighting upstream*.

Protection Services – creating a stronger business community

Serving the heartlands of businesses and the UK economy the Service plays a major role in contributing to the national protection activity. The West Midlands has large numbers of industrial and relatively high risk premises within its community. Often this is a legacy of former industrial heritage and how the cities have developed. One example of the relative risk is that the West Midlands has a higher percentage of unsatisfactory business audits undertaken, meaning they comprise the greatest business risk, which therefore requires further resources to enforce compliance.

Accordingly, protection services are geared towards supporting the local economy. This means prioritising the business sector, focusing on giving a wide range of advice and, when necessary, enforcing the law through qualified inspectors. Officers also work with building control and approved inspectors to inspect plans for new buildings and ensure compliance with the following:

- Clear access routes for fire appliances in areas of new build
- Adequate water supplies and firefighting facilities
- Suitable escape routes and fire resisting construction
- Safety systems such as fire alarms and escape lighting

Safety audits are carried out using a risk based system of ranking sites in order of priority, to ensure visits take place where they will achieve the greatest impact on safety.

⁴ Fire Statistics Data Tables, Home Office

The business help-first approach helps to foster positive perceptions in the diverse business community of the West Midlands where there are more small to medium businesses with 18,337 new businesses registered in Birmingham in 2014⁵, the highest in any UK city outside London. 80% of small to medium businesses in the West Midlands do not recover from a fire. An important part of the work the Service does is to work with such businesses to increase their resilience and help to keep businesses in businesses.

These activities strategically align to the WMCA, which has prioritised economic development as part of its plans to use its extensive economic market area covered by the three Local Enterprise Partnerships (LEPs) to jointly create an economy which is the strongest outside London and contributes fully to the Government's vision of a wider "Midlands Engine for Growth".

Response Services – creating safer communities:

Although the Service has been very successful in reducing fires, there remains an underlying level of risk which means that the Service needs to be resourced to enable it to continue to respond effectively to all the risk in their communities. There is a key public expectation that the Service will respond swiftly to help effectively whatever the emergency. Emergency response will always remain a core priority because, despite efforts to prevent fires and reduce their impact, they and other emergencies continue to occur, putting life, property and the local economy at risk. Emergency calls range from rubbish fires, road traffic incidents, special service calls or a life threatening house fire.

Incidents which threaten life or property require swift attendance times. A swift attendance time reduces the risk to the victim and the responding firefighter, and the financial impact of fire on the local and national economy. WMFS believe that achieving the fastest response time possible is evidentially important to survivability.

Alongside coping with local risks the Service is an integral part of the National Resilience plans for dealing with serious incidents and major catastrophes including natural disasters, terrorism, whereby it provides specialist support in the event of Marauding Terrorist Fire Arms incidents, and specialist capabilities to the UN approved UK International Search and Rescue Teams.

⁵ Start-up Britain 2014

Appendix 3 – Current governance framework for WMFRA

CURRENT WMFRA MODEL

ROLES & RESPONSIBILITIES

HOW IS THIS ENABLED?

WHAT DOES THIS MEAN?

<p>West Midlands Fire and Rescue Authority (WMRA) 27 councillors proportionality representing 7 constituent councils.</p> <p>Model based on Section 41 – lead member principles</p>	<ul style="list-style-type: none"> • Governance (supervisory body) for WMFS • Accountable for ‘fire and rescue’ functions – FRS Act 2004: • Approve the Integrated Risk Management Plan (N.Framework), Corporate Strategy, budget * • Raise council tax precept • Owns all properties, rights and liabilities, including employment contracts • Appointment of Principal & Statutory officers • Lead members (section 41) enable Local Authority representation • Regional and national (LGA/NJC) rep • Lobbies government - AMFRA 	<p>WMFRA is responsible for employing staff, owns all assets and is liable for all civil/criminal action.</p> <p>WMFRA is accountable to the communities for services provided as set out in the Fire and Rescue Services Act and other enabling legislation</p> <p>WMFRA collects council tax contributions from constituent councils</p>	<p>Officers prepare and present the IRM and Corporate Strategy for Authority approval</p> <p>Officers prepare and present all financial, property and asset plans for Authority approval</p> <p>Officers manage all activity to ensure services are delivered as set out in enabling legislation</p> <p>Officers line manage all employees & employee/management relationships through employee relations framework</p>
<p>Committees</p> <p>Councillors undertake delegated responsibilities</p>	<p>Audit – governance, risk management and financial control</p> <p>Scrutiny – inform policy development and scrutinise performance</p> <p>Executive Committee – urgent matters, approve procurement over £250k</p>	<p>Committees provide delegated roles on behalf of the WMFRA. Both Audit and Scrutiny are ‘statutory’ roles.</p> <p>Scrutiny is an important element of ‘good governance’ in ensuring robust frameworks are in place</p>	<p>Executive arrangements have reduced and now hear urgent matters & scrutiny outcomes.</p> <p>Scrutiny supported by officers to enable an effective approach to reviews.</p>
<p>Chief Fire Officer/Officers</p> <p>Delegated responsibilities</p> <p>Accountable to WMFRA</p>	<p>Head of Paid Service</p> <p>Control of all matters relating to administration of WMFRA functions under fire and rescue services act & other legislation - firefighting, fire safety, road traffic collisions, emergencies, civil contingencies, MTFA, National Resilience.</p>	<p>Decision making to enable operational effectiveness through the right:</p> <ul style="list-style-type: none"> • Allocation of resources • People • workforce development <p>To enable delivery of the SDM & WMFRA strategy</p>	<ul style="list-style-type: none"> • line management of staff • development of staff • Day to day varying deployment of resources to meet risk • Effective varying of staffing structure and SDM to match resources to risk • Advises WMFRA on exercise of fire and rescue functions

Appendix 4 – Legislative Responsibilities Currently Placed on WMFRA

The responsibilities as set out in the following pieces of legislation will need to be transferred on abolition of the Authority.

- **Local Government Act 1985**

The Authority as it stands was legally created under the LGA 1985, which created joint fire authorities and stipulated the number of Members appointed from constituent councils to the Fire Authority (27). Section 34 also sets out the annual appointment of the Chair, Vice Chair and Clerk. The responsibilities as set out in this Act including their transfer will depend on the governance model adopted for the future provision of community services.

- **Local Government and Housing Act 1989**

This Act requires the designation of one of WMFS's officers as Head of Paid Service (the Chief Fire Officer) and outlines the specific responsibilities of this role. It also stipulates the requirement to appoint a Monitoring Officer. It is proposed the CFO will continue to be the head of paid service and will be accountable to the Mayor in the operation of their duties, subject to the detail set in the Scheme and the WMCA's Constitution. The requirement to appoint a Monitoring Officer will depend on the governance model adopted.

- **The Local Government Act 1972**

This Act requires the appointment of a Chief Finance Officer (section 151 Officer) in addition to the appointment of such officers as the Authority thinks necessary for the proper discharge of its functions. Under this Act the Authority may also acquire, appropriate or dispose of land/and or premises. Further, the Authority is permitted to make standing orders in respect to the making of contracts by them or on their behalf (subject to relevant procurement legislation). The responsibilities set out in this Act will depend on the governance model adopted.

Appendix 5 – The Governance Models

A Fire and Rescue Authority

Currently all Fire and Rescue Services (excluding Scotland, London and those abolished upon incorporation in combined authorities) whether Metropolitan, Combined or County Council, are governed through an Authority and Committees. These provide democratic accountability and governance of Fire Services to the communities they serve.

A Fire Authority is a statutory body. The Local Government Act 1985 and Local Government and Housing Act 1989, provides the basis for these arrangements. More specifically, for West Midlands Fire Service as a Metropolitan Service schedule 10 of the 85' Act sets out the number of Members that should sit on the Authority, apportioning this amongst each of the 7 West Midlands Local Authorities.

The purpose of a Fire Authority is to provide policy and political direction to the Service and to carry out strategic and legislative duties such as the approval of the Authority budget.

A Police and Crime Commissioner (PCC):

The introduction of the Policing and Crime Act 2017 (PACA 2017) as an outcome of the 'Enabling Closer Working' consultation, introduced two key proposals:

It placed a duty on each of the emergency services to consider collaboration. PACA 2017 also enabled the governance of the Fire and Rescue Services to be provided for through a single elected accountable person, a Mayor or where this is locally determined, a PCC. PCC's now have the ability to submit a business case to the Secretary of State, to take over the governance of Fire and Rescue Services in their areas.

Any business case must be able to demonstrate the benefits of this change against the delivery of improved efficiency, effectiveness, economy and public safety.

The PACA 2017 provides two options for the future governance and management of both organisations (Police and Fire).

The first is where the PCC provides the governance for both the Police and Fire, with Chief Officers from both organisations reporting in through their separate management structures. This would lead to the disbanding of the Authority and the transference of the employer status for fire and rescue staff to the PCC.

The second also enables the PCC to provide governance for both Services but appoints a ‘single employer’, a Chief Officer, to oversee both organisations (Police and Fire). In this option the Chief Officer becomes the employer of fire and rescue staff.

The PACA 2017 also makes provision for differing arrangements in London where the London Fire and Emergency Planning Authority (LFEPA) will be abolished and the London Fire Service will be brought under the direction of the Mayor of London, who will set its budgets and strategic direction. The London Fire Commissioner will become a ‘corporation sole’, with the functions of the abolished LFEPA being transferred to the Commissioner. The Commissioner will have the functions of the Fire and Rescue Authority for Greater London. A Fire and Emergency committee will be formed with the purpose of scrutinising the Commissioner, Fire Service and Mayor.

West Midlands Combined Authority and the Mayor:

As part of public sector reform, handing down power and money from central government to local authorities through devolution deals, means that decisions and spend can be made locally for the benefit of the region. This can be achieved through the joining of services to deliver better outcomes for the community. Devolution is a critical agenda for central government and through the Cities and Devolution Act 2016, has been delivered through a Mayor as the single accountable leader of a Combined Authority.

Mayoral elections for WMCA took place on the 4th May 2017 and following amendments to the PACA 2017 at Bill stage, provisions are in place for the Mayor to have the direct power to “exercise the functions of Fire and Rescue Services”. This has provided a route for the governance of the Service to become functions of the Mayor as part of the WMCA and be provided for through this structure.

Combination of Fire and Rescue Services:

The west midlands county footprint incorporates five fire and rescue services. Research undertaken during 2015 highlighted the possibility of the combination of Fire and Rescue Services with the potential to increased public safety and improved performance whilst delivering wider efficiencies. The commitment to joint working within the WMCA footprint is evident by the increase in the number of non-constituent members which brings into focus the wider fire and rescue services.

The Fire and Rescue Services Act 2004 and enables the PACA 2017 enables these changes to be made.

Appendix 6 – The Future Governance Working Groups Conclusions

1. The analysis suggests that a two-stage process, whilst there is no “stand out” option, increases costs, risk and reduces benefits and as such should be avoided. There is considerable potential change in the next year or so:

- PCC business cases
- The development of the Combined Authority model in Manchester and London
- The programme of the Mayor and the WMCA
- Additional devolution deals

The WMFRA needs to ensure it continues to engage with stakeholders to ensure it can fully consider its position and the options available to it.

2. The Working Group found that there was enthusiasm and commitment from other organisations for collaboration. The Service has made great progress over recent years, and the working group felt that the Authority would benefit from considering its constitution and structure and how it might change enable further collaboration.

3. The Mayoral and WMCA model is just emerging and the first Mayor is yet to be appointed, so there is as yet lack of clarity about its programme. However, change with a new Mayor will happen and this will create opportunity in improving public services. The WMFRA need to ensure that they remain engaged in this to ensure the best opportunity for delivery of outcomes for future.

4. If a mayoral option is not available in the medium term for police or fire, then the options would need re appraised to ensure the benefits of collaboration across the emergency services and wider public services are realised.

5. The Bill does not enable governance changes with the Ambulance Service which may prevent full collaboration to be realised as well as the benefits from this.

6. Ambulance sits outside of governance analysis however the opportunities for collaboration are significant

7 A Fire/Fire combination would realise significant benefits at lower risk than other options. This would require local consensus and a formal business case, approved by the Home Office. The associated Council tax consequences, and any boundary issues would need to be considered.

8 The PCC model is relatively new but is having an impact on Police effectiveness. Although there would be some risk associated with the Fire/Police combination, there could be significant cost benefits.

Appendix 7 – Collaborative Relationships

Multi-Agency Specialist Assessment Team (MASAT):

Combining the resources, expertise and specialist knowledge of the Service, West Midlands Ambulance Service (WMAS) and West Midlands Police (WMP) for the initial assessment of hazardous substance at potential/suspected Chemical Biological, Radiological and Nuclear (CBRNe) incidents achieves a flexible and a scalable approach, which delivers an effective and efficient response.

The relationships formed through this work has enabled greater communication particularly with WMP. Through these relationships, shared work locations have now been established, which further the ongoing support for daily activities and the ability to share information.

The Multi Agency Specialist Assessment Team (MASAT) seeks to develop a single, joint and co-ordinated emergency services response to a suspected/potential CBRN(e) event, implementing consistent working practices and maximising interoperability across equipment, resources and knowledge.

The MASAT is a combination of CBRN(e)/HAZMAT specialist resources from WMFS, WMAS and Police Officers from the four regional forces. By working as a single operational entity the MASAT will provide an initial assessment of suspected/potential CBRN incidents and rapidly detect, identify and monitor the presence of any hazardous substance, to secure an informed and proportionate multi-agency response. The team may also be deployed to other incidents which encounter hazardous materials, for example, chemical suicides and drugs or explosive laboratories where chemicals are found.

The principal contributions of each service are:-

➤ Ambulance Service

The WMAS Hazardous Area Response Team (HART) provide an initial health assessment of any incident and alert the wider health community on their potential scale and impact. The team support Fire and Police Service responders, ensuring a safe system of work and providing immediate medical care to MASAT staff.

➤ Fire Service

The Fire Service provide a Detection Identification and Monitoring (DIM) capability to rapidly identify and analyse suspected CBRN(e) substances. The team also ensure that items recovered are handled and retained with due care for forensic integrity. The team also ensure that safe systems of work exist for Breathing Apparatus equipment and rescue functions.

➤ Police Service

The Police Service will have primary responsibility to command the response to an actual or potential CBRN(e) event by managing any civil disorder, to ensure a permissive environment exists in which the other emergency services can operate. It will also conduct intelligence/scene assessments to inform operational risk assessments and any subsequent response.

Benefits:

A more dynamic, effective and efficient delivery of services when an incident occurs as all emergency services respond together using the same approach and together.

Collaborative Pensions Board:

WMFS and WMP chair each other's respective Pensions Board meetings. This arrangement was established in order to provide an independent Chair at each Pension Board meeting without incurring additional costs.

Benefits:

- This has been a quick win for both services and has removed the potential costs associated with recruiting an independent Chair into this role.
- Sharing of practice and development of working relationships between the WMP and WMFS.

Emergency Planning / LRF

For a number of years WMFS and WMP have shared the co-ordination and delivery of the Local Resilience Forum (LRF) in support of the Local Authorities and other Category 1 and 2 responders under the Civil Contingencies Act.

WMFS and WMP provide the Chair and Vice Chair of both the Strategic LRF and the General Working Group (GWG) that supports the LRF. The administrative resources for the LRF are employed by WMP but directly support the Chair from WMFS.

Local Police Units & Operations Commanders:

This collaboration is underway with WMFS Operations Commanders regularly attending WMP Local Police unit meeting and vice versa.

There are regular meetings between the Principal officers in WMFS and WMP to ensure that all opportunities are discussed such as:

- The possibility of sharing data and information about properties and estates
- Looking at closer alignment of LPU/Command plans to take account of each other's local priorities
- The chance of Police sharing data about RTCs to help WMFS measure the impact of prevention activity

Appendix 8 – Proposed Future Governance Framework for Mayoral model

ROLES & RESPONSIBILITIES

Mayor

Single elected accountable figure

WMCA

(governing body)

Fire Advisory

Committee (Specialist review and advice to Mayor)

Chief Fire Officer/Officers

Accountable to the Mayor

- Governance (supervisory body) for WMFS, guided by LGA and LGiH Acts
- Exercises all 'fire and rescue' functions – FRS Act 2004 and enabling:
- Accountable for the:
 - Integrated Risk Management Plan (N.Framework)*
 - the Corporate Strategy – The Plan*
 - Budgets (Capital and revenue)*
- Raises precept
- Responsible for Senior & Statutory Officer appointments

- Owns all **functions**, properties, rights and liabilities, including employment contracts of WMFS staff

- Leadership for WMFS priorities across seven local constituent authorities
- Enabling development of local authority and health care partnerships
- Review functions - i.e. reviewing decisions made against the local risk plan and the corporate strategy (statutory functions)
- Enabling regional fire and local government relationships
- Lobbying functions with other FRSs through AMFRA
- A voice and representation within LGA and NJC working with alongside NFCC
- Ceremonial support for Mayor for WMFS

Head of Paid Service for WMFS

Accountable to the Mayor for the delivery of services within a balanced budget:

- the delivery of WMFS Strategy (incl. matters relating to exercising functions of the fire and rescue services ac, etc)
- the delivery of a staffing structure & models supporting current and future Strategy
- the deployment of resources to meet risk
- the transformation of services to meet WMFS and Mayoral/WMCA priorities.

WHAT WILL THIS MEAN?

- The WMCA owns all properties rights and liabilities of the former WMFRA and all functions
- The WMCA employ all staff including the CFO
- The Mayor **only** can exercise all fire and rescue functions and can delegate these to a committee and/or officers other than* functions
- The Mayor is accountable figure to the communities for services provided, as set out in the Fire and Rescue Services Act and other enabling legislation
- The Mayor provides strategic policy direction
- The Mayor oversees the efficiency and effectiveness of WMFS

The MFAC has clear delegations around scrutiny of Mayoral decisions, providing reports to the WMCA

Supports the Mayor both locally and nationally as the political 'voice' for WMFS

Accountability for the delivery of Strategy and Integrated Risk Plan, enabled through robust decision making at the right level. Delivering operational effectiveness through the right:

- Allocation of resources
- Recruitment and management of staff
- workforce reform & development

Appendix 9a – Mayoral Governance Models for Fire and Rescue Services

London arrangements: The Mayor of London already provides a role for oversight of the current London Fire and Emergency Planning Authority (LFEPA). The new London Mayoral model which is created by the Policing and Crime Act 2017, places responsibility for the governance of the London Fire Brigade with the London Fire Commissioner (LFC), transferring the functions of the LFEPA to the LFC. This role will also be the Chief Fire Officer for the Fire Brigade.

The detail around this model is still emerging and a ‘scheme of supervision’ is currently being created to ensure the Mayor is able to hold the LFC to account for the exercise of functions.

A ‘fire, resilience and emergency planning committee’ was constituted on the 3rd May 2017 and is intended to provide a scrutiny function to the LFC on behalf of the Mayor.

Manchester arrangements: The Manchester Mayoral model created through the Cities and Devolution Act 2016, transfers the governance of the Fire and Rescue Service and the functions of the previous Fire Authority, to the Greater Manchester Combined Authority (GMCA). However, these functions are only exercisable by the Mayor. The transfer of these functions took place on the 8th May 2017.

The Mayor is able to delegate to both the CFO and a ‘fire committee’.

A ‘fire committee’ is provided for within the order that created the fire function within GMCA, The Greater Manchester Combined Authority (Fire and Rescue Functions) Order 2017. The role of the fire committee is not set out in this order and but is in the early stages of being developed.

What are the differences?

The London model places accountability for governance, delivery of fire and rescue functions and services, the ownership of assets and employment of staff on the LFC role. This role will also be the CFO for the Fire Service.

The scrutiny role enabled through the ‘fire, resilience and emergency planning committee’ is essential for this model.

The Manchester model enables the responsibility for the delivery of services, the ownership of assets and employment of staff to be spread. Whilst the GMCA employs staff and owns assets, the Mayor is accountable for the exercising of ‘fire and rescue’ functions. The Mayor can delegate some functions to a deputy, committee and the CFO.

The advantages of the LFC model will be that there is clarity in roles and responsibilities around decision making concerning the management of fire service resources and in particular the development of the workforce. The accountability of the LFC will enable a progressive and agile approach to the transformation of workforce and services delivered to local communities.

The LFC holds a great deal of accountability and liability within a 'Corporation Sole' model which will present risks. It is assumed that whilst this model is now legislated for, there is still some detail being worked out as progress to implement has so far been deferred.

The Manchester model retains accountability for decision making with the Mayor. These decisions can be delegated to a committee or to the CFO. There will need to be clear delegations between the roles of the GMCA, Mayor, Committee and CFO, to ensure that the fire service is able to maintain operational effectiveness and transform services through effective decision making. The committee model offers additional political support to the Mayor, informed advice and guidance and maintains a clear connection through lead members with each of the constituent councils in the region.

There remains within each model, essential scrutiny functions.

Appendix 9b – Comparison of London and Manchester models

This comparison seeks to clarify the differences between the governance models of Manchester Fire and Rescue Service and London Fire Brigade. The Manchester model is now in place but in its infancy, the London model is not as yet and there are elements to both which are still emerging and developing.

	London Fire Brigade to London Fire Commissioner	Manchester Fire and Rescue Service to Greater Manchester Combined Authority
	<ul style="list-style-type: none"> The Policing and Crime Act 2017 (PACA 2017) 	<ul style="list-style-type: none"> The Greater Manchester Combined Authority (Fire and Rescue Functions) Order 2017 (S.I.2017/469) The Greater Manchester Combined Authority Order 2011 (S.I.2011/908)
What are the Fire Authority functions and how has/will this change?	<p>The London Fire and Emergency Planning Authority (LFEPA) is the Fire Authority for London Fire Brigade.</p> <p>This is to be abolished by the above Act and its functions are to be transferred to the London Fire Commissioner (LFC). These are the ‘fire and rescue’ functions and passes responsibility for providing fire services to the Mayor from October 2017 (though date tbc by Parliament). The PACA 2017 requires the London Assembly to arrange for those functions granted to it by Schedule 2 of that Act to be discharged on its behalf by a particular committee, proposed to be known as the Fire, Resilience and Emergency Planning Committee. Source: https://www.london.gov.uk/moderngov/documents/g6205/Public%20reports%20pack%20Wednesday%2003-</p>	<p>The Greater Manchester Fire and Rescue Authority (GMFRA) have been abolished.</p> <p>The functions of the GMFRA are transferred to Greater Manchester Combined Authority (GMCA) under the above 2017 order. This took place on the 8th May 2017. GMCA will employ staff and own assets.</p> <p>The ‘fire and rescue’ functions of the GMCA may only be exercisable by the Mayor. These relate to the ability to vary staff and resources to enable the delivery of services.</p>

	May-2017%2010.00%20London%20Assembly%20Plenary.pdf?T=10) (p.28) This change is due to take place in April 2018	
Body corporate	The LFC will be a 'corporation sole' and all proprieties, rights and liabilities of the LFEPA will transfer across to this role.	The GMCA is a 'body corporate' and all proprieties, rights and liabilities of the previously GMFRA, transfer across to the combined authority.
What are the Mayors responsibilities and what can be delegated?	<p>The Mayor:</p> <ul style="list-style-type: none"> • appoints the LFC • can dismiss the LFC • sets the terms of employment for the LFC • will hold the LFC to account for the exercise of the Commissioner's functions. • approves the local risk plan and the LFC's corporate strategy. • Can guide and/or direct the LFC in his/her functions <p>The Mayor is not responsible for the functions of the FRS Act 2004. This is the responsibility of the LFC and as such all decisions relating to the delivery of services and employment of staff rest with the LFC</p>	<p>The Mayor:</p> <ul style="list-style-type: none"> • Is responsible for exercising all fire functions under the Fire and Rescue Service Act 2004 • appoints and can dismiss the manager of the FRS (the CFO) • sets his / her terms of employment. • Will hold the CFO to account • approves the local risk plan, the corporate strategy and civil contingency arrangements. • Delegates roles and responsibilities to the CFO <p>the Mayor as the governing body is responsible for functions under the FRS Act 2004? If so this needs adding here as it provides an important distinction to London.</p>

What responsibilities can the Mayor delegate?	<p>The Mayor may delegate responsibilities to a Deputy Mayor for Fire.</p> <p>The Greater London Assembly must also receive the local risk plan and corporate strategy.</p> <p>The Assembly must arrange for its responsibility to be discharged by a “Fire and Emergency Committee” (the Committee).</p>	<p>Members and officers of the GMCA may assist the Mayor in the exercising of fire and rescue functions.</p> <p>The Mayor may delegate the exercising of fire and rescue functions to a ‘Fire Committee’, except for those set out above.</p>
What does the committee do?	<p>The Fire, Resilience and Emergency Planning Committee, will provide scrutiny of:</p> <ol style="list-style-type: none"> 1. the LFC’s documents (including any revisions) i.e. the local risk plan and the corporate strategy and make recommendations to the Mayor. 2. Review the exercise of functions of the LFC, investigate and prepare reports about any actions or decisions of the London Fire Commissioner, Deputy Mayor for Fire, an officer of the London Fire Commissioner, functions of the London Fire Commissioner and any other matters considered of importance relating to fire and rescue services in Greater London; <p>The committee also has the power to submit proposals to the LFC.</p>	<p><i>The actual role of the fire committee of the GMCA fire function is not set out in legislation as it has been for the London model. However, the arrangements highlighted in the above section cannot be delegated. This could create the assumption that the committee would provide a scrutiny or advisory function to support the Mayor in decision making.</i></p> <p><i>Further information is being sought via Manchester Fire and GMCA.</i></p>

	<p>Wider powers of the Assembly include the power to call the proposed LFC or Deputy Mayoral candidate to a 'confirmation hearing' following which the committee call the proposed LFC or Deputy Mayoral candidate to a 'confirmation hearing' following which the committee can veto the appointments if unsatisfied.</p> <p>The power to require the Deputy Mayor for Fire, The London Fire Commissioner and any officer of the London Fire Commissioner to attend the Committee to answer questions.</p> <p>A 'scheme of supervision' for the Mayor of London is currently being drafted to enable oversight of the LFC and decision making processes.</p>	
Committee appointments	<p>There are no statutory rules regarding the size of this committee or the number of meetings it must hold. The London Assembly proposed that the Fire Committee should comprise 7 Assembly Members and meet 6 times in a full municipal year.</p> <p>The members term of office is fixed by the Assembly.</p> <p>Membership may be wider than Members of the Assembly (with powers to vote on matters) - procedures for these members yet to be drawn up.</p>	<p>The GMCA Fire Committee will comprise of no more than 15 members.</p> <p>It will consist of 1 elected member from each of the 10 constituent councils.</p> <p>Each constituent council will nominate a member.</p> <p>The Mayor may then appoint 5 or fewer further members onto the Fire Committee, from the elected</p>

		members of one or more of each of the constituent councils.
Committee composition	<p>Current composition of the Greater London Authority is: Labour Group – 48%, GLA Conservatives Group - 32%, Green Party Group – 8%, UK Independence Party – 8%, Liberal Democrat Group – 4%.</p> <p>The London Assembly, at its annual meeting on 13 May 2016, unanimously agreed to dis apply the strict application of proportionality rules from the establishment of its committees and subcommittees.</p> <p>The Fire Committee may appoint a sub-committee(s) to discharge any of its functions, other than any of the special scrutiny functions. The number of members of any sub-committee and their terms of office are to be fixed by the Fire Committee. Persons who are not members of the Assembly may be members of a sub-committee.</p>	The Fire Committee must reflect as far as reasonably practicable, the balance of the political parties among the constituent councils when appointed to the committee.
Who will Chair the Committee	The Assembly may determine the Chair (and Deputy Chair (if any)), or otherwise determine that the Fire, Resilience and Emergency Planning Committee is to appoint the Chair (and Deputy Chair (if any)).	The Mayor will appoint a member of the Fire Committee to Chair.
What is the role of the Chief Fire Officer of the Fire Service?	<p><i>As highlighted above the LFC who will be the CFO will take on all functions of LFEPA, including 'fire and rescue' functions. The LFC will:</i></p> <ul style="list-style-type: none"> • <i>Employ all staff</i> • <i>Own all assets</i> 	As highlighted above the Mayor can delegate to the CFO. Whilst this model is now in place the delegations to the 'committee' and CFO are yet to be understood.

	<i>This provides the LFC with the role and power to decide how staff, equipment and assets will be used to deliver services aligned to the local risk plan.</i>	At the very least it is likely that the CFO will be delegated the control of all operations as required under the Fire and Rescue Service Act 2004.
--	---	---

Cabinet Meeting

18 October 2017

Report title	Draft Budget and Medium Term Financial Strategy 2018-19 to 2019-20	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Andrew Johnson Cabinet Member for Resources	
Corporate Plan priority	Confident Capable Council	
Key decision	Yes	
In forward plan	Yes	
Wards affected	(All Wards);	
Accountable Director	Keith Ireland, Managing Director	
Originating service	Strategic Finance	
Accountable employee	Claire Nye	Director of Finance
	Tel	01902 550478
	Email	claire.nye@wolverhampton.gov.uk
Report to be/has been considered by	Strategic Executive Board	3 October 2017
	Children, Young People and Families Scrutiny Panel	1 November 2017
	Adult and Safer City Scrutiny Panel	7 November 2017
	Health Scrutiny Panel	16 November 2017
	Stronger City Economy Scrutiny Panel	21 November 2017
	Confident, Capable Council Scrutiny Panel	22 November 2017
	Vibrant and Sustainable Scrutiny Panel	23 November 2017

Recommendations for decision:

The Cabinet is recommended to approve:

1. The reprofiling of previously approved Waste and Recycling Service budget reduction targets totalling a cumulative £2.1 million in 2018-2019 to 2019-2020 to reflect the anticipated implementation date of service changes.

2. That Financial Transaction and Base Budget Revisions totalling a net reduction of £12.5 million in 2018-2019 be incorporated into the 2018-2019 draft budget.
3. That authority be delegated to the responsible Cabinet Member and the Cabinet Member for Resources, in consultation with the responsible Director and the Director of Finance to implement financial transactions at the earliest opportunity where the proposal is not reliant on the outcome of formal budget consultation.
4. A one-off base budget revision to the Treasury Management budget totalling £1.0 million for 2018-2019, due to an anticipated reduction in the forecast revenue implications arising from known capital programme requirements totalling £270,000 and the application of Treasury Management Equalisation reserves totalling £730,000 to support re-phasing in the capital programme.
5. The one-off use of £700,000 from the Job Evaluation reserve in 2018-2019.
6. The use of capital receipts totalling £2.7 million to fund the revenue cost of transformational projects that are anticipated to deliver efficiencies.
7. That work continues to identify additional recurring budget reduction opportunities that will work towards the remaining budget challenge to be delivered by 2019-2020. An update on progress on the budget strategy will be incorporated into the Final Budget report to be presented to Cabinet in February 2018.
8. That authority be delegated to the Cabinet Member for Resources in consultation with the Director of Finance to approve the final budget consultation arrangements.
9. That the Council opts-up from retail to professional status with regards to investment opportunities under the Financial Conduct Authority regulations, with the institutions that the Council currently uses as part of its Treasury Management Strategy. This will enable the continued use of the current instruments post 3 January 2018.

Recommendations for noting:

The Cabinet is asked to note:

1. That of the total £12.5 million financial transaction and base budget revisions identified in July 2017 for 2018-2019, £5.0 million are ongoing opportunities, as detailed in Appendix B, whilst £7.5 million are one-off opportunities, as detailed in Appendix C. Therefore, a significant element of the budget reduction proposals relate to one-off opportunities that can be achieved in 2018-2019. Taking this into account, the remaining cumulative budget challenge to be identified by 2019-2020 stands at £15.5 million.
2. That the updated projected deficit assumes the achievement of budget reduction proposals amounting to £33.8 million over the three year period to 2019-2020. Over the last seven financial years the Council has identified budget reductions in excess of

£200.0 million. This continues to be the most significant financial challenge that the Council has ever faced.

3. That due to external factors, budget assumptions remain subject to change. This could therefore result in alterations to the financial position faced by the Council.
4. That the 2018-2019 budget timetable will, as in previous years, include an update on all budget assumptions and the Provisional Local Government Settlement which be presented to Cabinet (Resources) Panel by January 2018, with the final budget report due to be approved by Full Council in March 2018.

1.0 Purpose

- 1.1 The purpose of this report is to provide Councillors with an update on the progress towards identifying a strategy to address the projected £14.8 million budget deficit for 2018-2019.
- 1.2 In July 2017, Cabinet approved that budget reduction proposals totalling £12.5 million for 2018-2019 were further developed over recent months.
- 1.3 This report is the second of the financial year on the budget and Medium Term Financial Strategy (MTFS) and provides an update on some key factors, the timetable for the budget process and the risks in relation to them.

2.0 Background

- 2.1 The 2017-2018 Budget and Medium Term Financial Strategy (MTFS) 2017-2018 to 2019-2020 was presented to Full Council for approval on 1 March 2017. After updating the MTFS for changes in assumptions and the outcome of the Local Government Finance Settlement, the Council was able to set a balanced budget for 2017-2018 without the use of general fund reserves; however the Council is still faced with finding further estimated budget reductions totalling £20.5 million by 2019-2020.
- 2.2 It is important to note that the updated projected deficit assumes the achievement of budget reduction proposals amounting to £33.8 million over the three year period from 2017-2018 to 2019-2020. Over the last seven financial years the Council has identified budget reductions in excess of £200.0 million. This continues to be the most significant financial challenge that the Council has ever faced.
- 2.3 In March 2017, Full Council approved that work started immediately to identify £14.8 million of budget reduction and income generation proposals to address the projected deficit in 2018-2019, with an update on progress to be reported to Cabinet in July 2017.
- 2.4 A further £5.7 million of budget reduction and income generation proposals need to be identified, in order to address the projected budget deficit over the medium term to 2019-2020.
- 2.5 An update on budget reduction and income generation targets that had been identified during the first quarter of this financial year was presented to Cabinet on 19 July 2017. The Council had identified a total of £12.5 million budget reduction opportunities towards the strategy of identifying £14.8 million for 2018-2019.
- 2.6 Of the total £12.5 million budget reduction proposals identified for 2018-2019, it is important to note that £5.0 million are ongoing budget reduction opportunities whilst £7.5 million are one-off budget reduction opportunities. Therefore, a significant element of the budget reduction proposals relate to one-off opportunities that can be achieved in 2018-

2019. Taking this into account, the remaining cumulative budget challenge to be identified by 2019-2020 stands at £15.5 million.

- 2.7 Work has continued during the second quarter of this financial year to further develop those budget reduction opportunities and to identify further possibilities to deliver the remaining target of £2.3 million required to meet the budget deficit for 2018-2019.
- 2.8 In addition to this, a review of the successful delivery of previously approved budget reduction and income generation proposals has been undertaken.
- 2.9 It should be noted that due to external factors, budget assumptions remain subject to change. This could therefore result in alterations to the financial position faced by the Council.
- 2.10 Work continues to identify additional budget reduction and income generation opportunities to address the projected budget deficit in 2019-2020, amounting to £15.5 million, in order to ensure that a balanced budget can be set over the medium term. An update on progress will be incorporated into the final budget report, to be presented to Cabinet in February 2018.

3.0 Update to Medium Term Financial Strategy

- 3.1 The assumptions used in the preparation of the budget and Medium Term Financial Strategy (MTFS) remain under constant review and update.

Proposals for 2018-2019

- 3.2 In July 2017, Cabinet were provided with an update on the identification of budget reduction opportunities at that stage in the budget process.
- 3.3 When identifying budget reduction and income generation proposals the Council's strategic approach to address the budget deficit continues to be to align resources to the Corporate Plan to achieve:
- A Stronger Economy
 - A Stronger Community
 - A Stronger Organisation.

Investment in the future is essential for both the Council and the City.

- 3.4 The budget reduction opportunities presented to Cabinet in July 2017 have now been classified into proposals upon which the outcome of formal budget consultation is required – Budget Reduction and Income Generation proposals – and proposals which can be implemented without reliance on the outcome of formal budget consultation – Financial Transactions and Base Budget Revisions.

- 3.5 All £12.5 million of budget reduction opportunities presented to Cabinet in July 2017 have been classified as Financial Transaction and Base Budget Revisions.
- 3.6 The 2018-2019 Financial Transaction and Base Budget Reduction Revisions that were identified have been summarised by Cabinet Portfolio in the table below, and further details can also be found in Appendices B and C:

Table 1 – Financial Transaction and Base Budget Revisions for 2018-2019 by Cabinet Portfolio

Cabinet Portfolio	No.	2018-2019 £000
Resources	10	(10,890)
Governance	3	(230)
City Assets and Housing	1	(1,000)
City Environment	1	(400)
Adults	-	-
Children and Young People	-	-
Public Health and Wellbeing	-	-
City Economy	-	-
Education	-	-
Total	15	(12,520)

- 3.7 As can be seen from Table 1, the Council identified a total of £12.5 million Financial Transaction and Base Budget Revisions towards the projected budget deficit of £14.8 million for 2018-2019.
- 3.8 This represented significant progress towards identifying the projected budget deficit for 2018-2019, reducing the projected budget deficit for 2018-2019 from £14.8 million to £2.3 million as can be seen in Table 2 below.

Table 2 – Cumulative Budget Challenge to 2019-2020

	2018-2019 £000	2019-2020 £000
Cumulative Budget Challenge as at February 2017	14,839	20,472
New Budget Reduction proposals	(12,520)	7,535
Remaining gap to be identified	2,319	15,487

- 3.9 In order to secure the benefit of Financial Transaction and Base Budget Revision proposals at the earliest opportunity, it is proposed that Cabinet delegate authority to the responsible Cabinet Member and the Cabinet Member for Resources, in consultation with the responsible Director and the Director of Finance to implement Financial

Transactions and Base Budget Revisions at the earliest opportunity where the proposal is not reliant on the outcome of formal budget consultation.

Budget Reduction and Income Generation Revisions

- 3.10 In addition to further developing budget reduction opportunities, a review of the successful delivery of previously approved budget reduction and income generation proposals has also been considered. As a result of this, Cabinet approval is sought to reprofile the previously approved Waste and Recycling budget reduction targets totalling a cumulative £2.1 million in 2018-2019 to 2019-2020 to reflect the anticipated implementation date of service changes.
- 3.11 As a result of the proposed amendment, the remaining projected budget deficit for 2018-2019 would increase from £2.3 million to £4.4 million. Therefore, the Council needed to identify further proposals totalling £4.4 million for 2018-2019.

Budget Strategy 2018-2019

- 3.12 Since the last update to Cabinet in July 2017, further detailed work has continued to take place to develop the proposals reported to Cabinet at that point in time, in addition to identifying new possibilities to deliver the remaining updated budget deficit of £4.4 million for 2018-2019.
- 3.13 As a result of this, the Council has been able to identify a further three proposals in 2018-2019 which will enable the Council to set a balanced budget for that year.
- 3.14 It is recommended that Cabinet approve the implementation of three new Financial Transaction and Base Budget Revisions as detailed in the paragraphs below.
- 3.15 As a result of further analysing the Treasury Management budget requirement for 2018-2019, it is recommended that Cabinet approve a one-off base budget revision totalling £1.0 million. This can be further analysed as follows:
- It is anticipated that there will be a reduction in the forecast revenue implications arising from known capital programme requirements totalling £270,000 in 2018-2019.
 - It is anticipated that reserves totalling £730,000 will be drawn down from the Treasury Management Equalisation Reserve to support re-phasing in the capital programme.
- 3.16 In addition to this, it is recommended that Cabinet approve the one-off use of £700,000 from the Job Evaluation reserve in 2018-2019. This reserve was created to fund legal costs associated with Job Evaluation. A review of the anticipated future costs indicates that this reserve can be reduced.
- 3.17 In December 2015, the Secretary of State announced that capital receipts could be used to pay for revenue set up costs of transformational projects that are designed to make revenue budget reductions. It is therefore recommended that Cabinet approve the use of capital receipts totalling £2.7 million to fund the revenue cost of transformational projects. Transformational projects that are anticipated to deliver efficiencies include: Customer

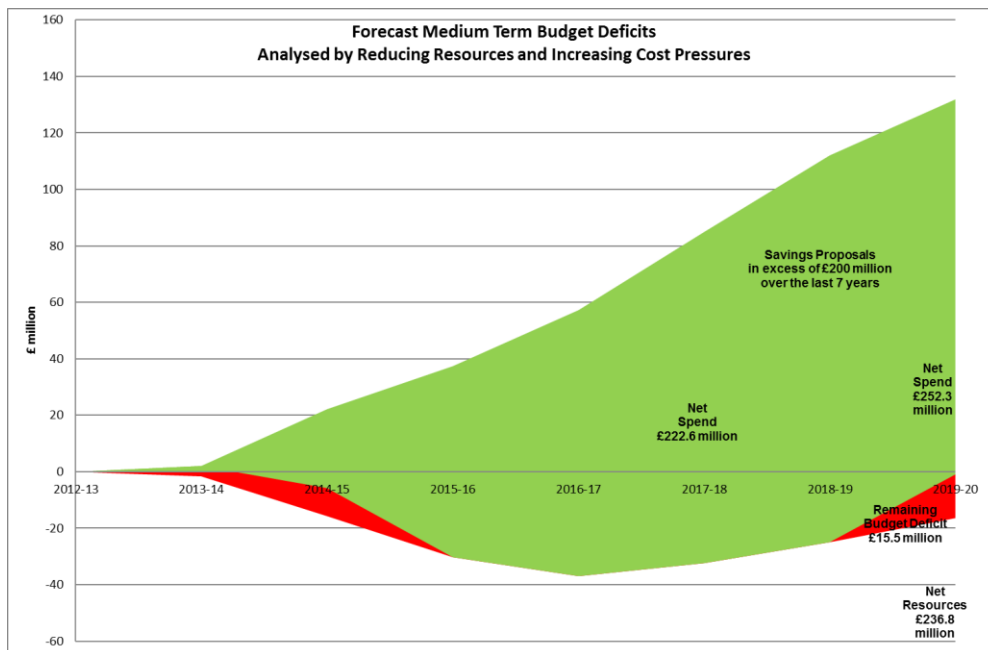
Services Transformation, Children's Services Transformation, Digital Transformation Programme.

- 3.18 The overall impact of the revisions to the 2018-2019 draft budget, arising as a result of the items detailed in the paragraphs above, has been reflected in Appendix A.

Budget Strategy for 2019-2020

- 3.19 Of the total Financial Transaction and Base Budget Revisions identified for 2018-2019, it is important to note that £5.0 million are ongoing budget reduction proposals, as detailed in Appendix B. Therefore, a significant element of the base budget revisions relate to one-off opportunities that can be achieved in 2018-2019. Taking this into account, the remaining cumulative budget challenge to be identified by 2019-2020 stands at £15.5 million, as can be seen in Chart 1 below.

Chart 1 – Projected Budget Challenge to 2019-2020



- 3.20 Given the challenging financial environment which the Council finds itself in, a focus on medium term financial planning is vital. It is therefore proposed that Cabinet approve that work continues to identify opportunities that will work towards the remaining budget challenge to be delivered by 2019-2020. An update on progress will be incorporated into the February 2018 report to Cabinet.

4.0 General Balances

- 4.1 The Council's General Fund Balance stands at £10 million; this is the minimum balance as determined in the Council's Reserves and Balances Policy. Emphasis therefore continues to be placed on identifying budget reduction and income generation

opportunities to meet the budget deficit for 2018-2019 and later years without calling on general reserves.

5.0 Budget Risk Management and Timetable

5.1 A summary of the 2018-2019 budget setting timetable is detailed in the table below:

Table 3 – Budget Timetable

Milestone	Deadline
Report to Cabinet seeking formal approval of 2018-2019 high level strategy	18 October 2017
Formal Budget Consultation and Scrutiny	19 October – 31 December 2017
Children, Young People and Families Scrutiny Panel	1 November 2017
Adult and Safer City Scrutiny Panel	7 November 2017
Health Scrutiny Panel	16 November 2017
Stronger City Economy Scrutiny Panel	21 November 2017
Confident, Capable Council Scrutiny Panel	22 November 2017
Vibrant and Sustainable Scrutiny Panel	23 November 2017
Report to Cabinet (Resources) Panel following Local Government Settlement	16 January 2018
Final Budget Report 2018-2019 to Cabinet	21 February 2018
Full Council Approval of Final Budget 2018-2019	7 March 2018

- 5.2 A briefing note on the budget consultation process undertaken for the 2017-2018 budget, and the proposed process regarding the 2018-2019 budget, was provided to the Confident Capable Council Scrutiny Panel in August 2017 for their review and comments. The feedback provided by Panel Members will be considered by Cabinet when finalising the 2018-2019 budget and future years' consultation processes.
- 5.3 As part of the budget consultation process there will be four evening meetings at various venues in Wolverhampton, as detailed in Appendix D, as well as a breakfast meeting with business representatives and six other meetings with community groups.
- 5.4 As in previous years an online survey will be used to support the consultation process. Paper copies of the survey will also be made available.
- 5.5 It is recommended that Cabinet approve that authority be delegated to the Cabinet Member for Resources in consultation with the Director of Finance to approve the final budget consultation arrangements.
- 5.6 The overall level of risk associated with the Draft Budget and Medium Term Financial Strategy (MTFS) 2017-2018 to 2019-2020 is assessed as Amber. The following table

provides a summary of the risks associated with the MTFS, using the corporate risk management methodology.

Table 4 – General Fund Budget Risks 2017-2018 to 2019-2020

Risk	Description	Level of Risk
Medium Term Forecasting	Risks that might materialise as a result of the impact of non-pay inflation and pay awards, uptake of pension auto enrolment, Equal Pay and National Living Wage	Amber
Budget Management	Risks that might materialise as a result of the robustness of financial planning and management, in addition to the consideration made with regards to the loss of key personnel or loss of ICTS facilities	Green
Transformation Programme	Risks that might materialise as a result of not identifying budget reductions, not delivering the reductions incorporated into the budget and not having sufficient sums available to fund the upfront and one-off costs associated with delivering budget reductions and downsizing the workforce.	Amber
Reduction in Income and Funding	<p>Risks that might materialise as a result of the Final Local Government Finance Settlement.</p> <p>Risks that might materialise as a result of income being below budgeted levels, claw back, reduction to government grant or increased levels of bad debts.</p> <p>The risk of successful appeals against business rates.</p>	Amber
Service Demands	Risks that might materialise as a result of demands for services outstretching the available resources.	Amber
Third Parties	Risks that might materialise as a result of third parties and suppliers ceasing trading or withdrawing from the market.	Amber
Government Policy	Risks that might materialise as a result of changes to Government policy including changes in VAT and taxation rules, the impact of exiting the European Union and, in particular, from the Care Bill.	Red

6.0 Markets in Financial Instruments Directive II (MiFID II) and impact on the Council

- 6.1 Over the past few years the Financial Conduct Authority (FCA) has been undertaking consultation on the regulatory changes in the financial markets called MiFID II. MiFID II introduces changes to the current regulatory framework for investment services and activities and takes effect on 3 January 2018. There is one particular aspect of MiFID II "Professional client business - client categorisation and treatment of local public authorities and municipalities" which will affect all local authorities.
- 6.2 MiFID business includes money market funds, bonds, commercial paper, certificates of deposit and other secured debt instruments. Non-MiFID business includes cash deposits such as bank/building society deposits. The Council currently uses a mixture of money market funds and deposit accounts as part of its Treasury Management Strategy.
- 6.3 Under MiFID II, all local authorities, for both MiFID and non-MiFID business, will automatically be classified as being retail, they can no longer be classed as per se professional on the basis of meeting the large undertakings test under MiFID I. This classification infers that local authorities rely on the counterparty to advise them in an appropriate manner to understand the instruments (and the associated risks involved) they are dealing in to safeguard them from entering into unsuitable transactions.
- 6.4 The impact of being classed as retail is that financial institutions may refuse to deal with retail clients due to having to undertake FCA compliant detailed assessments on the professional capabilities of the client and then provide and fully document the investment advice given. In addition, the cost of borrowing may well increase due to potential fewer sources of borrowing being available because of extra costs of compliance. As with MiFID I there is opt-up criteria that if met would mean a local authority can move from retail to professional status, this opt up is per institution.
- 6.5 It is therefore recommended that Cabinet approve the relevant applications (where they are required) for opt-up with the institutions that the Council currently uses as part of its Treasury Management Strategy. This will enable the continued use of the current instruments post 3 January 2018.

7.0 Evaluation of alternative options:

- 7.1 In determining the proposed amendments to the Draft Budget and Medium Term Financial Strategy, consideration has been made to the deliverability of budget reduction and income generation proposals and budget pressures. If we were to not implement the budget strategy as proposed in this report, alternative options would be required in order to set a balanced budget in 2018-2019. This may therefore potentially impact upon service provision.

8.0 Reasons for decision(s):

- 8.1 It is recommended that the budget strategy for 2018-2019 and 2019-2020 including financial transaction and base budget revisions, as set out in this report, is approved by Cabinet. In approving this strategy, the Council will be able to set a balanced budget for 2018-2019 and will be working towards identifying further budget reductions to contribute towards the Council's projected medium term budget deficit, which stands at £15.5 million to be identified by 2019-2020.

9.0 Financial implications

- 9.1 The financial implications are discussed in the body of the report.

[MH/28092017/A]

10.0 Legal implications

- 10.1 The Council's revenue budgets make assumptions which must be based on realistic projections about available resources, the costs of pay, inflation and service priorities and the likelihood of achieving any savings proposals.
- 10.2 The legal duty to spend with propriety falls under S.151 Local Government Act 1972 and arrangements for proper administration of their affairs is secured by the S.151 Officer as Chief Financial Officer.
- 10.3 Section 25 of the Local Government Act 2003 requires the Chief Financial Officer to report to the Council when it is making the statutory calculations required to determine its council tax. The Council is required to take this report into account when making its budget decision. The Chief Financial Officer's report must deal with the robustness of the budget estimates and the adequacy of the reserves for which the budget provides. Both are connected with matters of risk and uncertainty. They are inter-dependent and need to be considered together. In particular, decisions on the appropriate level of Reserves should be guided by advice based upon an assessment of all the circumstances considered likely to affect the Council.
- 10.4 The relevant guidance concerning reserves is Local Authority Accounting Panel Bulletin 77, issued by CIPFA in November 2008. Whilst the Bulletin does not prescribe an appropriate level of reserves, leaving this to the discretion of individual authorities, it does set out a number of important principles in determining the adequacy of reserves. It emphasises that decisions on the level of reserves must be consistent with the Council's MTFS, and have regard to the level of risk in budget plans, and the Council's financial management arrangements (including strategies to address risk).
- 10.5 In addition, Section 114 of the Local Government Finance Act 1988 requires the Chief Financial Officer to '...make a report ... if it appears to her that the Authority, a committee or officer of the Authority, or a joint committee on which the Authority is represented':

- (a) has made or is about to make a decision which involves or would involve the Authority incurring expenditure which is unlawful,
- (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Authority, or
- (c) is about to enter an item of account the entry of which is unlawful.

- 10.6 The Chief Financial Officer of a relevant Authority shall make a report under this section if it appears to her that the expenditure of the Authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.
- 10.7 These statutory requirements will have to be taken into account when making final recommendations on the budget and council tax requirement for 2018-19.

[RB/07102017/D]

11.0 Equalities implications

- 11.1 The equality analysis that was undertaken on this as part of last year's budget reduction for 2017 – 2018, will be reviewed before the final draft budget is presented to Cabinet in February and Council in March, which will include a cumulative analysis of the various proposals to ensure Councillors can pay due regard to the equalities implications of their budget decisions.

12.0 Environmental implications

- 12.1 There are no direct environmental implications arising as a result of this report.

13.0 Human resources implications

- 13.1 In line with the Council's statutory duties as an employer under the Trade Union Labour Relations (Consolidation) Act 1992, an HR1 form has been issued to the Secretary of State for Business, Innovation and Skills identifying the intention to reduce employee numbers by up to 500 across the Council in the period up to 31 March 2018. These will be through both voluntary redundancy and budget reduction targets which could result in compulsory redundancies.
- 13.2 As part of the ongoing transformation of the Council, although many services are being, or will be, redesigned, it is not anticipated that as many employees will exit the organisation as in previous years. Changes to the make up of teams and alternative ways of working will require services to be restructured, but numbers will not reduce as significantly as they have done previously.
- 13.3 The numbers included in the HR1 will include posts held by colleagues who, as part of the business review and restructure, need to be included, as they will need to be put at risk of redundancy. However, many of these employees will apply and be offered jobs in

the new structure and therefore the number of employees leaving the authority is anticipated to be far fewer than the number declared on the HR1.

- 13.4 Reductions in employee numbers will be achieved in line with the Council's HR policies. Compulsory redundancies will be mitigated as far as is possible through seeking voluntary redundancies in the first instance, and through access to redeployment.
- 13.5 The Council will ensure that appropriate support is made available to employees who are at risk of and selected for redundancy, and will work with partner and external agencies to provide support. Budget reduction targets to move service delivery from direct Council management to private, community or third sector providers may have implications under the TUPE regulations. If TUPE were to apply, appropriate consultation with relevant Trade Unions and affected employees, would take place.
- 13.6 There is on-going consultation with the trade unions on the impact of the Council's budgetary position and the targets being made to meet the challenges posed by it.

14.0 Corporate landlord implications

- 14.1 There are no direct Corporate Landlord implications arising as a result of this report.

15.0 Schedule of background papers

Draft Budget and Medium Term Financial Strategy 2018-2019 - 2019-2020, report to Cabinet, 19 July 2017.

2017-2018 Budget and Medium Term Financial Strategy 2017-2018 – 2019-2020, report to Full Council, 1 March 2017.

Appendix A

Adjustment to the Medium Term Financial Strategy

	2018-2019 £000
Projected Deficit (Cumulative) as approved by Council, March 2017	14,839
Budget Reduction Opportunities approved in July 2017	(12,520)
Projected Budget Challenge, July 2017	2,319
<i>Budget Reduction and Income Generation Revisions, October 2017</i>	
Re-profile of 'Review of Waste and Recycling' proposal to reflect anticipated implementation date	2,100
Updated Budget Challenge subtotal, October 2017	4,419
Additional Financial Transactions and Base Budget Revisions	
Treasury Management Budget revisions	(1,000)
Application of funds from the Job Evaluation Reserve	(700)
Capital Receipts Flexibility for revenue transformational costs	(2,719)
Projected Budget Challenge, October 2017	-

Ongoing Budget Reduction Proposals by Cabinet Portfolio – Approved in July 2017

Resources

Description of Proposal	Cabinet Portfolio	Directorate	2018-2019 £000
Corporate Budget – reduction in funding over the required level for Adult Social Care	Resources	Corporate	(700)
Savings arising as a result of Senior Management Restructure	Resources	Corporate	(260)
Risk Management and Insurance – saving arising as a result of insurance contract renegotiation (net of potential pressures)	Resources	Corporate	(300)
Anticipated reduction in Integrated Transport Authority (ITA) Levy	Resources	Corporate	(250)
Audit Services – removal of vacant posts	Resources	Corporate	(30)
Pension Budget savings arising as a result of making additional upfront payments to the West Midlands Pension Fund for future years past service deficit costs	Resources	Corporate	(2,375)

Appendix B

Ongoing Budget Reduction Opportunities by Cabinet Portfolio – Approved in July 2017

Governance

Description of Proposal	Cabinet Portfolio	Directorate	2018-2019 £000
Health and Safety – saving arising as a result of lower than expected Lone Worker system costs	Governance	Corporate	(50)

City Assets and Housing

Description of Proposal	Cabinet Portfolio	Directorate	2018-2019 £000
Facilities Management Review – allowance for anticipated increasing costs no longer required	City Assets and Housing	Place	(1,000)

One-off Budget Reduction Proposals by Cabinet Portfolio – Approved in July 2017

Resources

Description of Proposal	Cabinet Portfolio	Directorate	2018-2019 £000
One-off savings due to the additional S31 grant relating to Business Rates	Resources	Corporate	(210)
Elections - one-off savings due to the application of the Individual Electoral Registration (IER) grant held on the balance sheet	Resources	Corporate	(80)
Pension Budget savings arising as a result of making additional upfront payments to the West Midlands Pension Fund for future years past service deficit costs	Resources	Corporate	(5,585)
Treasury Management savings arising predominately as a result of reducing the provision for Capitalisation Risks	Resources	Corporate	(1,100)

Governance

Description of Proposal	Cabinet Portfolio	Directorate	2018-2019 £000
Human Resources – one-off saving arising as a result of using Workforce Development grant held on the balance sheet to support training costs	Governance	Corporate	(150)
Register Office - one-off saving arising as a result of the application of the Tell Us Once grant.	Governance	Corporate	(30)

One-off Budget Reduction Proposals by Cabinet Portfolio – Approved in July 2017

City Environment

Description of Proposal	Cabinet Portfolio	Directorate	2018-2019 £000
Highways Management – use of Bus Lane enforcement reserve to support Highways costs	City Environment	Place	(400)

Appendix D

Budget Consultation Meetings

Venue	Date	Time
Bob Jones Community Hub	24 October 2017	6-8pm
Bantock Tractor Shed	1 November 2017	6-8pm
Bilston People's Centre	7 November 2017	6-8pm
Low Hill Community Centre	20 November 2017	6-8pm



Cabinet Meeting

18 October 2017

Report title	Housing Enforcement and Charging Policy	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Peter Bilson City Assets and Housing	
Corporate Plan priority	People - Stronger Communities	
Key decision	Yes	
In forward plan	Yes	
Wards affected	(All Wards)	
Accountable Director	Lesley Roberts, Strategic Director: City Housing	
Originating service	Private Sector Housing	
Accountable employee	Ravi Phull	Service Manager Private Sector Housing
	Tel	01902 552812
	Email	Ravi.phull@wolverhampton.gov.uk
Report to be/has been considered by	Place Leadership Team	11 September 2017
	Strategic Executive Board	12 September 2017

Recommendations for decision:

Cabinet is recommended to:

1. Approve the revisions to the Council's housing enforcement policy.
2. Approve the adoption of the use of Civil Penalties in respect of certain breaches of statutory housing responsibilities.
3. Approve the discount to be applied to the fee in respect of housing licence applications for landlords/agents achieving a Three Star and above rating under the Council's Rent with Confidence (RwC) programme.
4. Delegate the issuing of Civil Penalties to the relevant Head of Service/Director in consultation with the Director of Governance.

5. Delegate authority to the Cabinet Member for City Assets and Housing in consultation with the relevant Director to approve the matrix for the amount of the Civil Penalties, and any subsequent amendments.
6. Delegate authority to the Service Manager Private Sector Housing to make the reduction in enforcement charges where landlords/agents sign up to the Rent with Confidence scheme.

Recommendation for noting:

Cabinet is asked to note:

1. That the Houses in Multiple Occupation (HMO) licensing scheme is proposed to be revised by the Department for Communities and Local Government to include a wider range of properties. The licence fees including any discounts for all properties will be refreshed at the time that the revisions are enacted.

1.0 Purpose

- 1.1 To request approval of revisions to the Council's housing enforcement policy including the use of Civil Penalties and discounts to be applied to housing licensing fees in respect of Rent with Confidence (RwC) Three Star and above rated Landlords.

2.0 Background

- 2.1 Local Housing Authorities are the primary enforcement agency for ensuring the protection of the health, safety and welfare rights for occupiers and visitors in private sector housing. For the City of Wolverhampton Council ("the Council"), this responsibility is with the City Housing team.
- 2.2 Authorised employees ("employees") within City Housing have both duties and discretionary powers to take enforcement action, using a range of legislation to address issues arising at privately owned accommodation.
- 2.3 It is proposed to amend the existing housing enforcement policy to make it clear and transparent to operators within the private housing sector how and when the Council will take enforcement action and when the Council will use powers under the Housing and Planning Act 2016 to make Civil Penalties for failures to comply with relevant statutory requirements.
- 2.4 The main objectives of the enforcement policy are to ensure that:
- Privately rented accommodation, including houses in multiple occupation ("HMO"), and accommodation provided by registered providers of social housing, are free from actionable hazards that affect the health and safety of the tenant, licensee or any visitor;
 - Private rented accommodation and tenancies are managed in accordance with relevant statutory requirements;
 - Privately rented accommodation meets minimum energy efficiency ratings;
 - All licensable properties are licensed, with licence conditions being met;
 - Owners or occupiers of privately owned accommodation or land do not cause statutory nuisance, or an unacceptable risk to public health and safety, or to the environment or neighbourhood;
- 2.5 The Enforcement Policy aims to:
- Demonstrate the transparency of enforcement with respect to private sector housing in Wolverhampton, by setting out legal requirements, policies and principles that officers will follow when enforcing legislation;

- Improve housing conditions and raise the standard of property management within the private rented sector;
- Provide safer, healthier, affordable and warmer homes in the private sector to enable all people within the City access to healthy housing and environments; and
- Contribute to the Council's Corporate Objective of Improving the Overall City Housing Offer.

3.0 Main Principles of Operation

- 3.1 The following bullet points outline the main principles of operation of enforcement and are set out in detail in the policy for approval at Appendix 1.
- a. To ensure that the Council acts fairly in dealing with housing conditions on both reactive and proactive basis, the Council will continue to work informally with landlords, agents, owners and service users, by providing a range of information and guidance through the RwC scheme. This will enable a positive relationship to be maintained with responsible landlords, owners and agents to enable compliance with regulatory requirements and agree works to be completed within a short timescale.
 - b. In cases where the Council is under a duty to take action, such as where premises contain Category 1 Hazards, the Council will always use its statutory powers to ensure that the health, safety and welfare of occupants or those likely to be adversely affected by the conditions at the property are properly protected. The use of certain provisions within the Housing Act 2004 prevents landlords from evicting their tenants using Section 21 provisions of the Landlord and Tenant Act 1985, whilst action is on-going. This provision ensures that tenants are not at risk of retaliatory eviction and assists in homeless prevention.
 - c. The Council will charge for enforcement action where it is empowered to do so. This will include recovery of investigation costs up to the service of relevant statutory notices and orders.
 - d. Where the landlord can prove that they were either unaware of the existence of hazards within the property or where hazards exist due to the tenant occupying the property in an "un-tenant like" manner and, once made aware, acts promptly to remedy these issues, formal action will still be taken owing to the duty the Council has to take action in respect of Category 1 hazards. At the discretion of the Service Manager Private Sector Housing, the enforcement charge may be reduced or waived. The exception to this rule would be in situations where the landlord is a portfolio landlord or agent, is known to the Council and the Council has spent a sufficient amount of time engaging with and educating the landlord of their legal obligations. In such cases, the enforcement charges will remain.
 - e. Where landlords, owners and agents agree to work positively with the Council to address issues identified in statutory notices and orders, the Council will consider a reduction in the enforcement charge of fifty percent subject to them agreeing and

being registered under the RwC programme, achieving a minimum of a 3 Star rating. The authority to make the reduction in the charge is to be delegated to the Service Manager Private Sector Housing.

- f. The Council will issue Civil Penalties facilitated by the Housing and Planning Act 2016 where there are breaches of certain statutory provisions as outlined in the Act and any relevant regulations and statutory instruments. The Charges will be made in accordance with the Charging policy and matrix, which has been developed by the City of Wolverhampton Council in conjunction with other leading housing authorities as best practice in this area. This policy considers the impact of the breach and the culpability of the offender. Charges can be up to £30,000 per offence with the Charge being retained by the Council. The issuing of a Charge will be subject to the evidential and public interest test. The issuing of Civil Penalties is to be delegated to the Head of Housing/Service Director in consultation with Legal Services. The matrix for Civil Penalties will be delegated to the Service Director City Housing in conjunction with the Cabinet Member for City Assets and Housing. The relevant policy is attached as Appendix 2.
- g. The Council will consider prosecutions in cases where a Civil Penalty could be issued but it is considered that a prosecution may be more appropriate – for example to support action to introduce a Banning Order.
- h. In all cases where the person responsible fails to undertake works required to comply with statutory requirements, the Council will consider undertaking the works in default (WID) to ensure that the health, safety and welfare of the occupants, and any persons who may be adversely affected by conditions at the property, are safeguarded. The Council will seek to recover all costs incurred in undertaking the WID.
- i. To support the Rent with Confidence (RwC) Programme, it is proposed that applications for licences under the Housing Act 2004 from applicants who have achieved a Three Star or above rating, will benefit from a discount to the licence application fee. This will be on a sliding scale to reflect the Star rating: -
 - Three Star - 33 percent discount
 - Four Star - 66 percent discount
 - Five Star (top rating) – 100 percent discount

Such landlords will already have invested considerable time and money achieving and maintaining the highest accreditation status and will be supporting the Council in achieving wider housing outcomes such as prevention of homelessness as well as providing safe well managed accommodation. Currently only the mandatory houses in multiple Occupation (HMO) licensing scheme is in operation in the City. The HMO licensing scheme is proposed to be revised by DCLG to include a wider range of properties. The licence fees including any discounts for all properties will be refreshed at the time that the revisions are enacted.

4.0 Evaluation of alternative options:

- 4.1 The alternative option would be to do nothing.
This would leave the existing housing enforcement policy in place. The existing policy is not up to date in that it does not take into account both changes to statutory provisions nor the Council's recent changes to the approach to the private rented sector, and in particular the launch of the Rent with Confidence Scheme. This would leave housing enforcement at odds with the Council's strategy of supporting the responsible private rented sector and potentially alienate responsible landlords from working with the Council to address issues such as homelessness and wider public health outcomes.

5.0 Reasons for decision(s):

- 5.1 The revision of the housing enforcement policy will ensure that the Council complies with its legal obligations and that support is given to make further improvements to the City Housing Offer, whilst maintaining transparency on when and how enforcement actions will be undertaken. This will complement the Rent with Confidence programme which aims to support responsible private housing businesses in the City and improve quality and choice for those having their housing needs and aspirations met through this housing tenure.

6.0 Financial implications

- 6.1 The imposition of Civil Penalties enables the Council to retain the funds rather than them being taken by the Treasury, provided that it is used to further the Council's statutory functions in relation to private rented sector housing enforcement. This may provide some additional income to support private sector housing enforcement, however this should be considered alongside the likelihood of challenges to the Charges through the First Tier Tribunal (Property).
- 6.2 The carrying out of Works in Default will result in the Council committing resources to fund the works with the costs plus any associated administrative costs being recovered through the sundry debt system. The Council's funding will be protected through the debt being registered as a local land charge.
- 6.3 The discounting of application fees for landlords and agents of Three Star and above will have a small impact on the income received from the licensing of houses in multiple occupation. As this is not retrospective it will only affect a small number of new licensable HMOs in the City. In total, there are around twenty HMO applications a year with total income of £13,000.
- 6.4 The HMO licensing scheme for Houses in Multiple Occupation (HMOs) is proposed to be revised by DCLG to include a wider range of properties. The licence fees including any discounts for all properties will be refreshed at the time that the revisions are enacted.

[JM/09/10/2017/P]

7.0 Legal implications

- 7.1 Part 2 of the Housing and Planning Act 2016 (H&PA 2016) deals with the notion of “Rogue Landlords and Property Agents in England”, introducing Banning Orders, a national database of Rogue Landlords and Property Agents, and rent repayment orders. Schedule 1 to the act introduces Financial Penalties (named Civil Penalties in the government guidance) for breach of a Banning Order whilst Schedule 9 amends the Housing Act 2004 (HA2004) and introduces Financial Penalties for a number of offences described in the Housing Act 2004.
- 7.2 Schedule 9 of the H&PA2016 inserts s249A into the Housing Act 2004 (HA2004) to deal with Financial Penalties under the HA2004. The test to follow to impose a Financial Penalty is the same as for a prosecution and it is proposed that the same robust processes are used in practice.
- 7.3 Schedule 9 paragraph 7 specifically prohibits the LHA to offer a Financial Penalty once criminal proceedings have been instituted, or when the person has previously been convicted of the offence, so the initial decision not to impose a fine will be final. Legislation provides for a maximum amount of £30,000 fine for each offence and the proposed decision process for the level of fine should be robust enough to support challenges and appeals.
- 7.4 Schedule 13A of the H&PA2016 provides the recipient with the opportunity to respond to the LHA’s notice of intent and to appeal the final notice to the First-Tier Tribunal, which provides sufficient safeguards without the LHA having to include further steps. Appeals are expected in the initial stages of the implementation and it is anticipated that this work would be covered internally by both departments.
- 7.5 Schedule 13A paragraph 11 of the H&PA2016 provides for the unpaid and partially unpaid Financial Penalties to be recovered in the same way as any other debt through the County Court whilst Paragraph 9 entitles the LHA to withdraw Financial Penalties at any time. A decision will therefore be made, on a case by case basis, on which route to follow when a Financial Penalty is not fully paid on the due date and robust systems will need to be put in place in due course.
- 7.6 S14 H&PA2016 introduces Banning Orders (via the First-Tier Tribunal) for landlords who have been convicted of certain offences under the HA2004. These last a minimum of 12 months and prohibit the landlord from holding an HMO licence, being involved in letting or managing properties in England. A breach is an offence attracting an unlimited fine or imprisonment for up to 51 weeks in the Magistrates’ Court. Alternatively, a Financial Penalty can be imposed and follows the same requirements as fines imposed for HA2004 offences. In this instance however, successive Financial Penalties can be imposed, although only one within any 6 month period. The same robust process will be followed for each breach to safeguard the decision making process.
- 7.7 Finally, Chapter 4 of Part 2 H&PA2016 entitles the LHA to apply to the First-Tier Tribunal for Rent Repayment Orders, whether the landlord has been convicted of any offence or not. This would enable recovery of the rent and / or universal credit amounts paid.

Possible involvement of the LHA in this recovery process would give a further incentive for tenants to report offences.

- 7.8 The imposition of Civil Penalty Charges will enable to Council to avoid the employee time of taking prosecutions through the Courts. The Civil Penalty Charges matrix will follow the principles of the Courts Sentencing Guidelines to ensure a robust approach to the setting of Charges and minimise the likelihood of successful challenge.

[LW/29092017/W]

8.0 Equalities implications

- 8.1 This report deals with the Council's policy to ensure that it is effectively discharging its duties and powers with respect to the enforcement of housing conditions in the private sector. An initial equality analysis has been undertaken which demonstrates that there are no specific equalities implications.

9.0 Environmental implications

- 9.1 There are no direct environmental implications, however, the improved enforcement of housing conditions and management in the private rented sector may have a positive impact on the visual environment and will reduce the imposition and enforcement of Community Protection Notices for fly tipping offences.

10.0 Human resources implications

- 10.1 The revised enforcement policy and additional income which may be achieved through the Civil Penalties may enable the Council to reorganise private sector housing priorities to undertake further proactive work with respect to private sector housing conditions.

11.0 Corporate landlord implications

- 11.1 There are no Corporate Landlord implications associated with this report.

12.0 Schedule of background papers

- 12.1 Housing Act 2004
Housing and Planning Act 2016
DCLG Civil Penalties under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities

Appendix 1

City of Wolverhampton Council Private Sector Housing Enforcement Policy

1. Introduction

- 1.1. The City of Wolverhampton Council is committed to fair and effective enforcement, which protects both the economic interest and health and safety of the public, businesses and the environment.
- 1.2. The main objective of enforcement action is to ensure that non-compliance with relevant housing requirements in the local housing market is addressed in the most effective way to ensure that compliance is achieved for the benefit of all.
- 1.3. This document sets out the enforcement policy for the Council's City Housing Service when dealing with non-compliance of laws enforced by this Service.
- 1.4. The content of this Enforcement Policy has been written having regard to;

The Regulators Compliance Code – which promotes proportionate, consistent and targeted regulatory activity through transparent and effective dialogue and understanding between regulators and those they regulate. Regulators must have regard for this code when developing policies and procedures that guide their regulatory activity. A copy of the code is available on request or may be downloaded from <https://www.gov.uk/government/publications/regulators-code>. In certain situations the Council may decide that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

2. Human Rights and Equality Issues

- 2.1. Investigations and any enforcement action will be conducted in a manner which does not conflict or undermine the fundamental principles of the Human Rights Act 1998.
- 2.2. Enforcement decisions will be fair, impartial and objective and will not be influenced by issues such as the ethnicity or national origin, gender, religious beliefs, political views or sexual orientation of the suspect, victim, witness or offender.

3. Purpose and Methods of Enforcement

- 3.1. The City of Wolverhampton Council expects full voluntary compliance with the law. We will help owners of housing to meet their legal obligations by providing clear and concise information about what they need to do comply. However, we will not hesitate to use our enforcement powers where necessary. Formal action will be taken, including prosecution, against those who flout the law or act irresponsibly.
- 3.2. Enforcement includes any action aimed at ensuring compliance with the law. The range of action that will be considered include;

3.2.1. **Informal Action** – will be considered where one or more of the following circumstances apply:

- there is no legislative requirement to serve formal notice or an order and the circumstances are not serious enough to warrant formal action;
- past history suggests informal action will achieve compliance;
- there is confidence in the management or the individual;
- the consequences of non-compliance will not pose a significant risk to occupiers or others.

3.2.2. **Serve a Statutory Notice / Order** – This will be considered where it is appropriate and where there is evidence to justify the issuing of a notice or order.

In relation to Part One offences under the Housing Act 2004 service of statutory notices / orders will be based on the hazards found and how serious they are deemed to be. This is assessed using the Housing Health Safety Rating System. The Council has a legal duty to take the most appropriate course of action available in relation to category 1 hazards. This is where the risk to health and/or safety is high.

There is a power for the Council to deal with category 2 hazards. The Council will take statutory action in respect of category 2 hazards where there is a significant threat to health, safety or wellbeing.

Notices/Orders will include reasonable time limits having regard to the seriousness of the defects and/or contraventions.

The notice/order will contain all required information as specified by the relevant Act or Regulation. All appropriate persons will be notified of the formal action, e.g. tenants, mortgagees etc. The types of notice/order that can be issued by the Council under the Housing Act 2004 include;

- Hazard Awareness Notice – notice advising the person on whom it is served of category 1 and/or category 2 hazard(s) at the property.
- Improvement Notice – notice requiring the person on whom it is served to take the remedial action specified in the notice in relation to the hazards found.
- Prohibition Order – an order imposing restrictions on the use of the whole or part of the property and/or who can use the property.
- Emergency Prohibition Order – same as a prohibition order but the order will take effect immediately.
- Emergency Remedial Action – see 3.2.3 below

Other legislation is available to the City Council, for example the Environmental Protection Act 1990 which allows to the service of an Abatement Notice. Regardless of the legislation used the principles of this policy will be followed.

- 3.2.3. **Take Emergency Remedial Action** – this will be considered where there is an imminent risk of serious harm. The Private Sector Housing Team will take the action necessary to mitigate and/or remove this risk and formal action will be taken by the Private Sector Housing Team to recover the full costs incurred.

In circumstances where there is non-compliance with statutory provisions the City Council has powers to take further actions to both ensure that housing conditions are improved and to take other actions to act as a deterrent for further failures to comply.

- 3.2.4. **Suspend, revoke or refuse to renew or grant a licence or authorisation** – e.g. under the Licensing of Houses of Multiple Occupation provisions. This will be considered where licensing conditions are not being met.

Prospective applicants for a licence will be vetted to determine whether they are a 'Fit and Proper' person to hold a licence. Where a person is found not to be a 'Fit and Proper' person to hold a licence, this information will be stored within the Council's records and shared as necessary with other Departments and other Local Housing Authorities.

A Public Register of licensed HMOs, dwellings with interim/final/empty dwelling management orders and HMOs with temporary exemption Notices in force and will be available, upon request, for public inspection at the appropriate Council office, in line with the requirements of the legislation and guidance. If a copy of the register, in full or part is requested by a member of the public, this may be subject to a reasonable fee to cover administration costs

- 3.2.5. **Formal (Simple) Caution** – used to deal quickly and simply with less serious offences and to divert them away from the courts. There must be sufficient evidence of guilt to give a realistic prospect of conviction and the offender must formally admit to the offence. Simple cautions will be issued in accordance with the Ministry of Justice – Simple Cautions for Adult Offenders (Nov 2013) in consultation with the Councils Legal Services.

- 3.2.6. **Issue a Civil Sanction** – The Council may decide to use a civil sanction in conjunction with or instead of the principal legislation it enforces. This may be considered where persons/businesses have saved costs or gained an unfair advantage through non-compliance with the law. Options available include;

- **Fixed Monetary Penalty** – may be considered for low level, minor instances of regulatory non-compliance. It will not be considered for more serious cases of non-compliance. A "notice of intent" will be provided to the relevant party with all information required to be provided by law, including the right to make written representations or objections.

- 3.2.7. **Penalty Charge Notices** – under various legislation the Council enforces there is the ability to issue penalty charge notices to address non-compliance.

- 3.2.8. **Financial Penalty** – under s249A of the Housing Act 2004 as introduced by The Housing and Planning Act 2016 the Council may decide to impose a financial penalty on a person

if it is satisfied beyond reasonable doubt that the persons conduct amounts to a relevant housing offence. The amount of a financial penalty is determined by the City of Wolverhampton Council, but it must not be more than £30,000. This is subject to the Councils separate policy document – Housing Enforcement Civil Penalties which should be read in conjunction with this policy.

3.2.9. **Prosecution** – may be considered for more serious offences. It aims to punish wrongdoing, to avoid a reoccurrence of the offence and to act as a deterrent to others. The Council will take account of the Code for Crown Prosecutors (https://www.cps.gov.uk/publications/code_for_crown_prosecutors/) and will only prosecute where;

- There is sufficient admissible and reliable evidence that the offence has been committed and there is a realistic prospect of conviction

AND

- The Council believes that it is in the public interest to do so.

The following factors will be considered in deciding whether or not to prosecute:

- Social, physical or economic, environmental or personal health and safety effect of the offence in order to quantify the serious nature of the offence,
- Failure to comply with the requirements of an improvement, enforcement, or prohibition notice
- Failure to supply information without reasonable excuse or knowingly or recklessly supplying false or misleading information.
- Excessive or persistent breaches of regulatory requirements,
- Foreseeability of the offence and the circumstances leading to it,
- Intent of the offender, individually and/or corporate body,
- History of offending,
- Attitude of offender,
- Deterrent effect of a prosecution on the offender and others,
- Culpability of the offender,
- A history of similar offences.
- Carrying out operations without a relevant licence,

- Failure to comply or to comply adequately with formal remedial requirements,
- Obstruction of an authorised officer

These factors are not exhaustive and those that apply will depend on the particular circumstances of each case. The Council will decide how important each factor is in the circumstances of each case and go on to make an overall assessment

- 3.2.10. **Rent Repayment Order** – if a landlord has been convicted of an offence under The Housing Act 2004 for failing to comply with an improvement notice, failing to comply with a prohibition order, being in control or managing an unlicensed HMO or house the Council has a duty to consider an application to the First Tier Tribunal for a rent repayment order. This is also applicable for convictions under Section 6(1) of The Criminal Law Act 1971 concerning violence for securing entry, section 1(2), (3) or (3A) of The Protection from Eviction Act 1977 concerning eviction or harassment of occupiers and section 21 of The Housing and Planning Act 2016 concerning a breach of a banning order.

Where the Council is satisfied beyond reasonable doubt that a relevant housing offence has been committed they may consider an application to the First Tier Tribunal for a rent repayment order irrespective of whether landlord has been convicted of an offence. In either case a notice of intended proceedings will be sent to the relevant party with the required information and details of the right to make representations

- 3.2.11. **Works in Default** – may be considered as an alternative to, or in addition to the issuing of a Civil Penalty or prosecution. The Council will carry out the works in default and seek to recover the full and associated costs, where necessary through the Courts. This will include where applicable, administration costs and officer time. The Financial Rules and Financial Operating Procedures of the Council will be fully adhered to. Where appropriate the costs will be placed against the property as a Charge. The Council may seek to use its powers to enforce the sale of the property in order to recover the costs.

4. Proceeds of Crime

- 4.1. The Proceeds of Crime Act 2002 allows the courts to deprive perpetrators of criminal offences of any proceeds they have accrued as a result of their criminal activity. The City Council will use this legislation where appropriate and in consultation with legal services.

5. Delegation & Decision Making

- 5.1. Decisions about the most appropriate enforcement action to be taken will be made in line with this policy and based on professional judgement, legal guidelines and advice, statutory codes of practice and priorities set by the Council and/or Central Government
- 5.2. The relevant Strategic Directors have the delegated authority in accordance with the councils Scheme of Delegation to Officers within the Councils constitution to take

certain action under a range of legislation, e.g. the service of enforcement notices. The Head of Housing appropriately delegates these powers to other Officers.

- 5.3. A decision to issue a Civil Penalty or instigate a prosecution will be taken by the appropriate Manager (as delegated by Cabinet and the relevant Director) in consultation with the Council's Legal Services

6. Costs of Enforcement

- 6.1. The Council is able in certain circumstances to charge for enforcement action, e.g. service of an improvement notice. What can be charged for will depend on the type of action taken. Examples include; costs associated with determining whether to serve a notice, costs involved in identifying any action required and costs associated with serving a notice. When costs are to be charged an invoice will be sent to the relevant party outlining the amount to be paid, what it covers and the payment terms. The charge levied will only cover the cost of the enforcement action to the authority.
- 6.2. This is a separate payment and is not the same as a penalty charge which is issued as an enforcement mechanism to address non-compliance.
- 6.3. The Council will issue enforcement charges in cases where it is legally entitled to recover the costs.
- 6.4. The level of enforcement charges referred to above, may be reduced by up to 50% where the landlord/agent agrees to be registered with the Council's Rent with Confidence scheme and achieving a minimum 3 Star rating. The responsibility to impose this reduction is delegated to the Service Manager Private Sector Housing.

7. Appeals

- 7.1. Any person served with a notice/order has the right to appeal on any grounds set out in the legislation. The main reasons for appeal are likely to be the contents of the notice/order and the schedule of work. Appeals can also be made on the grounds that the notice/order was not served on the correct person, or that a different course of action would be more appropriate
- 7.2. Appeals regarding enforcement action under The Housing Act 2004 are made to the relevant First Tier Tribunal (Property Chamber). Further details on this process are contained in the relevant notice/order.
- 7.3. All other appeals regarding enforcement action taken should be directed to the Magistrates Court or as directed on the notice/order served.
- 7.4. The Council will rigorously defend any appeals where the notice/order has been correctly served.

8. Complaints

- 8.1. The City of Wolverhampton Council provides a well-publicised, effective and timely complaints procedure. The procedure is accessible on the City Council website at <https://www.wolverhampton.gov.uk/complaints> Alternatively a complaint can be made via the following contact methods;
- in person by visiting the [Civic Centre](#)
 - in [writing](#) addressed to the Customer Engagement Manager
- 8.2. The complaints process is without prejudice to any formal appeal mechanisms. Where a formal appeal mechanism exists, that mechanism must be used. The complaints procedure cannot be used as a substitution for a formal legal appeal

9. Review

- 9.1. This Enforcement Policy will be subject to review and amended to reflect any change in legislation, corporate policy or official guidance. Any amendment shall be in line with meeting the requirements of the legislation and the public interest.

Appendix 2

CITY OF WOLVERHAMPTON COUNCIL HOUSING ENFORCEMENT CIVIL PENALTIES

Introduction

The Housing and Planning Act 2016 introduced the concept of civil penalties as an alternative to prosecution. Civil penalties are an alternative when a landlord fails to comply with:

- Section 30 – failure to comply with an improvement notice
- Section 72 – mandatory licensing of HMO
- Section 95 – licensing under Part 3 of the Housing Act 2004
- Section 139 – failure to comply with an overcrowding notice
- Section 234 – breach of management regulations in respect of HMO

In all cases the evidence and public interest test are still required to be met

The Government has laid out statutory guidance as to the process and the criteria that the Council needs to consider when determining Civil Penalties:

- Level of culpability
- Level of harm
- Severity of the offence
- Aggravating Factors
- Mitigating Factors
- Penalty to be fair and reasonable
- Penalty to be such as to be a deterrent and remove the gain derived through the failure to comply

The statutory guidance indicates that the Council should ensure that the civil penalty acts as a punishment, takes into account any previous patterns of offending and no offender should benefit as a result of committing the offence.

The law allows a maximum financial penalty of £30k per offence. In determining the level of any penalty the Council will have regard to local circumstances, the relevant local enforcement policy and the relevant Government guidance detailing the factors to take into account, as shown above. It should be noted that the policy has the ability to impose the £30K maximum penalty level for the more serious offences as is the intention of central government. The overriding principle when considering issuing a civil penalty under this policy is that the landlord (as defined by the Housing Act 2004 as the owner, person having control or the licence holder) should not make any financial gain as a result of their failure to comply with the relevant legislation.

Process for Imposing a Civil Penalty

Where it has been determined that a financial penalty may be appropriate to impose as an alternative to prosecution, the Council will follow this process.

A “Notice of Intent” shall be served on the person suspected of committing the offence. The Notice shall specify:

- a. The amount of any proposed financial penalty
- b. The reasons for proposing the financial penalty
- c. Information about the right to make representation to the Council.

The person to which the notice relates will be given 28 days to make written representation to the Council about the proposal to impose a financial penalty. The representation may be via any legible written format, but to aid respondents, a form will be included with the Notice of Intent.

Following the 28 day period the Council will decide, taking into account any written representations:

- a. Whether to impose a financial penalty on the person, and
- b. The value of any such penalty imposed.

If the Council decides to impose a financial penalty, a final notice shall be issued imposing that penalty. The final notice will specify:

- a. the amount of the financial penalty,
- b. the reasons for imposing the penalty,
- c. information about how to pay the penalty,
- d. the period for payment of the penalty,
- e. information about rights of appeal to the First tier Tribunal
- f. the consequences of failure to comply with the notice.

Consequences of Non-Compliance and Miscellaneous Provisions

If, after any appeal has been finally determined or withdrawn, a person receiving a financial penalty does not pay all or part of the penalty charge, the Council will recover the penalty by order from a County Court. Where appropriate, the Council will also seek to recover the costs incurred in taking this action from the person to which the financial penalty relates.

Financial Penalties are an alternative to criminal proceedings and as such if a penalty is imposed, no criminal proceedings can be initiated for the same offence.

The Council may, at any time:

- a. Withdraw a Notice of Intent or Final Notice
- b. Reduce the amount of the financial penalty in a Notice of Intent or Final Notice
- c. Withdraw the Notice and instigate proceedings in the courts subject to it being in the public interest

Where the Council decides to take either action, it will write to the person to whom the notice was given.

Where a person has received two financial penalties under this legislation in any 12 month period, irrespective of the locality to which the offences were committed, the Council will consider making an entry on the national database of rogue landlords and property agents. When considering making an entry, the Council will have regard to any guidance issued by the Secretary of State.

Determining the Level of the Civil Penalties

The Secretary of State has issued statutory guidance on what a Council should take into account when determining the level of any final penalty. The issues to consider are:

- Level of culpability
- Level of harm
- Severity of the offence
- Aggravating Factors
- Mitigating Factors
- Penalty to be fair and reasonable
- Penalty to be such as to be a deterrent and remove the gain derived through the failure to comply

When considering the severity of any offence Section 143(1) Criminal Justice Act 2003 states “In considering the seriousness of any offence the court must consider the offender’s culpability in committing the offence and any harm which the offence caused, was intended to cause or might foreseeably caused” It also considers harm as encompassing those offences where harm is caused but also those where neither individuals nor the community suffer harm but a risk of harm is present.

When determining any level of financial penalty these issues are required to be addressed in any Council Policy, showing how the Council intends to address each of these criteria for it to be enforceable.

Level of Culpability

The level of culpability of a landlord will depend upon a number of factors

High level

A landlord will be deemed to be highly culpable when they intentionally breach, or wilfully disregard the law

In determining whether a landlord meets this criteria the following should be considered:

- They have a record of non-compliance
- Despite a number of opportunities to comply have failed to do so
- Have been obstructive as part of the investigation
- Failure to comply results in significant risk to individuals
- Are a Member of a recognised landlord association or accreditation scheme
- Are a Public figure who should have been aware of their actions
- Are an Experienced landlord with portfolio of properties failing to comply with their obligations
- Serious and/or systematic failure to comply with their legal duties

Medium level

A landlord fails through the failure to comply or act in a manner a reasonable person would not commit

In determining whether a landlord meets this criteria the following should be considered:

- It is a first offence
- Failure is not a significant risk to individuals
- Can demonstrate that they believed the responsibility was with a third party
- The landlord had systems in place to manage risk or comply with their legal duties but these were not sufficient or adhered to or implemented.

Low level

A landlord fails to comply or commit an offence with little fault or little risk to individual

In determining whether a landlord meets this criteria the following should be considered:

- No or minimal warning of circumstances/risk
- Minor breaches
- Isolated occurrence
- A significant effort has been made to comply but was inadequate in achieving compliance

Level of Harm

When considering the level of harm both the actual, potential and likelihood of the harm will be considered

High

A high level of harm constitutes

- Serious effect on individual(s) or widespread impact
- Provides a serious market advantage over rivals
- Harm to a vulnerable individual
- High risk of an adverse effect on an individual
- Serious level of overcrowding

Medium

A medium level of harm constitutes

- Adverse effect on an individual – not high level of harm
- Medium risk of harm to an individual
- Low risk of a serious effect

Low

- Low risk of harm or potential harm
- Little risk of an adverse effect on individual(s)

Determination of the Level of Penalty

By determining the level of culpability and harm the Council will use the table below as the initial determination of the penalty. This is subject to review and amendment.

DETERMINATION OF CIVIL PENALTY LEVEL		
	INITIAL FINE LEVEL	MINIMUM FINE LEVEL (when considering migrating factors)
LOW CUPLABILITY		
High harm	7500	3750
Medium Harm	5000	3750
Low Harm	2500	1250
MEDIUM CULPLABILITY		
High Harm	15000	7500
Medium Harm	7500	3750
Low Harm	5000	2500
HIGH CUPLABILITY		
High Harm	25000	12500
Medium Harm	15000	7500
Low Harm	7500	3750

Adjustments to the Initial Determination

In order to determine the final penalty the Council will consider both aggravating and mitigating factors in each case. These will adjust the initial level of the penalty based on these factors.

Below is a list of both aggravating and mitigation factors which will be considered as part of the determination. The list is not exhaustive and other factors may be considered depending on the circumstances of each case.

Aggravating factors could include:

- Previous convictions having regard to the offence to which applies and time elapsed since the offence
- Motivated by financial gain
- Obstruction of the investigation
- Deliberate concealment of the activity/evidence
- Number of items of non-compliance – greater the number the greater the potential aggravating factor
- Record of non-compliance
- Record of letting substandard accommodation
- Record of poor management/ inadequate management provision
- Lack of a tenancy agreement/rent paid in cash

When considering previous offences regard should be given to the guidance on Banning Orders as well as any relevant offence such as trafficking etc.

Mitigating factors could include:

- Co-operation with the investigation e.g. turns up for the PACE interview
- Voluntary steps taken to address issues e.g. submits a licence application
- Willingness to undertake training
- Willingness to join recognised landlord accreditation scheme
- Evidence of health reasons preventing reasonable compliance – mental health, unforeseen health issues, emergency health concerns
- No previous convictions
- Vulnerable individual(s) where there vulnerability is linked to the commission of the offence
- Good character and/or exemplary conduct

What is meant by a vulnerable individual?

The statutory guidance states that the harm caused and vulnerability of the individual are important factors in determining the level of penalty.

The Housing Act 2004 defines a vulnerable individual(s) as one who is at greater harm and therefore the penalty should be greater when vulnerability is an issue.

What would the Council potentially consider as a vulnerable individual(s).

- Elderly person
- Children
- Pregnant women
- Single parent families
- Receives domiciliary care
- Has health needs – mental health, drug dependency, alcohol dependency etc
- Requires assistance in conducting their own affairs
- Has payments made to him/her or to an accepted representative in pursuance of arrangements under the Health and Social Care legislation

- Receives a service or participates in any activity provided specifically for persons who have particular needs because of age, has any form of disability or has a prescribed physical or mental problem.
- Financial issues – low income/benefits
- Those who have difficulty in understanding, speaking or reading English
- An individual in a difficult situation such as bereavement or threat of deportation etc

The above list is not exclusive and other factors may affect vulnerability when considering the level of any penalty.

Totality Principle

If issuing a financial penalty for more than one offence, or where the offender has already been issued with a financial penalty, consider whether the total penalties are just and proportionate to the offending behaviour.

Where the offender is issued with more than one financial penalty, the Council should consider the following guidance from the definitive guideline on [Offences Taken into Consideration and Totality](#).

‘The total financial penalty is inevitably cumulative.

The Council should determine the financial penalty for each individual offence based on the seriousness of the offence and taking into account the circumstances of the case including the financial circumstances of the offender so far as they are known, or appear, to the LA.

The Council should add up the financial penalties for each offence and consider if they are just and proportionate.

If the aggregate total is not just and proportionate the Council should consider how to reach a just and proportionate financial penalty. There are a number of ways in which this can be achieved.

For example:

- where an offender is to be penalised for two or more offences that arose out of the same incident or where there are multiple offences of a repetitive kind, especially when committed against the same person, it will often be appropriate to impose for the most serious offence a financial penalty. This should reflect the totality of the offending where this can be achieved within the maximum penalty for that offence. No separate penalty should be imposed for the other offences;
- where an offender is to be penalised for two or more offences that arose out of different incidents, it will often be appropriate to impose a separate financial penalties for each of the offences. The Council should add up the financial penalties for each offence and consider if they are just and proportionate. If the aggregate amount is not just and proportionate the Council should consider whether all of the financial penalties can be proportionately reduced. Separate financial penalties should then be passed.

Where separate financial penalties are passed, the Council must be careful to ensure that there is no double-counting.'

Final determinate of the level of any civil penalty

The final determinate of any civil penalty **MUST** be the general principle:

THE CIVIL PENALTY SHOULD BE FAIR AND PROPORTIONATE BUT IN ALL INSTANCES SHOULD ACT AS A DETERRENT AND REMOVE ANY GAIN AS A RESULT OF THE OFFENCE

The statutory guidance states that a guiding principle of civil penalties is that they should remove any financial benefit that the landlord may have obtained as a result of committing the offence. This means that the amount of the civil penalty imposed must never be less than what it would have cost the landlord to comply with the legislation in the first place.

When determining any gain as a result of the offence the Council will take into account the following issues

- Cost of the works required to comply with the legislation
- Any licence fees avoided
- Rent for the full period of the non-compliance - reviewed in conjunction with any potential Rent Repayment Order
- Growth of portfolio based on income received
- Any other factors resulting in a financial benefit – potential cost of rehousing any tenants by the Council

When determining whether a penalty is fair and proportionate then the following issues need to be considered

- Impact of the financial penalty on the offender's ability to comply with the law
- Impact of the penalty on third party – employment of staff, customers etc
- Impact on the offender – is it proportionate to their means - loss of home etc.

Reduction for the admission of guilt

The Council may take into account a reduction in the level of the penalty for an admission of guilt.

The level of any reduction will be determined by the Council having regard to the Sentencing Guidelines which reduce any punishment by a third for a first offence when the any offender who admits guilt at the first opportunity and immediately remedies any outstanding issues.

Any reduction will only be implemented if the level of gain is below the civil penalty.

Offender's ability to pay

In setting a financial penalty, the Council may conclude that the offender is able to pay any financial penalty imposed unless the offender has supplied any financial information to the contrary.

It is for the offender to disclose to a Council such data relevant to his financial position as this will enable it to assess and determine what they can reasonably afford to pay.

Where the Council is not satisfied that it has been given sufficient reliable information, the Council will be entitled to draw reasonable inferences as to the offender's means from evidence it has heard and from all the circumstances of the case. ***This may include the inference that the offender can pay any financial penalty.***

The Council will take into consideration that the offender may be a property owner and whether there is an opportunity to sell or refinance any property they own.

Recording of the decision

A record of each decision and the reasons for the financial penalty will to be made by the Council and how the amount of the penalty was obtained and the reasons for imposing it.

This page is intentionally left blank

Equality Analysis Template.

Directorate: PLACE Service Area: City Housing	Lead Officer: Chris Hale Date completed: 6 September 2017
Service / Function / Policy / Procedure to be assessed: Housing Enforcement Policy	
Is this: New / Proposed <input checked="" type="checkbox"/> Existing/Review <input type="checkbox"/> Changing <input type="checkbox"/> (Please tick appropriate box)	Review date:

Page 137

Part A – Initial Equality Analysis to determine if a full Equality Analysis is required.

What are the aims and objectives/purpose of this service, function, policy or procedure?

To discharge the function of the Council with respect to private sector housing enforcement

Please indicate its relevance to any of the equality duties (below) by selecting Yes or No?

	Yes	No
		x

Eliminating unlawful discrimination, victimisation and harassment		
Advancing equality of opportunity		X
Fostering good community relations		X

If not relevant to any of the three equality duties and this is agreed by your Head of Service, the Equality Analysis is now complete - please send a copy to the Equality & Diversity Team. **If any of the three equality duties are relevant**, a Full Equality Analysis will need to be undertaken (PART B below).

PART B: Full Equality Analysis.

Step 1 – Identifying outcomes and delivery mechanisms (in relation to what you are assessing)

Page 1 What outcomes are sought and for whom?	
Are there any associated policies, functions, services or procedures?	
If partners (including external partners) are involved in delivering the service, who are they?	

Step 2 – What does the information you have collected, or that you have available, tell you?

What evidence/data already exists about the service and its users? (in terms of its impact on the ‘equality strands’, i.e. race, disability, gender, gender re-assignment, age, religion or belief, sexual orientation, maternity/pregnancy, marriage/civil partnership and other socially excluded communities or groups) and **what does the data tell you?** e.g. are there any significant gaps?

Has there been any consultation with, or input from, customers / service users or other stakeholders? If so, with whom, how were they consulted and what did they say? If you haven’t consulted yet and are intending to do so, please list which specific groups or communities you are going to consult with and when.

Are there any complaints, compliments, satisfaction surveys or customer feedback that could help inform this assessment? If yes, what do these tell you?

Step 3 – Identifying the negative impact.

a. Is there any negative impact on individuals or groups in the community?

<p>Page 139</p>	<p>Barriers:</p> <p>What are the potential or known barriers/impacts for the different 'equality strands' set out below? Consider:</p> <ul style="list-style-type: none"> • Where you provide your service, e.g. the facilities/premises; • Who provides it, e.g. are staff trained and representative of the local population/users? • How it is provided, e.g. do people come to you or do you go to them? Do any rules or requirements prevent certain people accessing the service? • When it is provided, e.g. opening hours? • What is provided, e.g. does the service meet everyone's needs? How do you know? <p>* Some barriers are justified, e.g. for health or safety reasons, or might actually be designed to promote equality, e.g. single sex swimming/exercise sessions, or cannot be removed without excessive cost. If you believe any of the barriers identified to be justified then please indicate which they are and why.</p> <p>Solutions:</p> <p>What can be done to minimise or remove these barriers to make sure everyone has equal access to the service or to reduce adverse impact? Consider:</p> <ul style="list-style-type: none"> • Other arrangements that can be made to ensure people's diverse needs are met; • How your actions might help to promote good relations between communities; • How you might prevent any unintentional future discrimination.
-----------------	--

Equality Themes	Positive Impacts	Negative Impacts identified	Solutions (ways in which you could mitigate the negative impact)
Age (including children, young people and older people)			
Disability (including carers)			
Gender (men and women)			
Race (including Gypsies & Travellers and Asylum Seekers)			
Religion or belief (including people of no religion or belief)			
Gender Re-assignment (those that are going or have gone through a transition: male to female or female to male)			
Pregnancy and Maternity			
Sexual orientation (including gay, lesbian, bisexual and heterosexual)			
Marriage and Civil Partnership			
Human Rights			

Step 4 – Changes or mitigating actions proposed or adopted

Having undertaken the assessment are there any changes necessary to the existing service, policy, function or procedure? What changes or mitigating actions are proposed?

Step 5 – Monitoring

How are you going to monitor the existing service, function, policy or procedure ?

Part C - Action Plan

Barrier/s or improvement/s identified	Action Required	Lead Officer	Timescale

Page 142

Equality Analysis approved by:

Head of Service:	Date:
------------------	-------

Please send an electronic copy of the Equality Analysis to the Equality & Diversity Team:

Cabinet Meeting

18 October 2017

Report title	Housing Allocation Policy - Immediately Available Homes	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Peter Bilson City Assets and Housing	
Corporate Plan priority	Place - Stronger Economy	
Key decision	Yes	
In forward plan	Yes	
Wards affected	(All Wards)	
Accountable Director	Lesley Roberts, Strategic Director: City Housing	
Originating service	Housing	
Accountable employee	Jenny Lewington	Service Lead Housing Strategy
	Tel	01902 554845
	Email	jenny.lewington@wolverhampton.gov.uk
Report to be/has been considered by	Improving the City Housing Offer Board 20 September 2017 Senior Executive Board 12 September 2017 Place Leadership Team 11 September 2017	

Recommendation for decision:

The Cabinet is recommended to:

Endorse the inclusion of the Immediately Available Homes scheme as part of the City of Wolverhampton Councils Housing Allocation Policy.

1.0 Purpose

- 1.1 To provide an update on the Immediately Available Homes pilot which operated between January and July 2017 and the outcome of the pilot review.
- 1.2 To recommend that the Immediately Available Homes scheme be adopted as part of the City of Wolverhampton Councils (the Council) Housing Allocation Policy.

2.0 Background

- 2.1 In November 2016, the Council agreed to undertake a six-month pilot to advertise those properties proving difficult to let as 'Immediately Available Homes'. The pilot took place between January and July 2017.
- 2.2 All managing agents took part in the pilot, with all allocations of immediately available to let properties being subject to the allocations monitoring process undertaken by the Council.
- 2.3 Employees of the Council and the managing agents monitored the pilot monthly. This review forms the final evaluation of the six-month pilot, on which the decision will be based whether to adopt the scheme as part of the Councils Allocation Policy.
- 2.4 To be considered for an immediately available let, a property must have;
 - been advertised through Homes in the City once, and;
 - received no eligible bids; or
 - not been accepted by any applicants on the shortlist.
- 2.5 Properties were not considered for an immediately available let if:
 - The property type would usually have proved popular, but may not have attracted any eligible bids due to a number of the same property types, in the same location, on the same advert.
 - There is a high concentration of immediately available to let properties emerging in a particular area.
- 2.6 'Immediately available' properties were advertised in the usual way on Homes in the City in the next available advertising cycle, clearly branded as 'immediately available to let'. This meant that any applicant that met the eligibility criteria for the property could express an immediate interest in the property during the advertising cycle. Expressions of interest were then assessed on a first come first allocated basis by the Council's managing agents. Applicants were subject to standard checks.
- 2.7 To apply for an immediately available to let home, applicants must have registered on Homes in the City. The applicant who was first to bid was eligible for the property. Subject to the standard checks, the applicant was invited to view the property and a formal offer was then made.

- 2.8 Applicants were only considered for a property for which they were eligible for, in accordance with the Council's Allocation Policy. The only exceptions to this were three bedroom houses as families with two children, who would typically only be eligible for a two-bedroom house, were considered for, subject to an affordability assessment.
- 2.9 Where an applicant refused a property, this was regarded in the same way as the main Allocations Policy; applicants that refuse three offers in any 12-month period are deferred for three months.
- 2.10 Local lettings policies, for example age designations, were applied to shortlists where applicable.
- 2.11 Having once been part of the 'immediately available to let' scheme, a property would not retain this status. As and when it becomes available for re-let it will be advertised in line with the main Allocations Policy before being considered as 'immediately available to let' if it is not successfully allocated.

3.0 Progress, options, discussion, etc.

- 3.1 The six-month pilot was subject to a review conducted by Housing Services.
- 3.2 During the six-month pilot, 12 homes were advertised as immediately available to let. Of the 12 homes advertised as immediately available to let, there were four bed sits, four one-bed flats and four age designated flats.
- 3.3 Whilst the type of properties in low demand during the six-month pilot have remained fairly typical (bedsits and one-beds), this is likely to change in the future. From April 2019, social housing tenants in receipt of Universal Credit will have their benefit for housing costs capped to the LHA rate. For single people under the age of 35 this will be capped at the shared accommodation rate of £60. Bedsits with a lower rent than one bedroom flats may become more popular, however other property types may become more difficult to let due to affordability.
- 3.4 Operating the Immediately Available Homes scheme enables the Council to make financial savings on properties that would previously have been advertised multiple times; in the past properties have been advertised up to four times prior to letting. Each additional advertisement of the same property results in an additional two-week void period and the associated rental loss.

For example, possible savings in one year:

12 advertised twice (12 x 2 week's rental loss):	£1,764.72
12 advertised 3 times 12 x 4 weeks' rental loss):	£3,529.44
Total	£5,294.16

(Based on 24 properties per year, 50% advertised twice and 50% advertised three times, and an average one-bed rent of £73.53.)

3.5 In terms of the applicants the properties were allocated to; five of the 12 properties were let to applicants in bands two and three. The remaining seven properties were let to applicants with a lesser housing priority or no housing need.

3.6 It should be noted that these properties will all have been advertised according to the allocations policy once, prior to inclusion in the Immediately Available Homes pilot, so applicants in a higher band or with a greater housing need would have had the opportunity to bid for these properties, before becoming available on an immediate let.

4.0 Evaluation of alternative options:

4.1 As discussed in section 2.0, a number of strategies have previously been put in place to tackle low demand properties, including reviewing the Allocations Policy, making changes to stock, removing age restrictions and increased marketing through Homes in the City.

4.2 Despite this, certain property types can at times be hard to let. Typically, these include bedsits, one and two bedroom flats, one bedroom bungalows, three bedroom maisonettes and occasionally certain three bedroom houses. However, with continued changes to the welfare system, they type and size of properties likely to be in demand will change.

4.3 The number of properties advertised as Immediately Available to let was low during the pilot period and this is considered a positive. It is unlikely that the scheme will let a considerable number of properties, based on the pilot period it is estimated that between 20-30 properties may be let through the scheme; 2% of properties available to let each year.

4.4 The Immediately Available Homes scheme is also likely to make a positive contribution to the wider environment and community; as properties are let more quickly, they are less likely to be associated with anti-social behaviour, graffiti and damage to the property.

5.0 Reasons for decision(s):

5.1 The Immediately Available Homes scheme will provide a valuable tool and a formal process for effectively letting a small number of properties in low demand which will minimise void time and rental loss.

5.2 It is recommended that the Immediately Available Homes scheme be adopted as part of the Councils Housing Allocation Policy.

5.3 The inclusion of the Immediately Available Homes scheme will follow Section 16, Selection of Offers, in the Housing Allocations Policy. Legal advice has been received on the wording of the scheme in the Policy:

Difficult to Let Properties

A property will be considered difficult to let if;

- There are no bids received when the property is advertised
- The property is not let despite bids being made after the shortlist is exhausted due to refusals, withheld offers or withdrawn offers

The property will be advertised as an immediate available property and let on a first-come first-served bases. The applicant needs to be eligible for the property type and evidences provided as outlined in Section 16 Selection of Offers. Should the property be a three-bedroom house, families eligible for a two-bedroom house will be considered, subject to an assessment of affordability.

6.0 Financial implications

- 6.1 There are no additional costs to operating the Immediately Available Homes scheme, as this will form part of the existing Housing Allocation Policy.
- 6.2 Adopting the Immediately Available Homes scheme as part of the Council's Housing Allocation Policy will assist to reduce void times and rental loss. [JM/09082017/F]

7.0 Legal implications

- 7.1 Legal advice has been received on the inclusion of immediately available to let homes in the Councils Allocation Policy. [RB/25082017/B]

8.0 Equalities implications

- 8.1 An Equality Impact Assessment has been completed.

9.0 Environmental implications

- 9.1 The Immediately Available Homes scheme is likely to have a positive contribution to the wider environment and community. As properties are let more quickly, they are less likely to be associated with anti-social behaviour, graffiti and damage to the property.

10.0 Human resources implications

- 10.1 There are no human resources implications associated with this report.

11.0 Corporate landlord implications

- 11.1 There are no corporate landlord implications associated with this report.

12.0 Schedule of background papers

12.1 [IEDN](#) 08 November 2011 Immediately Available to Let Pilot

12.2 Appendix 1 - Review of the Immediately Available Homes Pilot

Homes in the City

Review of the Immediately Available Homes Pilot Scheme

1.0 Background

- 1.1 A small proportion of Council housing that becomes available each year can attract a low level of interest and as such can prove difficult to let. This is usually due to a combination of factors including property type, size, location, as well as changes introduced to the benefit system through Welfare Reforms. As a result, a few properties may be advertised multiple times, remaining empty for an extended period of time, resulting in lost rental income. For each week a property has to be re-advertised a further two weeks rent is not collected. Properties left empty for more than a few weeks can attract anti-social behaviour and vandalism resulting in further costs and delays in being occupied.
- 1.2 A number of measures have been put in place to increase demand, including reviewing the Allocations Policy, making changes to stock, removing age restrictions and increased marketing through use of the Homes in the City website, targeted text messages and social media to advertise homes. Despite this certain property types can at times be hard to let. Typically, these include bedsits, one and two bedroom flats, one bedroom bungalows, three bedroom maisonettes and occasionally certain three bedroom houses.

Pilot Scheme

- 1.3 In November 2016, a six-month pilot was agreed to advertise those properties proving difficult to let as 'Immediately Available Homes'. The pilot took place between January and July 2017.
- 1.4 All managing agents took part in the pilot, with all allocations of immediately available to let properties being subject to the allocations monitoring process undertaken by the Council.
- 1.5 Employees of the Council and the managing agents monitored the pilot monthly. This review forms the final evaluation of the six-month pilot, on which the decision will be based whether to adopt the scheme as part of the Councils Allocation Policy.

2.0 Immediately Available Homes and the Allocations Process

- 2.1 To be considered for an immediately available let, a property must have;
- been advertised through Homes in the City once, and;
 - received no eligible bids; or
 - not been accepted by any applicants on the shortlist.

- 2.2 Properties were not considered for an immediately available let if:
- The property type would usually have proved popular, but may not have attracted any eligible bids due to a number of the same property types, in the same location, on the same advert.
 - There is a high concentration of immediately available to let properties emerging in a particular area.
- 2.3 'Immediately available' properties were advertised in the usual way on Homes in the City in the next available advertising cycle, clearly branded as 'immediately available to let'. This meant that any applicant that met the eligibility criteria for the property could express an immediate interest in the property during the advertising cycle. Expressions of interest were then assessed on a first come first allocated basis by the Council's managing agents. Applicants were subject to standard checks.
- 2.4 To apply for an immediately available to let home, applicants must have registered on Homes in the City. The applicant who was first to bid, was eligible for the property. Subject to the standard checks, the applicant was invited to view the property and a formal offer was then made.
- 2.5 Applicants were only considered for a property for which they were eligible for, in accordance with the Council's Allocation Policy. The only exception being three bedroom houses, which families with two children, who would typically only be eligible for a two-bedroom house, would be considered for, subject to an affordability assessment.
- 2.6 Where an applicant refused a property, this was regarded in the same way as the main Allocations Policy; applicants that refuse three offers in any 12-month period are deferred for three months.
- 2.7 Local lettings policies, for example age designations, were applied to shortlists where applicable.
- 2.8 Having once been part of the 'immediately available to let' scheme, a property would not retain this status. As and when it becomes available for re-let it will be advertised in line with the main Allocations Policy before being considered as 'immediately available to let' if it is not successfully allocated.

3.0 Analysis of the Pilot

- 3.1 During the 6-month pilot, 12 homes were advertised as immediately available to let. This is far fewer than the 5 properties per month which were anticipated. This is considered a positive, as it is not desirable for properties to be in low demand.

- 3.2 Of the 12 homes advertised as immediately available to let, there were; 4 bed sits, 4 one-bed flats and 4 age designated flats.
- 3.3 Whilst the type of properties in low demand during the six-month pilot have remained fairly typical (bedsits and one-beds), this is likely to change in the future. From April 2019, social housing tenants in receipt of Universal Credit will have their benefit for housing costs capped to the LHA rate. For single people under 35 this will be capped at the shared accommodation rate of £60. Bedsits with a lower rent than one bedroom flats may become more popular. However other property types may become more difficult to let due to affordability.
- 3.4 Operating the Immediately Available Homes scheme enables the Council to make financial savings on properties that would previously have been advertised multiple times (in the past properties have been advertised up to four times prior to letting) to let the property.
- 3.5 Each additional advertisement of the same property results in an extended void period and therefore rental loss.

For example, possible savings in one year:

12 advertised twice (12 x 2 week's rental loss):	£1,764.72
12 advertised 3 times 12 x 4 weeks' rental loss):	£3,529.44
Total	£5,294.16

Based on 24 properties per year and an average one-bed rent of £73.53.

- 3.6 In terms of the applicants the properties were allocated to; five of the 12 properties were let to applicants in bands 2 and 3. The remaining seven properties were let to applicants with a lesser housing priority or no housing need. It should be noted that these properties will all have been advertised according to the allocations policy once, prior to inclusion in the Immediately Available Homes pilot, so applicants in a higher band or with a greater housing need would have had the opportunity to bid for these properties, before becoming available on an immediate let.
- 3.7 The Immediately Available Homes scheme is likely to also a positive contribution to the wider environment and community; as properties are let more quickly, they are less likely to be associated with anti-social behaviour, graffiti and damage to the property.
- 3.8 The number of properties advertised as Immediately Available to let was low during the pilot period. Nevertheless, the scheme will provide a valuable tool and a formal process for effectively letting properties in low demand; minimising void time and rental loss.

4.0 Recommendation

- 4.1 It is recommended that the Immediately Available Homes Scheme is adopted as part of the Councils Housing Allocation Policy.

Report dates:

PLT	11.09.2017
SEB	12.09.2017
Cabinet	18.10.2017



Cabinet Meeting

18 October 2017

Report title	Financial Support to Foster Carers for the Purchase of a Large Vehicle	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Val Gibson Children and Young People	
Corporate Plan priority	People - Stronger Communities	
Key decision	Yes	
In forward plan	Yes	
Wards affected	(All Wards)	
Accountable Director	Emma Bennett, Service Director, Children and Young People	
Originating service		
Accountable employee	Alison Hinds Tel Email	Head of Looked After Children 01902 553035 alison.hinds@wolverhampton.gov.uk
Report to be/has been considered by		

Recommendations for decision:

The Cabinet is recommended to:

1. Approve the Policy for Financial Support to Foster Carers for the Purchase of a Large Vehicle.
2. Delegate authority to the Director of Children's Services to approve amounts of up to £10,000 to support purchasing larger vehicles to enable carers to transport larger sibling groups.

1.0 Purpose

- 1.1 This report sets out a policy and procedure to progress requests from foster carers for financial support towards the purchasing of a larger vehicle to enable carers to be able to transport large sibling groups. This in turn will support keeping large sibling groups together and possibly support permanent placements for Looked after Children.

2.0 Background

- 2.1 To secure permanence options for Looked after Children (LAC) is a key priority for the Children and Young People's Service.
- 2.2 Research and evidence supports the fact that Looked after Children who can live in secure settled permanent family environments will experience better outcomes not only in childhood but also in their adult life.
- 2.3 To secure permanence for Looked after Children through to adulthood, particularly when children are placed with a family member or connected person carer, they can occasionally require additional support from the local authority specifically for larger sibling groups.
- 2.4 There has been an occasion recently where the City of Wolverhampton has been asked to financially support the purchase of a vehicle for a Family and Friend Carer who we have placed a large sibling group with. Without the financial support to purchase the vehicle transporting the family would be a real issue for the carers. This may have resulted in the sibling group being separated or placed in a high cost external placement.

3.0 Progress

- 3.1 It is imperative that the City of Wolverhampton has a clear policy and procedure detailing the appropriate response to requests for financial support for purchasing vehicles.
- 3.2 Consultation has taken place with colleagues within the City of Wolverhampton to ensure the policy meets procurement, legal and financial regulations.
- 3.3 The policy provides a clear pathway for decision making relating to the suitability of the requirement for the financial support to purchase the vehicle, and the decision making process regarding authorisation for the financial support. The policy also addresses the requirement for this arrangement to be underpinned by a legal contract.

4.0 Evaluation of alternative options

- 4.1 The option proposed is to agree the policy, which would ensure that there is an appropriate procedure for providing financial support to carers to support purchasing a large vehicle to enable them to care for a larger sibling group. Without this support

siblings may not be able to live together in one placement ,which would be detrimental to their ongoing sibling relationship.

- 4.2 The only alternative option would not be to approve this policy. Without positive approval of the policy ,there would be no agreed process for approval or governance of this element of financial support to foster carers.

5.0 Reasons for decision

- 5.1 A positive decision to approve this policy will ensure that Looked after Children who are placed together in foster placements are supported to be able to continue living together, by supporting their foster carers in being able to travel as a family. In addition, the policy will enable appropriate oversight and governance of this aspect of financial support.

6.0 Financial implications

- 6.1 The approved budget for 2017-18 for the assistance towards the purchase of a larger vehicle for a foster carer or connected person is £136,000. This budget is also used to fund any extensions or adaptations that are agreed to foster carer properties.

[NM/20092017/P]

7.0 Legal implications

- 7.1 The legal implications are contained in the body of the policy that can be found at Appendix 1 to this report.
- 7.2 In addition agreements of this nature are made In accordance with the provisions of Section 17(6) and Schedule 2 of the Children Act 1989. Section 17 of the Children Act 1989 imposes a general duty on local authorities to safeguard and promote the welfare of children within their area who are in need. Where a child is assessed as having certain needs, the Local Authority should meet those needs through the provision of services to secure the welfare of the child. The range of services that the local authority can provide are not prescribed or limited to any list and essentially local authorities can provide anything which they consider necessary to safeguard and promote the welfare of children in their area.
- 7.3 Under section 17(6) the services provided by a local authority in the exercise of functions conferred on them by this section may include providing accommodation and giving assistance in kind or in cash.

[TC/20092017/H]

8.0 Equalities implications

- 8.1 An Equality Impact Assessment has been completed.

9.0 Environmental implications

9.1 There are no environmental implications.

10.0 Human resources implications

10.1 There are no human resource implications.

11.0 Corporate landlord implications

11.1 There are no corporate landlord implications

12.0 Schedule of background papers

12.1 The proposed policy is attached as appendix A

Children & Young People

Requesting financial assistance towards the purchase of a vehicle for foster carers/connected persons

Purpose:

The Purpose of this procedure is to outline the process for agreeing and providing financial assistance towards purchasing a vehicle for the needs of looked after children.

Procedure

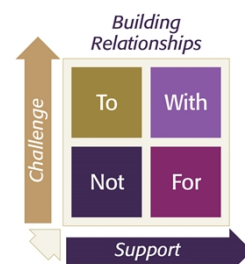
Approved by –

Published –

Review Date -

RESTORATIVE PRACTICE

All contact and work received by families from the City of Wolverhampton Council within the City will be based around restorative practice principles. This is to ensure we improve the life outcomes for all children, young people and families we work with. In Wolverhampton we intend to use restorative principles and behaviours with colleagues as well as children and families, to help develop positive working relationships.



REVIEW LOG			
Date	Version	Comments	Approved by
August 2017	1.0	New procedure.	
This system of recording review dates is designed to ensure staff at all times use the correct version of the up to date Policy. This system is used on all Wolverhampton City Council – Children and Young People Policies and Procedures.			

CONSULTATION
<p>The following people have been consulted on this policy:</p> <ul style="list-style-type: none"> - Head of Service (Looked After Children) - Finance

Index

- 1.0 General
- 2.0 Criteria
- 3.0 Type of Assistance
- 4.0 Process
- 5.0 Written Agreement

1.0 GENERAL

Payments made by the Council for providing assistance towards vehicles are discretionary and not an entitlement and will be based on the circumstances of the carer and needs of the looked after child(ren) they are caring for. Each request would need to be supported by a clear business case.

Financial contributions for vehicles would result in the Council putting a signed agreement in place with the carer. The agreement is to ensure that if the carer was to cease fostering or sell the vehicle they may need to repay the financial support provided. Foster carers must be made aware of this at the outset of any discussions.

Grants are subject to a written agreement signed by the foster carer, Legal Services and a Head of Service to ensure that the vehicle is purchased as agreed.

Prior to a grant being agreed clear plans and requirements will be drawn up to form part of the agreement. Plans will be drawn up by the Social Work Unit Manager and Legal Services. This will be overseen and agreed by the Senior Social Work Manager.

We would expect the process from the point of the request is made until final approval for funding to be completed within 2 months as a maximum.

2.0 CRITERIA

Any request must be able to satisfy the criteria below:

- The number of children placed (within foster carer approval) means the foster family and all children placed cannot be safely transported in carers own vehicle.
- Alternative forms of transport such as occasional taxi or occasional hired vehicles are not cost effective due to the anticipated length of placement or frequency of hire and do not provide best value.

3.0 TYPE OF ASSISTANCE

- A grant to assist foster carers to trade up to a larger vehicle when next changing cars.
- This grant should reflect the difference between what carers would normally expect to pay when changing vehicles and the cost of the larger vehicle.
- A grant towards the cost of a larger vehicle outside of normal change period.

4.0 PROCESS

To avoid unrealistic expectations, it is essential that Supervising Social Workers do not make any commitment to foster carers that funding will be forthcoming. Supervising Social Workers are expected to consider all other viable options prior to following this process.

Carers are expected to contribute towards the cost of changing vehicles with the grant being used to pay the difference between a normal family vehicle and the larger people type carrier needed to transport everyone safely.

Grant contributions are expected to be a maximum of £10,000.

Grants will be made towards a good quality vehicle.

A report (see Resource Panel procedure) will need to be provided by the supervising social worker, signed by the Senior Social Work Manager and submitted to Resource Panel for consideration.

The carer will be expected to provide a quote for a vehicle in line with the agreed funding. Once agreed at Resource Panel and the Head of Looked after Children has seen the quote and written agreement has been signed by all parties and agreed by the Director of Children's Services, will the financial support be released. Only at the point the agreement is signed by all parties will the finances be released to the carer. Carers will be requested to provide a copy of the invoice for the vehicle in line with the agreement.

5.0 WRITTEN AGREEMENT

The Supervising Social Worker and Senior Social Work Manager – Fostering will explain that if funding for a vehicle is approved, approval will be subject to a claw-back agreement (if the carer resigns from fostering or the placement breaks down within 3 years of the financial support being provided) by City of Wolverhampton Council, but providing that:

- No capital or interest is charged while they remain foster parent(s) to the child/children they have fostered for 18 months (from the point the financial support is provided);
- Neither capital nor income is repayable should the applicant adopt or move into another legal permanent order for the child/children.

Legal Services will draw up an agreement which will be signed prior to a grant being released. Each agreement will be unique to the case and circumstance (see appendix A). Agreements will be signed by the HofS

(LAC), Legal Services and the Carer. Carers will be expected to provide documentation (invoice) to their supervising social worker once the vehicle is purchased.

6.0 FOSTER CARER RESPONSIBILITIES

The Foster Carer is responsible for the following:

- Obtaining three quotes based on the funding agreed and submitting them to the Fostering Service.
- Ensuring they are clear what the Local Authority is providing financial assistance for.
- Signing & complying with a written agreement with the City of Wolverhampton Council on how the money will be spent and paid back where indicated.

7.0 FINANCE DELEGATED LEVELS

The following finance delegated levels are to be followed:

Amount	Authorisation
Up to £10,000	Resource Panel and Head of Service (LAC)

This page is intentionally left blank

Cabinet Meeting

18 October 2017

Report title	Hot Food Takeaway Supplementary Planning Document	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor John Reynolds City Economy Councillor Paul Sweet Public Health and Wellbeing	
Key decision	Yes	
In forward plan	Yes	
Wards affected	(All Wards)	
Accountable director	Susan Milner, Public Health & Wellbeing Keren Jones, City Economy	
Originating service	Public Health and Wellbeing, Planning	
Accountable employee(s)	Michele Ross Lead Planning Manager (Sub-Regional Strategy) Tel 01902 554038 Email michele.ross@wolverhampton.gov.uk Richard Welch Head of Healthier Place Tel 01902 552162 Email Richard.welch@wolverhampton.gov.uk Richard White Wider Determinants Specialist - Planning Tel 01902 555585 Email Richard.white@wolverhampton.gov.uk	
Report to be/has been considered by	People Leadership Team 4 September 2017 Place Leadership Team 11 September 2017 Senior Executive Board 3 October 2017	

Recommendations for decision:

Cabinet is recommended to:

1. Approve the draft Hot food takeaway Supplementary Planning Document (SPD) and associated Sustainability Appraisal Report and Strategic Environmental Assessment Screening Report for consultation,

2. Delegate authority to the Cabinet Members for City Economy and Public Health and Wellbeing, in consultation with the Service Directors for City Economy and Public Health and Wellbeing, to approve the Council's response to representations received on the draft SPD,
3. Delegate authority to the Cabinet Members for City Economy and Public Health and Wellbeing, in consultation with the Service Directors for City Economy and Public Health and Wellbeing, to make amendments to the SPD following consultation and subsequently adopt the SPD.

1.0 Purpose

- 1.1 To seek Cabinet's approval of the draft Hot Food Takeaway Supplementary Planning Document (SPD) for public consultation. This report summarises the contents of the SPD, which provides guidance on the application of planning policies relating to of hot food takeaways in Wolverhampton.

2.0 Background

- 2.1 Hot food takeaways provide products and services that research has shown can adversely impact on health and wellbeing. These premises typically sell low cost, energy dense meals with little nutritional value that can contribute towards obesity and its ensuing health issues.
- 2.2 The National Planning Policy Framework (NPPF) (March, 2012), endorses local policies that support the vitality and viability of town centres. It promotes healthy communities and the adoption of planning policy approaches which restrict hot food takeaway proposals where these do not benefit the local community.
- 2.3 This is expanded on in Section 2 – Promoting Health Communities of the NPPF, which states that “Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities” and that “Crucially, Local Plans should identify areas where it may be necessary to limit freedom to change the uses of buildings, and support such restrictions with a clear explanation”.
- 2.4 Furthermore, the recently (July 2017) added Paragraph 6 of the National Planning Practice Guidance (NPPG) states that “Local planning authorities can consider bringing forward, where supported by an evidence base, local plan policies and supplementary planning documents, which limit the proliferation of certain use classes in identified areas, where planning permission is required.”
- 2.5 The Black Country Core Strategy (adopted February 2011) outlines a range of policies relating to the development of centres and centre uses and, although broad and not specific to hot food takeaways, is supportive of the fundamental planning principles. Policy CEN6 sets a number of criteria relating to proposals for centre uses that are under 200sqm (gross) and are not in a centre.
- 2.6 In addition, retained policies in the Wolverhampton Unitary Development Plan (2006) are also supportive of the planning principles, particularly EP1, EP5, S4, SH10 and SH14.
- 2.7 The Hot Food Takeaway SPD provides guidance on appropriate locations for new hot food takeaways, considering factors such as the concentration of similar premises in the vicinity and the proximity of secondary schools.
- 2.8 By limiting new outlets in sensitive locations, this will help promote healthy communities and maintain the character, vitality and viability of our high streets.

3.0 Summary

- 3.1 The draft SPD seeks to restrict hot food takeaways (“A5” as a Planning Use Class classification) from centres or shopping parades where there are already issues of over concentration and unacceptable groupings. Planning approval for these uses will not be granted if a proposal would result in the following:

For Town, District and Local centres that are not subject to specific hot food takeaway policies in AAPs, the percentage limit for the appropriate number of hot food takeaways is as follows:

- In centres with 40 units or more* – there should be no more than 10% of units occupied by hot food takeaways.
- In centres with less than 40 units* – there should be no more than 15% of units occupied by hot food takeaways.

**Units include all planning use classes identified in the use-class order as well as all vacant units.*

- 3.2 Hot food takeaway policies from Area Action Plans for Wolverhampton City Centre (2017), Stafford Road Corridor (2014) and Bilston (2014) are incorporated into this document.
- 3.3 Hot food takeaway policies from the Tettenhall Neighbourhood Plan (2014) are incorporated into this document.
- 3.4 These percentage limits are designed to manage the over-concentration of these types of outlets to a level that will not affect the viability of the centre to deliver services to members of the public.
- 3.5 Where the above percentage limit has been reached, or will be reached by the new development proposed, then the proposal will not be permitted, thus supplementing relevant Development Plan policies, such as saved Unitary Development Plan (UDP) Policy SH10.
- 3.6 In addition the SPD introduces a further restriction for hot food takeaways that are within 400m of secondary schools. Exemptions to this are if the unit is within the City Centre or a designated town, district or local centre. 400m is used as a proxy for a 5-minute walk. Primary schools are not included in this exemption as primary school aged children do not generally leave school at lunchtime or have the same financial independence as teenagers.
- 3.7 Public consultation on the draft SPD is planned for six weeks during November and December 2017. During that time the document will be made available at the Civic Centre and main libraries and on the Council’s website, and statutory consultees and key stakeholders will be notified and engaged.
- 3.8 Any representations received during the consultation period will be considered and, where appropriate, minor changes will be made to the SPD. Subject to no major

objections being received, it is expected that the SPD will be adopted in early 2018, subject to approval by the Cabinet Members for Economy and Public Health and Wellbeing in consultation with the relevant Service Directors.

- 3.9 The Draft Hot Food Takeaway Supplementary Planning Document can be found as an Appendix to this report.

4.0 Evaluation of alternative options

- 4.1 Not producing this SPD will mean there is less clarity in terms of guidance to applicants and developers within the City. This may result in proposals which do not properly deal with planning requirements and result in poorer quality schemes being submitted. The current “case-by-case basis” approach towards A5 hot food takeaways has no control on new A5 applications or changes of use to A5 outside of several distinct centres with specific policies. There is also no approach taken towards new applications within close proximity to secondary schools. Therefore, it will be more beneficial for both population health and the viability and vitality of local centres to adopt planning guidance that addresses these issues.

5.0 Reasons for decision

- 5.1 As outlined in 2.3, 2.4, 3.1, and 3.4, it is felt that introducing a whole city approach to planning guidance for hot food takeaways will help to address both population health and viability issues through planning decision making. It will contribute towards the City’s Obesity Call to Action by offering a planning approach to promoting healthy weight environments.

6.0 Financial implications

- 6.1 The costs for consultation and monitoring will be met from within existing Planning and Public Health budgets and resources.
- 6.2 Decisions based on concentrations of hot food takeaways in Centres will require up to date figures. A joint annual survey of retail uses is planned by Planning and Public Health and Wellbeing as part of this and other monitoring requirements. Staff time to undertake this survey will be met within existing resources.

[HM/11092017/X]

7.0 Legal implications

- 7.1 Following adoption the Hot food takeaway SPD will become a material consideration in the determination of planning applications. The SPD is being prepared under the provisions of the Planning and Compulsory Purchase Act (2004) and the Town and Country Planning (Local Development) (England) Regulations 2004 as amended. It will be subject to a statutory period of consultation of 6 weeks from 30 October 2017 to 12 December 2017.

[LD/30082017/A]

8.0 Equalities implications

- 8.1 An Equality Assessment (EA) has been carried out and this can be found as Appendix 2 to this report. The assessment states that the restriction of new takeaways within close proximity of the City's secondary schools could support other local initiatives to tackle childhood obesity, and therefore has the potential to positively benefit the health of secondary school aged children. As far as other equality themes are concerned, the SPD will have a neutral impact. There is a perception that a significant proportion of takeaways are owned, operated and provide employment for minority ethnic groups, and consequently imposing planning controls through the SPD could affect these groups. However, the SPD will be applicable and will impose planning controls for all future planning applications for any hot food takeaway, regardless of the race/ethnicity of the owners/operators/employees. In determining applications, decisions will consider and balance the relevant factors as set out within the SPD Guidelines. The numbers of future planning applications which may be refused because of the SPD are likely to be relatively few in number, and will be limited to specific geographic locations.

9.0 Environmental implications

- 9.1 A Sustainability Appraisal was carried out on the contents of the SPD and this can be found as Appendix 3 to this report. The Appraisal concluded that adoption of the SPD would result in no significant change to the overall positive effects of existing policies on sustainability criteria. A Strategic Environmental Assessment (SEA) Screening Statement has also been produced and this can be found as Appendix 4 to this report. It concludes that an SEA of the SPD contents is not required. There are potential positive environmental implications from adopting this SPD, primarily concerning amenity (not permitting HFT's where they are adjoining residential ground floor properties; hours of operation where they are near to residential property or are to be developed outside of town centres; adequate mitigation of noise and odours; and parking issues).

10.0 Human resources implications

- 10.1 There are no human resources implications.

11.0 Corporate landlord implications

11.1 There are no immediate corporate landlord implications.

12.0 Schedule of background papers

12.1 Appendix 1 Draft Hot Food Takeaway Supplementary Planning Document

12.2 Appendix 2 Equality Assessment

12.3 Appendix 3 Sustainability Appraisal

12.4 Appendix 4 Strategic Environmental Assessment Screening Statement

This page is intentionally left blank

DRAFT Hot Food Takeaway

Supplementary Planning Document

September 2017

Planning Guidance on new
Hot Food Takeaways (A5)
in the City of
Wolverhampton



1. Foreword

Councillor John Reynolds

Cabinet Member for City Economy

Councillor Paul Sweet

Cabinet Member for Health and Wellbeing



1.1 City of Wolverhampton Council is committed to improving the health and wellbeing of its residents, workers and visitors. This commitment is established through the City of Wolverhampton Corporate Plan, the City of Wolverhampton Health and Wellbeing Strategy, and in 2014 the Council made an Obesity Call to Action. The commitment is further articulated through this Hot Food Takeaway Supplementary Planning Document, which aims to reduce the trends towards increasing levels of obesity and poor diet in the City by tackling issues of over-concentration of Hot Food Takeaways and the exposure of particularly vulnerable groups, such as school children, to Hot Food Takeaways.

1.2 The rapid expansion of the fast food industry over recent decades has had a considerable influence over our eating habits, food purchasing and food production. It has affected not only our diet but also the nature and appearance of our towns and cities. Fast food outlets / Hot Food Takeaways ('A5' as a Planning Use Class classification) are now a common feature of our high streets and shopping centres and meet an increasing demand for instant food access and convenience. Fast food preparation and supply is an important element in the economy and in some urban areas makes up a considerable proportion of the retail offer. Where balanced with other types of retail this can provide a service to the public, jobs and rental income.

However, where takeaways occupy a disproportionately high percentage of the retail offer, there can be negative effects. Too many takeaways can reduce the vitality and viability of a shopping centre and discourage shoppers and future retail opportunities. Takeaways are recognised as adding to the vitality and viability of centres but retailing should be the dominant use, as identified in national guidance. There is a need to balance the protection of the retail function of our shopping centres and encouraging diversification of uses to keep them vital and viable. This balance can be difficult to achieve as takeaways have high profit margins and low operating costs and are therefore easy to establish and cheap to run.

1.3. Another major driver of the increase in the number of takeaways is demand. Less food is prepared from scratch using fresh ingredients, both commercially and in the home, again driven by pressures to save time, offer convenience and reduce price. More food products are mass produced, pre-cooked and pre-packaged than ever before. Market forces, demand, and the need for standardisation have resulted in greater consumption of food that is highly processed and high in saturated fat, sugar, salt and additives, often at the expense of important qualities such as fibre content and nutrition. We are also eating larger portions than ever before. This is against a backdrop of increasingly sedentary lifestyles. Greater consumption and less activity equates to more calories in and fewer calories burned, resulting inevitably in rising levels of obesity and poorer health.

1.4 This is a significant trend in Wolverhampton which has some of the highest levels of obesity in the country. Around two thirds of adults and nearly half of school children in Year 6 are classified as being either overweight or obese. This is significantly higher than the England average. The impacts of obesity cost the NHS £6-8 billion a year.

1.4 Furthermore, research by London Metropolitan University has shown that increased exposure and opportunity to buy fast food results in increased consumption. It has also been demonstrated that the prevalence of takeaways near schools can negatively impact on children's eating habits. Whilst it is recognised that takeaways can have a useful role to play in offering convenience and choice, they can contribute negatively on health due to higher amounts of salt, saturated fats and preservatives found in many of the foods served, as well as extremely large portion sizes. They also have potential to create conditions for disturbance and detract from residential amenity and environmental quality through creating litter, noise, anti-social behaviour, odour issues and elevated levels of vehicular traffic.

1.5 For several years, the Council has encouraged takeaways to control the ingredients and content of their fast food offer and to offer healthier options to customers. Several operators have risen to the challenge. However, the sector continues to be dominated by retailers offering food in large portion sizes that is high in fat, sugar and salt. Therefore, we cannot rely on working with retailers or appealing to the public alone. We must also use the tools offered to us through the planning system to control the proliferation of these premises.

1.6 This Supplementary Planning Document aims to achieve an economically viable balance between Hot Food Takeaways and other retail across the City, and to contribute towards reducing increasing levels of obesity and poor diet. It addresses issues of over-concentration of Hot Food Takeaways and exposure of particularly vulnerable groups such as school children to opportunity purchases of fast food. Choice, demand and current provision remain largely unaffected by this policy, which aims to strike a balance of interests and issues in the granting of new planning permissions for Hot Food Takeaways.

Contents

	Page
1. Foreword	2
2. Introduction	5
3. What is a Hot Food Takeaway?	5
4. Local Context <ul style="list-style-type: none"> • Hot Food Takeaways in Wolverhampton • Hot Food Takeaways and Schools • Obesity in Wolverhampton 	7
5. Planning Policy <ul style="list-style-type: none"> • National Policy • Sub-Regional Policy • Local Policy 	14
6. Hot Food Takeaway Guidelines <ul style="list-style-type: none"> • HFT1: Proximity to a Secondary School • HFT2: Vitality and Viability of Centres 	20
7. Monitoring	24
Tables and Figures	
Table 1: Examples of Class A5 Uses	6
Table 2: Concentration of Hot Food Takeaways in Wolverhampton Wards (wards which exceed the national average are highlighted in red)	9
Table 3: Current Secondary schools in Wolverhampton, number of pupils, number of Hot Food Takeaways within 400m of school gates and number of secondary schools signed up to the Children and Young People's Health Improvement service, which includes advice on healthy eating	11
Figure 1: Example of the precedence of Hot Food Takeaway guidance	21
Figure 2: A5 Hot Food Takeaway (A5) Planning Application Flow Diagram	23
Appendices	
Appendix 1 – Location of Wolverhampton Centres and Secondary Schools with 400m buffer	25
Appendix 2 – Hot Food Takeaway (A5) and Non-A1 Restriction Policies which apply to each Wolverhampton Centre and proposals outside a Centre	26

2. Introduction

2.1 This Hot Food Takeaway Supplementary Planning Document (SPD) supports and provides detailed guidance on the implementation of policies in the Wolverhampton Local Plan. The SPD is in line with the National Planning Policy Framework and the Joint Strategic Needs Assessment for Wolverhampton (2017).

2.2 The SPD explains the overall approach to the location of Hot Food Takeaway development across Wolverhampton, including:

- The appropriate proportion of Hot Food Takeaways in centres;
- The appropriate level of clustering of Hot Food Takeaways in centres;
- Distance restrictions on the creation of new Hot Food Takeaways close to secondary schools.

2.3 This SPD is a material consideration in the determination of planning applications. The SPD has been issued under Regulation 17 of the Town and Country Planning (Local Development) (England) Regulations 2004 as amended by the (Local Planning) 2012 Regulations.

3. What is a Hot Food Takeaway?

3.1 The Town and Country Planning (Use Classes Order) (Amendment) Order 2015 draws a distinction between a shop (including sandwich shops) (Class A1), a restaurant or café (Class A3), a drinking establishment (Class A4) and a Hot Food Takeaway (Class A5). Establishments whose primary business is the sale of hot food for consumption off the premises fall within Class A5.

3.2 A3 restaurants often have an ancillary Takeaway element and A5 Takeaways can have ancillary eat-in facilities. If the two elements are evenly balanced then there would be a mixed A3/A5 use. Where the A5 element of a proposal is equal to or larger than the non-A5 element the guidance in this SPD will apply to that proposal. To determine the nature of a proposal, the layout of the premises will be considered, particularly:

- The proportion of space designated for food preparation and other servicing in relation to designated customer circulation space;
- The number of tables or chairs to be provided for customer use.

3.3 The applicant will be expected to demonstrate that the proposed use will be the primary business activity. For clarity, Table 1 below provides examples of uses which fall within Class A5, and those which do not. This list is not exhaustive:

Table 1: Examples of Class A5 Uses

Covered in Class A5	Not covered in Class A5
Fast food takeaways	Sandwich Shops
Hot Food takeaways	Restaurants
Pizza takeaways	Cafes
Fish and Chip shops	Coffee Shops
Fried chicken shops	Dessert cafes
Burger takeaways	Bakeries
Chinese takeaways	
Indian takeaways	
Drive throughs	

- 3.4 Anyone intending to submit a planning application for a Hot Food Takeaway is encouraged to read this SPD and contact the City Council's Planning Department for free pre-application advice and information.

4. Local Context



- 4.1 It is recognised that Hot Food Takeaway establishments provide convenience in the food offer, particularly in town centres. However, compared to other retail uses, they are more likely to have a detrimental impact on amenity and on the retail character and function of shopping centres.
- 4.2 They are often shuttered up during the day, leading to dead frontages. This can result in a reduction in town centre viability. Other harmful impacts include an increase in the incidence of litter, smells, anti-social behaviour, noise and general disturbance, as well as parking and traffic problems.
- 4.3 In recent years several retail units in Wolverhampton have been converted into Hot Food Takeaway establishments. Where high concentrations occur in our retail centres, they can pose a threat to retail function and local character and prevent inward investment in other retail categories.
- 4.4 Information on the concentration of Hot Food Takeaways in Wolverhampton's centres is updated on a regular basis. The current version of the 'Hot Food Takeaway Data Sheet' can be found on the Planning webpage of the City of Wolverhampton Council website.

Hot Food Takeaways in Wolverhampton



- 4.5 According to the Food Environment Assessment Tool (FEAT), as of 2017, Wolverhampton currently has 967 food outlet types, 267 of which are classified as A5 Hot Food Takeaways.
- 4.6 This means that Hot Food Takeaways currently make up 27.6% of the total food retail offer for the City.
- 4.7 It also means that there are currently 1.07 Hot Food Takeaways in Wolverhampton per 1000 people. This is higher than the England average, which is 0.86 Hot Food Takeaways per 1000 people.
- 4.8 Furthermore, several wards in Wolverhampton have a much greater number of Hot Food Takeaways per 1000 people than the average for England, as shown in Table 2.
- 4.9 St Peter's ward is omitted from Table 2 owing to its City Centre coverage. The ward has a higher concentration of Hot Food Takeaways than other wards in the City, owing to the proliferation of premises along certain frontages. The City Centre area is included in the policies of this SPD.

Table 2: Concentration of Hot Food Takeaways in Wolverhampton Wards (wards which exceed the national average are highlighted in red)

Ward	Population (2011 Census)	Number of Hot Food Takeaways	Number of Hot Food Takeaways per 1000 people
Bilston East	13363	21	1.57
Bilston North	12213	9	0.73
Blakenhall	12022	10	0.83
Bushbury North	11936	16	1.34
Bushbury South and Low Hill	14983	10	0.66
East Park	12497	11	0.88
Ettingshall	13482	11	0.82
Fallings Park	12410	16	1.29
Graiseley	12284	10	0.81
Heath Town	13965	9	0.64
Merry Hill	12189	10	0.82
Oxley	12797	3	0.23
Park	12294	6	0.49
Penn	12718	7	0.55
Spring Vale	12243	11	0.89
Tettenhall Regis	11911	7	0.58
Tettenhall Wightwick	10872	7	0.64
Wednesfield North	11235	7	0.62
Wednesfield South	11411	21	1.84

Hot Food Takeaways and Schools

4.10 Takeaway outlets near schools can provide an added incentive and temptation to children to over-consume fast food (Winkler et al, 2009). Most fast food takeaways are a source of cheap, energy dense and nutrient poor foods. Research indicates that children attending schools near fast food outlets are more likely to be obese than those whose schools are more inaccessible to such outlets (Engler-Stringer et al, 2014).



- 4.11 The density of unhealthy food outlets in a neighbourhood has been linked to the prevalence of overweight and obesity in children in England (Black et al, 2014). The number of outlets near a school has also been found to significantly affect school obesity rates (Alviola et al, 2014; Currie et al, 2011). This is particularly concerning given consistent evidence that Hot Food Takeaways tend to cluster around schools (Caraher et al, 2013; Austin et al, 2005; Ellaway et al, 2012). Fast food is inexpensive and heavily marketed at children (Freudenberg et al, 2010) who often opt for adult portions (Caraher et al, 2013).
- 4.12 Having additional outlets close to schools could negate efforts by the City Council and its partners to support the healthy eating programmes offered by the Children and Young Peoples' Health Improvement (C & YP HI) service to ensure that young people have access to healthy options.
- 4.13 As shown in Table 3, several secondary schools are signed up to working with the service, including advice on healthy eating, but have several Hot Food Takeaways within easy walking distance (400m) of the school gates. Further proliferation of these premise types could run counter to efforts to promote healthy eating amongst school pupils.

Table 3: Current Secondary schools in Wolverhampton, number of pupils, number of Hot Food Takeaways within 400m of school gates and number of secondary schools signed up to the Children and Young People's Health Improvement service, which includes advice on healthy eating

Secondary School	Number of pupils (2016-2017)	Number of A5 Hot Food Takeaways within 400m of school gates	Signed up to C & YP HI service?
Aldersley High	807	1	No
Colton Hills Community SLC	916	0	No
Coppice Performing Arts	951	1	Yes
Heath Park	1195	4	No
Highfields	1514	5	No
Moreton	735	2	Yes
Moseley Park	831	3	Yes
North East Wolverhampton Academy	846	6	No
Our Lady & St Chads CSC	829	4	Yes
Smestow School SSC	914	1	Yes
South Wolverhampton & Bilston Academy	1061	10	No
St Edmunds Catholic Academy	864	2	No
St Matthias	512	3	Yes
St Peters Collegiate CE	1031	3	No
The British Sikh School	185	3	No
The Kings CE	719	0	Yes
The Royal School	467	2	No
Wednesfield High School SEC	891	2	No
West Midlands Construction UTC	202	2	No
Wolverhampton Girls' High School	859	3	Yes
Wolverhampton Secondary School Total	16329	57	8

4.14 In 2017, a study was carried out on findings of the 2015-2016 Health Related Behaviour Survey (HRBS), and the 2015-2016 National Child Measurement Programme (NCMP) in Wolverhampton. The study found the following:

- There was an increase in the percentage of those overweight and obese linked to the percentage of those who said they wanted to lose weight.
- There was an increase in the percentage of those overweight and obese linked to the percentage of those who said they had a takeaway for lunch.
- There was an increase in the percentage of those overweight and obese linked to the

percentage of those who said their diet is not very healthy or very unhealthy.

4.15 These findings show that, amongst other things, those that wanted to lose weight were gaining weight, that the amount of pupils that were overweight who had a takeaway for lunch had gone up, and that the biggest cause of being overweight or obese was poor diet.

4.16 A poor food environment around schools can contribute to increasing the percentage of those children classified as being overweight and obese.

Obesity in Wolverhampton

related to several factors including ethnicity, age and gender.



4.17 The Joint Strategic Needs Assessment for Wolverhampton (2017) identifies that the City experiences significant health inequalities. On average, the people who live in Wolverhampton do not live as long as people in other areas of England and spend more of their lives either suffering from ill-health or disabled. These inequalities exist within and across Wolverhampton. The most marked inequalities are between Wolverhampton and the rest of England, however there are significant inequalities in health and wellbeing between different sections of the population within Wolverhampton. These variations are

4.18 The JSNA identifies that the health of people in Wolverhampton is improving, but not as fast as the England average. Obesity, low fruit and vegetable consumption, lack of exercise, inactivity, smoking and alcohol use are all significant causes of ill health in the City.

4.19 Obesity contributes to the onset of many diseases and premature mortality and is the sixth most important risk factor contributing to the overall burden of disease worldwide. Moderate obesity (BMI 30-35 kg/m²) can reduce life expectancy by an average of three years, while morbid obesity (BMI 40-50 kg/m²)

reduces life expectancy by eight to ten years. This eight to ten-year loss of life is equivalent to the effects of lifelong smoking.

4.20 In Wolverhampton, obese adults made up 21.7% out of 7,583 participants in our healthy lifestyles survey in 2016. This figure is deemed representative of our population. Of the 21.7% of participants who were classified as being obese, 7.5% were classified as being morbidly obese.

4.21 There are also likely to be different rates of increase in obesity between different socio-economic sub-groups within the local population. The Health Survey for England (2012) found that low-income males were 5% more likely to have a higher BMI than those in higher-income classes. For low-income women, this difference was far greater; up to 13% more likely to have a higher BMI than those in higher-income classes.

4.22 Geographically, obesity prevalence is closely correlated with levels on the Index of Multiple Deprivation (IMD) and rises with decreasing educational level among both men and women.

4.23 Excess weight (overweight and obese) for Reception year children in Wolverhampton has been consistently significantly worse than regional and national averages. During 2015/16 25.3% of children in Wolverhampton were overweight or obese compared to 23.3% in the West Midlands and 22.1% in England. For Year 6 children in Wolverhampton, excess weight is also consistently significantly worse than the national average. The figure in 2015/16 was 40.3%, a minor decrease, following a peak of 41.5% during 2013/14. The Wolverhampton gap to the national average is much

starker than Reception year figures with Year 6 excess weight at 34.2% for England in 2015/16. West Midlands figures are similar to the national average at 36.6%. Current trends suggest that around 80% of children who are obese at ages 10–14 years will become obese adults, particularly if one of their parents is also obese.

4.24 The Health Survey for England suggests that by 2030, 41% to 48% of men and 35% to 43% of women could be obese if trends continue. A 2014 study by the McKinsey Global Institute revealed that the associated annual cost of obesity to the NHS could increase from between £6 billion and £8 billion in 2015 to between £10 billion and £12 billion by 2030.

5. Planning Policy

- 5.1 The requirements set out in this SPD support and provide detailed guidance on the application of planning policies at a national, sub-regional and local level.

National Policy

- 5.2 The National Planning Policy Framework (NPPF) endorses local policies that support the vitality and viability of town centres. It promotes healthy communities and the adoption of local plans that limit change of use where this change does not benefit the local community.

NPPF Para 24: Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

Section 2. Ensuring the Vitality of Town Centres

- 5.3 Paragraphs 23 to 27 of the NPPF require Local Plans to promote competitive retail centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres. Where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity.
- 5.4 Hot Food Takeaways fall within a retail use class and are therefore defined as a Main Town Centre Use as detailed in NPPF Annex 2 Glossary. Consequently, proposals should be directed to centres in the first instance and be subject to relevant centres policies in the Local Plan. For proposals that are not in a centre the NPPF requires a “sequential test” to be carried out:

Section 8. Promoting Healthy Communities

- 5.5 To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and that they are retained for the benefit of the community. In defining the plan-making process, the NPPF states that “Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities” and that “**Crucially, Local Plans should identify areas where it may be necessary to limit freedom to change the uses of buildings, and support such restrictions with a clear explanation**”.

National Planning Practice Guidance (NPPG) Health and Wellbeing

5.6 The following paragraph was added to NPPG in July 2017 and supports the guidance in this SPD.

NPPG Para 6. How can planning help create a healthier food environment?

Planning can influence the built environment to improve health and reduce obesity and excess weight in local communities. Local planning authorities can have a role in enabling a healthier environment by supporting opportunities for communities to access a wide range of healthier food production and consumption choices.

Local planning authorities can consider bringing forward, where supported by an evidence base, local plan policies and supplementary planning documents, which limit the proliferation of certain use classes in identified areas, where planning permission is required. In doing so, evidence and guidance produced by local public health colleagues and Health and Wellbeing Boards may be relevant. Policies may also request the provision of allotments or allotment gardens, to ensure the provision of adequate spaces for food growing opportunities.

Local planning authorities and planning applicants could have regard to the following issues:

- proximity to locations where children and young people congregate such as schools, community centres and playgrounds
- evidence indicating high levels of obesity, deprivation and general poor health in specific locations
- over-concentration and clustering of certain use classes within a specified area
- odours and noise impact
- traffic impact
- refuse and litter

Sub Regional Policy

5.7 The Black Country Core Strategy (2011) includes a range of policies relating to the development of centres and centre uses and, although broad and not specific to Hot Food Takeaways, is supportive of the fundamental planning principles. Policy CEN6 sets several criteria relating to proposals for centre uses that provide under 200sqm (gross) floorspace and are not located in a centre.

CEN6 – Meeting Local Needs for Shopping and Services (part)

New small-scale local facilities outside defined centres of up to 200 square metres gross, or extensions to existing facilities which would create a unit of up to 200 square metres gross will be permitted if it can be shown that all of the following requirements are met:

- * The proposal is of an appropriate scale and nature to meet a specific day-to-day need of a population within convenient, safe walking distance for new or improved facilities;
- *Local provision could not be better met by investment in a nearby centre;
- *Existing facilities that meet day-to-day needs will not be undermined.
- *Access to facilities by means other than by car would be improved and, in particular, will be within convenient, safe walking distance of the community it is intended to serve;
- *Where new local facilities are to meet the specific needs of new housing development, particularly food provision, then proposals need to meet the requirements of Policy HOU2.

Local Policy

5.8 There are a range of policies within the Wolverhampton Development Plan which control the location of Hot Food Takeaways, primarily within centres. The boundaries of centres – strategic, town, district and local - are also defined in these Plans. Appendix 1 shows the boundaries of these centres.

5.9 Policy SH10 of the Wolverhampton Unitary Development Plan (UDP) controls the proportion of non-A1 units within all district and local centres not covered by an Area Action Plan (AAP) or Tettenhall Neighbourhood Plan.

Policy SH10 - Protected Frontages

Within district and local centres, proposals to use ground floor units for non-retail uses will be considered favourably only where all of the following criteria are met:

1. the overall retail function of the centre/group of shops would not be undermined. Permission will not be granted where non-A1 uses constitute any of the following:

i. more than 30% of shop units in the centre concerned;

ii. more than 30% of frontage length;

iii. more than three consecutive units;

2. the use would make a positive contribution to the overall role of the centre / group of shops;

3. there would be no conflict with Policy SH9 in respect of the retention of convenience shops, post offices and pharmacies;

4. the use is compatible with other UDP policies; and

5. shop front treatment, including security measures, should harmonise with the building of which it forms a part and with neighbouring buildings in terms of design, scale, materials,

colour and texture. Shopfront treatments should also maintain views into the unit in the daytime and at night. Further guidance on shopfront treatment is set out in Supplementary Planning Guidance.

For the purposes of this Policy a frontage is defined as one side of a street or parade which is not separated by a significant gap such as a road junction. Proposals to change the use of a shop to a restaurant, a hot food take-away, or an amusement centre, will also be subject to Policies SH14 and SH16 respectively.

5.10 Policy SH14 of the UDP specifically relates to the location and design of catering outlets, including A5 uses. In terms of design, this should be read alongside Policy EP1: Pollution Control (which relates to smells), Policy EP5: Noise Pollution and Policy AM12: Parking and Servicing Provision.

Policy SH14 – Catering Outlets (part)

Catering outlets (comprising uses within Classes A3, A4 and A5 of the Use Classes Order) should be located within defined centres, except where a proposal would comply with Policy CEN6 in meeting a local need for this type of use which cannot be met within a defined centre.

Proposals for catering outlets will not be permitted where:

1. the proposal would conflict with the frontage use policy for the centre in which it would be sited, or would otherwise harm the vitality and / or viability of the centre; or

2. significant harm would be caused to the amenities of existing or proposed residential accommodation in the vicinity, either individually or cumulatively with other Class A5 uses, including by reason of noise, smell, general disturbance or traffic impact; or

3. significant harm would be caused to the visual amenities of the area by proposed

ventilation and / or fume extraction equipment incorporated in the proposal; or

4. the vehicle movements and parking generated would be harmful to highway safety or the free flow of traffic, taking into account the availability of space for parking and servicing; or

5. adequate provision would not be made for the storage and disposal of refuse.

Proposals which could affect the amenities of residential accommodation may be permitted subject to conditions to limit the permitted hours of operation, where it is considered that the effects can be satisfactorily mitigated by such a limit.

4.12 Policy WVC6 of the UDP controls the proportion of non-A1 units within Wednesfield Village Centre.

Policy WVC6 - Frontage Use Policy (part)

Within the Primary Shopping Area planning permission will not be granted where non-A1 uses constitute more than 30% of the number of units in a retail frontage or exceed 30% of frontage length. For the purposes of this Policy a frontage is defined as one side of a street or parade which is not separated by a significant gap such as a road junction. Elsewhere no set percentage will be applied although it will be important to retain a majority element of retailing.

5.11 Policy CA1 of the Wolverhampton City Centre Area Action Plan (AAP) controls the proportion of non-A1 and A5 units within Wolverhampton City Centre Shopping Core (primary shopping area), with different controls for primary and secondary frontages.

Policy CA1: Shopping Core (part)

(e) Retaining and improving a variety of A1 shop) uses in the Shopping Core by imposing controls over changes of use in key streets. It is recognised that other uses such as A2 (financial and professional services), A3, A4 and A5 (food and drink) uses have a key role but their location must be controlled to maintain a healthy mix of uses. For ground floor retail units that form part of a frontage, proposals for a change of use that are subject to planning control and will result in an increase in non-A1 presence where it exceeds any of the following will not be permitted:

(i) For Primary Frontages:

More than 30% of the number of units being in non-A1 use

More than three consecutive units being in non-A1 use

More than 15% of the number of units being in A5 use

More than two consecutive units being in A5 use

(ii) For Secondary Frontages:

More than 50% of the number of units being in non-A1 use

More than four consecutive units being in non-A1 use

More than 25% of the number of units being in A5 use

More than three consecutive units being in A5

Where shop units are vacant for six months or longer and it can be demonstrated that they have been adequately marketed as A1 units for that period without success, a relaxation of the above criteria may be acceptable in order to maintain an active street frontage.

5.12 Policy CA5 of the City Centre AAP controls the proportion of non-A1 and A5 units within Chapel Ash Local Centre.

Policy CA5: Chapel Ash & West Park (part)

... (b) Strengthening the retail and service offer of Chapel Ash Local Centre ... Within the Local Centre boundary for ground floor retail units that form part of a frontage, a change of use that will result in an increase in non-A1 presence where it exceeds any of the following will not be permitted:

- (i) More than 50% of the number of units being in non-A1 use
- (ii) More than four consecutive units being in non-A1 use
- (iii) More than 25% of the number of units being in A5 use
- (iv) More than three consecutive units being in A5 use

For the purposes of this Policy a frontage is defined as one side of a street or parade which is not separated by a significant gap such as a road junction.

5.13 Policy SRC3 of the Stafford Road Corridor AAP controls the proportion of non-A1 and A5 units within Stafford Road (Three Tuns) District Centre.

Policy SRC3: Meeting Shopping and Service Needs at Three Tuns District Centre and the Neighbourhood Centre at Goodyear (part)

... Proposals for ground floor retail units that would lead to any of the following will be resisted:

- More than 40% of ground floor retail units within the centre within non-A1 Use Classes;
- More than three consecutive ground floor retail units within non-A1 Use Classes;

- More than two consecutive A5 hot food takeaways; or
- More than 10% of ground floor retail units within the Centre within Use Class A5 'hot food takeaway'

Where shop units are vacant for six months or longer and it can be demonstrated that they have been adequately marketed as A1 units for that period without success, a relaxation of the above criteria may be acceptable in order to maintain active frontages within the Centre.

5.14 Policy BC10 of the Bilston Corridor AAP controls the proportion of non-A1 units within Bilston Town Centre.

Policy BC10 – Bilston Town Centre (part)

Within the Primary Shopping Area planning permission will not be granted where non-A1 uses constitute more than 30% of the number of units in a retail frontage or exceed 30% of frontage length. For the purposes of this Policy a frontage is defined as one side of a street or parade which is not separated by a significant gap such as a road junction.

Elsewhere in Bilston Town Centre, a majority element of retailing should be maintained. Ground floor uses must be able to attract significant numbers of customers, generate street level activity and incorporate attractive shopfronts and lively window displays.

5.15 Policy TNP3 of the Tettenhall Neighbourhood Plan controls the proportion of non-A1 and A5 units within District and Local Centres in the Neighbourhood Plan area.

Policy TNP3 - Commercial Centres and the Retail Offer (part)

... 2. Maintaining an appropriate balance of retail (Use Class A1) uses within the designated District and Local Centres. In order to maintain this balance:

*Proposals for ground floor retail units that would lead to any of the following will be resisted:

*More than 30% of ground floor retail units in the Centre within non-A1 Use Classes;

*More than three consecutive ground floor retail units within non-A1 Use Classes;

*More than two consecutive ground floor units in the A5 Use Class (hot food takeaways);

*More than 10% of ground floor retail units in the Centre within Use Class A5 'hot food takeaway'.

Where shop units are vacant for six months or longer and it can be demonstrated that they have been adequately marketed as A1 units for that period without success, a relaxation of the above criteria may be acceptable in order to maintain active street frontages within the Centre concerned.

6. Hot Food Takeaway Guidelines

- 6.1 This document introduces two guidelines (HFT 1 and HFT 2) which are material considerations for any proposals that relate to applications for Hot Food Takeaways in Wolverhampton.

HFT1: Proximity to a Secondary School

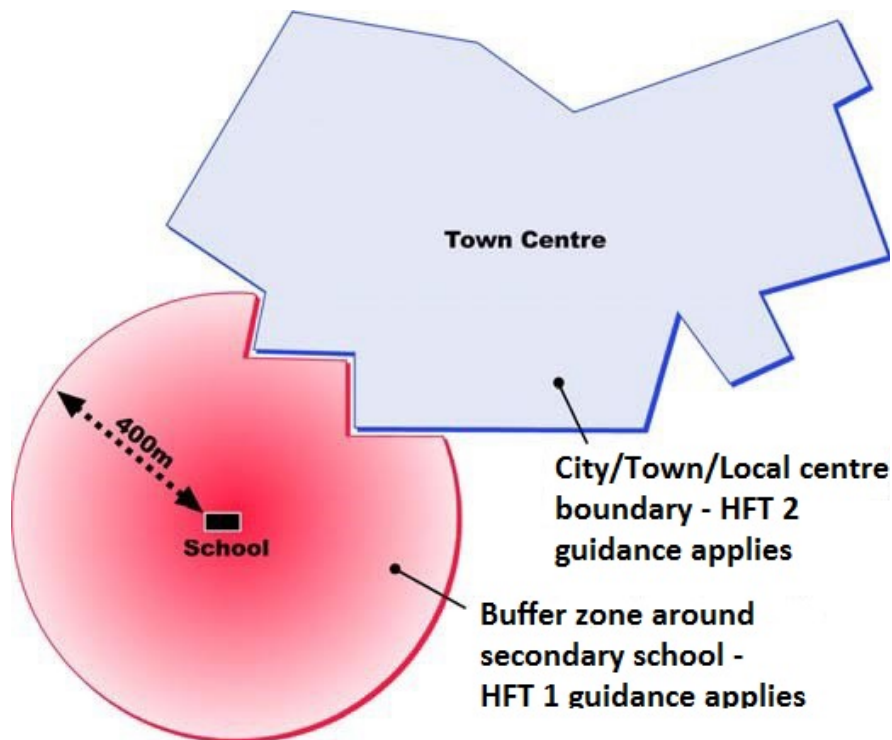
No new Hot Food Takeaway development will be permitted within 400 metres of a secondary school, as measured in a direct line (as the crow flies) from any school entrance used by pupils.

HFT1 will not apply to proposals within a Local or District Centre, or within the primary shopping areas of Wolverhampton City, Bilston Town and Wednesfield Village Centre, where these boundaries overlap the 400m buffer zone. In these areas, relevant policies in the Wolverhampton Development Plan restricting A5 uses or HFT2 will take precedence.

- 6.2 National guidance advises Local Planning Authorities to restrict the location of Hot Food Takeaways, particularly around schools. No new Hot Food Takeaway should increase the exposure of school children to these opportunities. As explained, studies show that Hot Food Takeaway food is inherently unhealthy, and the food environment can influence diet. HFT1 aims to restrict the access of secondary school children to unhealthy foods, to encourage and

support healthy lifestyle choices, by restricting Hot Food Takeaway proposals located outside a centre but within easy walking distance of a secondary school, thus supplementing Core Strategy Policy CEN6 and NPPF para 24. 400m is used as a proxy for a 5-minute walk, which is considered easy walking distance. Primary schools are not included in this restriction as their pupils do not have the same amount of independence and autonomy as secondary school children to access Hot Food Takeaways.

Figure 1: Example of the precedence of Hot Food Takeaway guidance



HFT2: Vitality and Viability of Centres

For any Centres that are not subject to a specific Hot Food Takeaway (Class A5) policy in the Wolverhampton Development Plan, the proportion of Hot Food Takeaways will be limited as follows:

- In centres with 40 units or more – no more than 10% of ground floor shop units in total and no more than 10% of ground floor shop units in any frontage should be occupied by Hot Food Takeaways;
- In centres with less than 40 units – no more than 15% of ground floor shop units in total and no more than 15% of ground floor shop units in any frontage should be occupied by Hot Food Takeaways;

- In all centres - no more than two consecutive ground floor shop units in the centre should be occupied by Hot Food Takeaways.

A frontage is defined as one side of a street or parade which is not separated by a significant gap such as a road junction.

6.3 Current Wolverhampton Development Plan policies relating to A5 uses cover some but not all centres in Wolverhampton. Therefore, given that new Hot Food Takeaways should not prejudice the vitality or viability of a centre, additional guidance is required to cover those centres without a bespoke policy, as set out in Appendices 1 and 2.

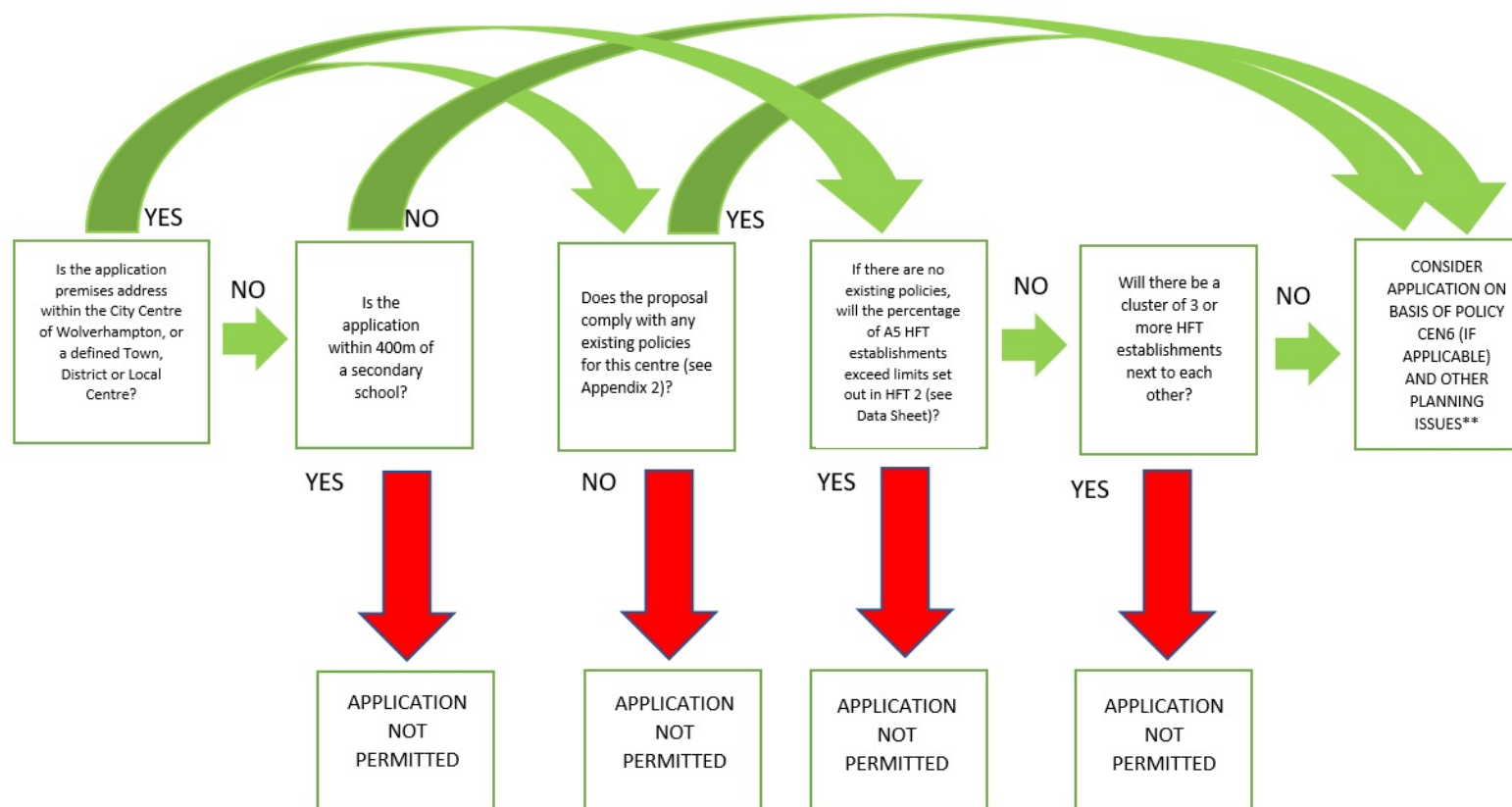
6.4 The limits set out in HFT 2 are designed to manage the

concentration of Hot Food Takeaways to levels that will not affect the vitality and viability of the centre to deliver services to members of the public, in line with national, sub-regional and local policy.

- 6.5 The clustering of Hot Food Takeaway outlets together creates areas in centres that are dominated by one use and only open and active at certain times of the day. Reducing the clustering of these types of outlets will increase the variety of different types of shop fronts and therefore improve the perception and vitality of the Centre.
- 6.6 Where any of the above percentage or clustering limits has already been reached, or would be reached by permitting the proposed development, then the proposal will not be permitted.

- 6.7 Details of the address and current use of units within each Centre is provided in the most current 'Hot Food Takeaway Data Sheet' which can be found on the Planning webpage of the City of Wolverhampton Council website.

Figure 2: Hot Food Takeaway (A5) Planning Application Flow Diagram

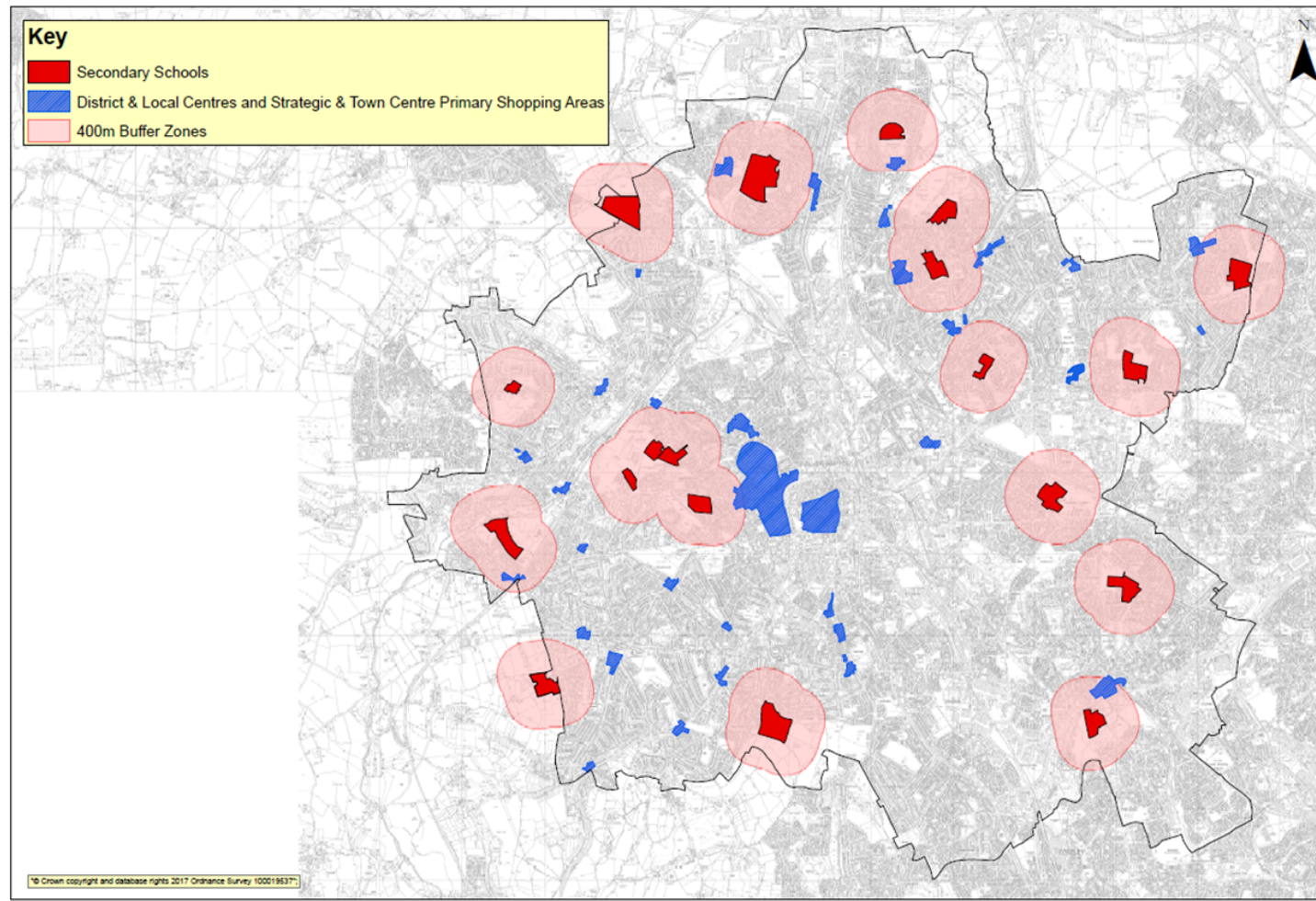


***Consistent with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the application will be judged in relation to conformity with the Development Plan and other material considerations.*

7. Monitoring

- 7.1 For each centre, details of the address and current use of each unit is provided in the 'Hot Food Takeaway Data Sheet' which can be found on the Planning webpages of the City of Wolverhampton Council website:
(www.wolverhampton.gov.uk)
- 7.2 This information will be kept up to date with an annual survey of all centres and through using monitoring data.

Appendix 1 – Location of Wolverhampton Centres and Secondary Schools with 400m buffer



Appendix 2: Hot Food Takeaway (A5) and Non-A1 Restriction Policies which apply to each Wolverhampton Centre and proposals outside a Centre

		Relevant Policies / Guidelines							
		Core Strategy	Saved UDP	Bilston Corridor AAP	Stafford Road Corridor AAP	Wolverhampton City Centre AAP	Tettenhall Neighbourhood Plan	Hot Food Takeaway SPD HFT1	Hot Food Takeaway SPD HFT2
PROPOSAL OUTSIDE A CENTRE		CEN6						HFT1	
PROPOSAL WITHIN A CENTRE									
Type	Map Ref / Name								
Strategic Centre	1 Wolverhampton City Centre	CEN1, 2 & 3				CA1		Outside primary shopping area	
Town Centres	2 Bilston	CEN1, 2 & 4		BC10					HFT2
	3 Wednesfield		WVC 6						
District & Local Centres	4 Stafford Road (Three Tuns)	CEN1, 2 & 5			SRC3				
	5 Chapel Ash					CA5			
	6 Tettenhall Village						TNP3		
	7 Aldersley (Claregate)								
	8 Castlecroft								

	9 Compton Village								
	10 Finchfield								
	11 Tettenhall Wood								
	12 Ashmore Park		SH10						HFT2
	13 Broadway								
	14 Bradmore								
	15 Bushbury Lane								
	16 Cannock Road (Scotlands)								
	17 Dudley Road (Blakenhall)								
	18 Fallings Park								
	19 Heath Town								
	20 Merry Hill								
	21 Newbridge								
	22 Parkfield								
	23 Pendeford Park								
	24 Penn Fields								

	25 Penn Manor								
	26 Showell Circus								
	27 Spring Hill								
	28 Stubby Lane								
	29 Upper Penn								
	30 Whitmore Reans / Avion Centre								
	31 Warstones Road								
	32 Wood End								



Appendix 1 - Equality Analysis Form

Equality Analysis Template.

Directorate: People	Lead Officer: Richard White
Service Area: Public Health and Wellbeing	Date completed: 19 th September 2017
Service / Function / Policy / Procedure to be assessed: Hot Food Takeaway Supplementary Planning Document (SPD)	
Is this: New / Proposed Existing/Review Changing (Please tick appropriate box)	Review date:

Part A – Initial Equality Analysis to determine if a full Equality Analysis is required.

What are the aims and objectives/purpose of this service, function, policy or procedure?

The draft Supplementary Planning Document (SPD) has been prepared to guide planning decisions relating to hot food takeaways. The SPD will set out the Council's approach to deciding which locations in the City are appropriate for hot food takeaway premises and whether measures are required to minimise impacts on local neighbourhoods.

The Hot Food Takeaway SPD will provide up-to-date planning guidelines for the opening of new hot food takeaways within the city. The SPD is intended to set out a clear process for potential takeaway operators looking to open new premises, including an explanation of the roles that Planning and other non-planning Council services play in the process e.g. Public Protection, Licensing, Highways, etc.

The document has been drafted for the purposes of public consultation. The consultation period will provide the public and stakeholders with an opportunity to comment on the principles set out within the draft SPD. Following this initial consultation, consideration will be given to all representations made before finalising and adopting the SPD.

Once adopted, the SPD policies will apply to future proposals involving hot food takeaways. The SPD principles cannot be applied retrospectively to operating hot food takeaways or premises with an existing extant planning permission.

Public consultation on the draft SPD has potential to improve the quality of the document by involving those likely to be affected in developing the planning policy as well as those with previous experience of the process, i.e. current takeaway owners.

Equality Analyses

Please indicate its relevance to any of the equality duties (below) by selecting Yes or No?

	Yes	No
Eliminating unlawful discrimination, victimisation and harassment		√
Advancing equality of opportunity		√
Fostering good community relations	√	

If not relevant to any of the three equality duties and this is agreed by your Head of Service, the Equality Analysis is now complete - please send a copy to the Equality & Diversity Team. **If any of the three equality duties are relevant**, a Full Equality Analysis will need to be undertaken (PART B below).

PART B: Full Equality Analysis.

Step 1 – Identifying outcomes and delivery mechanisms (in relation to what you are assessing)

What outcomes are sought and for whom?	N/A
Are there any associated policies, functions, services or procedures?	N/A
If partners (including external partners) are involved in delivering the service, who are they?	N/A

Step 2 – What does the information you have collected, or that you have available, tell you?

What evidence/data already exists about the service and its users? (in terms of its impact on the 'equality strands', i.e. race, disability, gender, gender re-assignment, age, religion or belief, sexual orientation, maternity/pregnancy, marriage/civil partnership and other socially excluded communities or groups) and **what does the data tell you?** e.g. are there any significant gaps?

The SPD is intended to provide clarity and consistency in terms of both process and planning decision-making, of benefit to future owners/operators of hot food takeaways, decision makers and those who may wish to comment on a takeaway application.

The wider City population may also benefit as the SPD will control and minimise any negative environmental impacts that may arise from hot food takeaways, particularly those impacts that affect residential neighbourhoods such as noise, litter/waste, odour, etc.

The draft SPD also suggests a principle which would prevent new takeaways from opening within a certain distance (400m) from all secondary schools within the city. This would support local Public Health and Wellbeing initiatives to promote

healthy lifestyles and to tackle childhood obesity, which is a significant problem in Wolverhampton. The SPD will sit alongside other local measures to tackle the causes of poor health and obesity.

Has there been any consultation with, or input from, customers / service users or other stakeholders? If so, with whom, how were they consulted and what did they say? If you haven't consulted yet and are intending to do so, please list which specific groups or communities you are going to consult with and when.

The SPD responds to and builds upon the City's 2014 Obesity Call to Action, and aims to reduce the trends towards increasing levels of obesity and poor diet in the City by tackling issues of over-concentration of Hot Food Takeaways and the exposure of particularly vulnerable groups, such as schoolchildren, to Hot Food Takeaways.

The draft SPD has also been subject to the City Council corporate reporting process, with consideration and approval by Cabinet for consultation purposes.

All planning policy documents are required to be subject to at least a 6-week period of public consultation, in accordance with the Council's 'Statement of Community Involvement' (SCI) and the Town and Country Planning (Local Planning) (England) Regulations 2012. The Hot Food Takeaway SPD is currently in draft form and will be subject to formal public consultation during October-November 2017. Any representations received during this consultation period will be considered when finalising the SPD.

Formal public consultation will involve notification of the SPD and the public consultation to the following groups:

- **All statutory and non-statutory planning consultees**
- **Owners/operators of existing takeaways located within the city**
- **Head teachers of all the city's secondary schools**

Copies of the SPD and details of the consultation process will also be published in the local newspaper and will be made available at the City Council offices and in all city libraries. Full details of the consultation process are set out in a separate Consultation Statement; this is a statutory requirement for all Supplementary Planning Documents, as set out in the Town & Country Planning (Local Planning) (England) Regulations 2012. The Consultation Statement

provides full details of the consultation undertaken during preparation of the SPD and at the formal public consultation stage. The Consultation Statement will be updated at key stages to provide details of any representations received and any amendments to the SPD.

Are there any complaints, compliments, satisfaction surveys or customer feedback that could help inform this assessment? If yes, what do these tell you?

There have not been any complaints, compliments, satisfaction surveys or customer feedback that are relevant to this assessment

Step 3 – Identifying the negative impact.

a. Is there any negative impact on individuals or groups in the community?

Barriers:

What are the potential or known barriers/impacts for the different 'equality strands' set out below?

Consider:

- **Where** you provide your service, e.g. the facilities/premises;
- **Who** provides it, e.g. are staff trained and representative of the local population/users?
- **How** it is provided, e.g. do people come to you or do you go to them? Do any rules or requirements prevent certain people accessing the service?
- **When** it is provided, e.g. opening hours?
- **What** is provided, e.g. does the service meet everyone's needs? How do you know?

* Some barriers are justified, e.g. for health or safety reasons, or might be designed to promote equality, e.g. single sex swimming/exercise sessions, or cannot be removed without excessive cost. If you believe any of the barriers identified to be justified, then please indicate which they are and why.

Solutions:

What can be done to minimise or remove these barriers to make sure everyone has equal access to the service or to reduce adverse impact? Consider:

- Other arrangements that can be made to ensure people's diverse needs are met;
- How your actions might help to promote good relations between communities;
- How you might prevent any unintentional future discrimination.

Equality Analyses

Equality Themes	Positive Impacts	Negative Impacts identified	Solutions (ways in which you could mitigate the negative impact)
Age (including children, young people and older people)	The SPD proposes the restriction of new takeaways within close proximity of the City's secondary schools. This principle will support other local initiatives to tackle childhood obesity, and therefore has potential to positively benefit the health of secondary school aged children. See SPD Guideline HFT 1.1.		
Disability (including carers)			The SPD will have no negative or positive implications on this group.
Gender (men and women)			The SPD will have no negative or positive implications on this group.
Race (including Gypsies & Travelers and Asylum Seekers)	The restriction on granting planning permission for some Hot Food Takeaways in the areas specified by this policy may disproportionately impact on people from BAME communities who are more likely to operate these businesses in Wolverhampton.		<p>There is no evidence that the SPD will have a negative or positive impact on any specific ethnic group.</p> <p>However, there is a perception that a significant proportion of takeaways are owned, operated and provide employment for minority ethnic groups, and consequently imposing planning controls through the SPD could affect these groups.</p> <p>The SPD will be applicable and will impose planning controls for all future</p>

Equality Analyses

Page 211

			<p>planning applications for any hot food takeaway, regardless of the race/ethnicity of the owners/operators/employees. In determining applications, decisions will consider and balance the relevant factors as set out within the SPD Guidelines.</p> <p>The Equality Analysis concludes that the policy described here is lawful as it defines a proportionate means of achieving a legitimate aim i.e. reducing childhood obesity.</p> <p>N.B. Childhood obesity also affects BAME children and so the positive of the policy will be felt amongst these communities.</p>
Religion or belief (including people of no religion or belief)			The SPD will have no negative or positive implications on this group.
Gender Re-assignment (those that are going or have gone through a transition: male to female or female to male)			The SPD will have no negative or positive implications on this group.
Pregnancy and Maternity			The SPD will have no negative or positive implications on this group.

Equality Analyses

Sexual orientation (including gay, lesbian, bisexual and heterosexual)			The SPD will have no negative or positive implications on this group.
Marriage and Civil Partnership			The SPD will have no negative or positive implications on marriage and civil partnerships.
Human Rights			The SPD will have no negative or positive implications on Human Rights.

Step 4 – Changes or mitigating actions proposed or adopted

Having undertaken the assessment are there any changes necessary to the existing service, policy, function or procedure?
What changes or mitigating actions are proposed?

None

Step 5 – Monitoring

How are you going to monitor the existing service, function, policy or procedure?

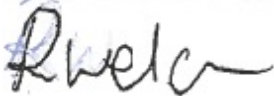
Consultation will take place with those people likely to be affected by the principles set out within the SPD. Details of consultation are outlined above and will be contained within the Consultation Statement.

Monitoring of planning decisions relating to hot food takeaways will continue following adoption of the SPD. This will include monitoring of any impacts on individuals or groups in the community through equalities information gathered.

Part C - Action Plan

Barrier/s or improvement/s identified	Action Required	Lead Officer	Timescale
Impacts on individuals or groups in the community taken into consideration in planning decisions for new Hot Food Takeaways	Monitoring of equalities information gathered during planning application process	Richard White, Public Health and Wellbeing	Quarterly

Equality Analysis approved by:

Head of Service: 	Date: 20 th September 2017
--	---------------------------------------

Please send an electronic copy of the Equality Analysis to the Equality & Diversity Team:

Appendix 3 Draft Hot Food Takeaway Supplementary Planning Document

Sustainability Appraisal

1. Background and Methodology

- 1.1 Under the Planning and Compulsory Purchase Act 2004, a Sustainability Appraisal must be undertaken for each Local Development Document, including Supplementary Planning Documents (SPDs). The purpose of the SA is to promote sustainable development by examining how the policies and proposals of the SPD contribute to the aim of sustainable development. By identifying any issues at an early stage it is possible to amend the guidance to ensure that it is as sustainable as possible.
- 1.2 The sustainability appraisal methodology currently used by City of Wolverhampton Council accords with advice contained in the National Planning Policy Framework. The procedure is based on the approach taken to Sustainability Appraisal of the adopted UDP. The three defined strategic criteria or “assets” are:
- Environment
 - People and Society
 - Economic Well Being
- 1.3 Within the UDP sustainability appraisal there are a total of 22 objectives: 12 under the environmental heading; 6 under the people and society heading; and 4 under the economic wellbeing heading. These have been supplemented by revised objectives identified through sustainability appraisal of the Black Country Core Strategy. The objectives have been used to create a matrix for purposes of the appraisal (see Table 1 below).

2 Options

- 2.1 This appraisal tests two options against the set of sustainability objectives, to determine whether the SPD will contribute positively to delivering sustainable communities within the City.

Option 1: The Local Plan Policies and national guidance provides the main basis for decisions on Hot Food Takeaways in Wolverhampton

Option 2: An SPD on Hot Food Takeaways is adopted to add value to the existing policies at local and national level.

3 Results

Option 1

- 3.1 Option 1 relates to the Unitary Development Plan and Core Strategy Policies and supporting text. These policies were subject to a sustainability appraisal through the Unitary Development Plan and Core Strategy adoption process.

Table 1 is a sustainability appraisal matrix for the combined effect of all policies as set out in the UDP, revised following the Core Strategy.

- 3.2 The benefits of policies on developing sustainable communities are social economic, and environmental. The principal benefits are likely to be material considerations relevant to Hot Food Takeaways informing the decision making process in relation to existing policies in the Unitary Development Plan and Core Strategy relevant to Hot Food Takeaway proposals.

Option 2

- 3.3 The detailed proposals set out in this SPD have also been considered against each of the criteria listed in the matrix. The overall effects are the same as for Option 1. However, because of the added clarity and evidential support provided by the SPD, it should be more possible to control Hot Food Takeaways than would otherwise have been the case.

4 Conclusions

- 4.1 The Hot Food Takeaway SPD will create no change in the overall effects on criteria produced by the Core Strategy and Unitary Development Plan policies relating to sustainability. The effects of these policies were positive in all respects.

Table 1 Sustainability Appraisal Matrix for Draft Hot Food Takeaway Supplementary Planning Document (SPD)

Sustainable Development Aim	Impact of SPD						Comments	Indicator used
	--	-	0		+	+		
1. ENVIRONMENT								
Make optimum use of land			✓				No direct effect	Not applicable.
Reduce traffic congestion and promote sustainable modes of transport into and throughout the City.					✓		Setting locational criteria for Hot Food Takeaways	Reduction of traffic flows
Protect and enhance the quality of the built environment			✓				No direct effect	Not applicable.
Protect and enhance the historic environment			✓				No direct effect	Not applicable.

Minimise air, water, soil light and noise pollution levels and create good quality air, water and soils.				✓	Confirm application of Core Strategy and UDP policies relating to amenity and pollution	Monitoring of pollution levels.
Protect and enhance water quality and encourage water conservation			✓		No direct effect	Not applicable.
Protect flood plains and water courses			✓		No direct effect	Not applicable.
Value, maintain, restore and re-create biodiversity.			✓		No direct effect	Not applicable.
Maximise the efficient use of minerals			✓		No direct effect	Not applicable.
Reduce waste and maximise opportunities for recycling and waste management.			✓		No direct effect	Not applicable
Plan for the anticipated levels of climate change. (Adapting to expected climatic effects)			✓		No direct effect	Not applicable
Minimise the City's contribution to climate change. (Mitigating against expected climatic effects)				✓	Setting locational criteria for Hot Food Takeaways	Reduction of traffic flows
2. PEOPLE AND SOCIETY						
To safeguard and improve community health, safety and well being				✓	Setting locational criteria for Hot Food Takeaways	Monitoring of health, safety and wellbeing criteria
Enhance education opportunities for all			✓		No effect	Not applicable
Encourage the provision of environmentally sound, affordable housing for all.			✓		No effect	Not applicable
Ensure easy and equitable access to services, facilities and opportunities.				✓	Setting locational criteria for Hot Food Takeaways	Monitoring location of future Hot Food Takeaways

Maintain and improve safety, perception of safety and community well-being.					✓	Setting locational criteria for Hot Food Takeaways	Monitoring of health, safety and wellbeing criteria
ECONOMIC WELLBEING							
Supporting and growing local economy by fostering an advanced manufacturing sector with a competitive services sector			✓			No effect.	Not applicable
Support a stable and growing regional economy and regeneration initiatives			✓			No effect.	Not applicable
Encourage sustainable industries			✓			No effect.	Not applicable
Enhance social inclusion and develop a more equitable balance of prosperity across the city					✓	Setting locational criteria for Hot Food Takeaways	Monitoring of health, safety and wellbeing criteria
To reduce poverty, crime and social deprivation, and secure economic inclusion. (Equality)					✓	Setting locational criteria for Hot Food Takeaways	Monitoring of health, safety and wellbeing criteria

Appendix 4

SCREENING STATEMENT on the determination of the need for a Strategic Environmental Assessment (SEA) for Draft Wolverhampton Hot Food Takeaway Supplementary Planning Document (SPD)

In accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 and European Directive 2001/42/EC
(The SEA Directive)

Consultation Draft: October 2017

Supplementary Planning Document (SPD) Matters

Title of SPD: Hot Food Takeaway
Subject: The document provides detailed advice on the implementation of policies relating to Hot Food Takeaways within the Wolverhampton Unitary Development Plan (2006) and Black Country Core Strategy (2011).
Consultation: To be undertaken during Nov – Dec 2017
Address: Relevant documents can be inspected and further information obtained at:
City of Wolverhampton Council, Planning, Civic Centre
St Peter's Square, Wolverhampton, WV1 1RP
www.wolverhampton.gov.uk/planningpolicy
planning@wolverhampton.gov.uk Tel: 01902 554038

1. Introduction

- 1.1 The requirement for a Strategic Environmental Assessment (SEA) is set out in the practical guidance on applying European Directive 2001/42/EC, and in the “Environmental Assessment of Plans and Programmes Regulations 2004” (issued by the former ODPM – now the Department for Communities and Local Government). These documents place an obligation on local planning authorities to undertake a SEA on any land use plan or programme “which sets the framework for future development consent of projects”.
- 1.2 There are, however, exceptions to this requirement for plans “which determine the use of small areas at a local level” or which only propose “minor modifications to plans”, if the local planning authority determines that the plan is unlikely to have significant environmental effects.
- 1.3 Therefore, the onus is on the local planning authority to prove that SEA should not be undertaken, and in doing so it must undertake a screening process based upon a standard set of criteria to determine whether the plan is likely to have significant environmental effects. A determination on whether a SEA is required cannot be concluded unless the local planning authority has consulted on the screening

process with the three statutory environmental bodies (Natural England, Historic England and the Environment Agency).

- 1.4 Whilst it is anticipated that all Local Plan Documents are likely to require a SEA because they contain statutory planning policies used to determine applications, there is no such certainty for Supplementary Planning Documents (SPDs). If a SPD is considered unlikely to have significant environmental effects through the screening process then a SEA will not be necessary.
- 1.5 Following consultation, the results of the screening process will be detailed in this Screening Statement, which must be made available for public scrutiny. At this stage, the statutory environmental bodies are still to be consulted, and it is therefore unclear if a SEA will ultimately be required. This document will therefore be updated when the views of these bodies are known.

2. Supplementary Planning Document: Hot Food Takeaways

- 2.1 The Draft Supplementary Planning Document has been prepared for consultation purposes. The document provides detail on policies relating to hot food takeaways in the Unitary Development Plan (2006) and Black Country Core Strategy (2011), which have been subject to sustainability appraisal.
- 2.2 The SPD was prepared with multidisciplinary input within the Council, and will be subject to a public consultation exercise prior to its adoption.

3. The Screening Process

- 3.1 The key screening decision is the determination of whether the SPD is likely to have significant environmental effects, using the criteria set out in Annex II of the European Commission's SEA Directive. These criteria are set out in the table below, and a response is provided for each.

SEA Directive Criteria	Response
The degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources.	The SPD will not set a new framework: rather it will supplement and provide detail on existing policies in the adopted Unitary Development Plan and Black Country Core Strategy.
The degree to which the plan or programme influences other plans and programmes including those in a hierarchy.	As the SPD will have a less significant statutory status in the hierarchy of planning policy than the adopted Unitary Development Plan and Black Country Core Strategy, the SPD will have no influence on these plans.
The relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development.	The SPD will ensure effective implementation of policies relating to Hot Food Takeaways in Wolverhampton, which promotes sustainable development.
Environmental problems relevant to the plan or programme.	There are no identified environmental problems arising from the SPD.

SEA Directive Criteria	Response
The relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste-management or water protection).	The focus of the SPD on Hot Food Takeaways will support the existing legislative framework for environmental protection and will therefore have a positive effect on the compliance with any relevant legislative framework and programmes.
The probability, duration, frequency and reversibility of the effects.	The anticipated effects on sustainability are expected to be positive and enduring with no negative effects.
The cumulative nature of the effects.	The cumulative nature of the effects will be the delivery of stricter controls on the provision of Hot Food Takeaways which aim to improve the vitality and viability of centres and promote improved health and wellbeing.
The trans-boundary nature of the effects.	Any trans-boundary effects are likely to be positive, particularly as adjoining local authorities also have guidance on Hot Food Takeaway provision.
The risks to human health or the environment (e.g. due to accidents).	No obvious risks, though risks outside the planning system (e.g. accidents) cannot be ruled out through the construction process of any development. The SPD aims to promote health and wellbeing.
The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected).	The SPD provides guidance on future development of Hot Food Takeaways within Wolverhampton and the effects of this are likely to be restricted to Wolverhampton.
The value and vulnerability of the area likely to be affected due to: <ul style="list-style-type: none"> • special natural characteristics or cultural heritage; • exceeded environmental quality standards or limit values; • Intensive land-use. 	It is considered that the SPD will not adversely affect the value and vulnerability of environmental assets in Wolverhampton.
The effects on areas or landscapes which have a recognised national, Community or International protection status.	As above for effect on the existing and proposed conservation areas and sites of importance for ecological and nature conservation reasons.

4. Statement of Reasons for Determination

- 4.1 The Council believes that the Hot Food Takeaway SPD, through responses to the SEA Directive criteria, will not have significant and adverse environmental effects within Wolverhampton. The SPD is not setting a new framework, it is supplementing and providing further guidance on existing policies in the Local Plan, which itself has been the subject of sustainability appraisal. Therefore, it is considered that a SEA will not be required for this SPD. However, before this conclusion can be ratified, it is necessary to consult with the statutory environmental bodies on this screening statement.

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank