![West Midlands police and crime commissioner logo] ![West Midlands Police logo]

Agenda Item 05

JOINT AUDIT COMMITTEE
28 March 2024

RISK MANAGEMENT UPDATE

1. PURPOSE OF REPORT

1.1. To provide members of the committee with oversight of the risk registers for the Chief Constable and the Police and Crime Commissioner. The report also provides an update on developments in the organisational risk processes of the force.

1.2. The commentary in this report relating to the proposed transfer of Police and Crime powers to the Mayor represents a point in time the risk registers were reviewed by the respective organisations. A further update will be available at the meeting of the Joint Audit Committee.

2. BACKGROUND

2.1. Following the last Committee, Strategy, Delivery & Assurance continue to implement and integrate risk management processes through departmental Senior Leadership Team (SLT) meetings, escalating where required through Portfolio Governance Boards.

2.2. The Risk Team are engaged in horizon scanning to monitor internal and external environment, both nationally and internationally. Our goal is to identify any significant risks that could affect the force's risk profile.

2.3. Horizon Scanning is completed on a monthly basis where the Risk Team produce a monthly risk briefing and sway document that is disseminated into departments across the organisation. The Risk Team also share key horizon sections at the monthly SLT meetings, ensuring a proactive response to recording of risk, enabling mitigation and treatment early.

2.4. The wider Strategy, Delivery & Assurance teams are currently working on horizon scanning model that will shape horizon scanning across the various teams within the department, prioritising the key areas that have been identified, ensuring a wider research activity takes place, before it is disseminated out to the force. This work is being led by the Partnering and Research Team.

3. ORGANISATIONAL RISK MANAGEMENT IN WEST MIDLANDS POLICE

3.1.   In relation to risk management, a summary of our forward plan and activities undertaken over the last quarter are listed below:

3.2.   Strategy, Delivery & Assurance have made significant progress to implement the recommendations made in the Internal Audit report on the force's Risk Management approach. All of these recommendations have now been closed.

3.3.   Following a successful input to the Senior Leaders Day in December, focussed on risk management which included work through's and examples, our Organisational Risk & Issue Management Policy and relevant Procedural Guidance went live in January 2024. To support the launch a Newsbeat article was published to the force's intranet page and other wider communication took place through monthly SLT meetings.

3.4.   Our Organisational Risk & Issue Management Policy includes statements for risk appetite, work is underway to align existing items on the risk register a risk appetite statement. This work will be completed by the next committee.

3.5.   The Risk Team continue to work with risk contacts across every department. The contacts have been imperative to the development of risk and issue management in force, ensuring timely updates are received into the team and acting as the advocates.

3.6.   SharePoint (SP) continues to be centrally used to report and record all risks, as well as acting as a knowledge hub for those that want further information. Automation reminder workflows are set up and being used to drive updates, empowering departments to take ownership of their risks and seamlessly driving through monthly updates.

3.7.   To further support this work, Strategy, Delivery and Assurance continue to monitor themes and trends identified as a result of inspections and external reports.

3.8.   To capture key milestones, the team created a RoadMap (attached), and with the exception of the Qlik Dashboard (currently under construction), key areas of development and implementation have been completed.

3.9.   Following the successful implementation for risk and issue management across force, the team have created a forward-thinking roadmap, that further supports embedding culture into the force, with future training opportunities for colleagues managing risk. The roadmap also includes a risk maturity exercise before April 2024.

3.10.   Strategy, Delivery and Assurance also have an input to the Senior Leaders Day in December, which will focus on the importance of risk management.

4. PROJECT RISKS

4.1.   In the last quarter no projects have come to a close within the project space.

4.2.   Force Contact Optimisation project is being closed down currently with the project on Next Generation Force Contact due for closure at the end of February 2024, closure reports for both projects will be reviewed with the Risk Team in due course, this will be to understand any risks going out to business as usual.

5. NEW CORPORATE RISKS

There is one risk that has been raised to corporate level over the past quarter.

PCC TRANSITION TO MAYORAL GOVERNANCE	HIGH

There is an overarching risk to WMP that business continuity could be disrupted by the process of transitioning from PCC to mayoral governance because the PCC owns our assets/estates, has control of funding, and is integrated into our governance frameworks etc. All of this is required to be moved across to the West Midlands Combined Authority (WMCA).

5.1. The West Midlands Combined Authority are leading on this project and have put in place a role of Senior Responsible Officer (SRO), a Senior Project Manager, Project Manager and Analyst. To further support this transition the OPCC have put in resources to support and there is a Chief Superintendent to oversee the process from West Midlands Police perspective.

5.2. The PCC's office, WMCA and WMP are reviewing existing policies and governance structures to build a post 7th May risk management structure and governance process.

5.3. Effective working relationships and governance structures are key to mitigating this risk and work is ongoing with key stakeholders to progress mitigation activity.

5.4. There are a number of working groups in place that incorporate Communications, Finance, Contracts & Procurement, HR/ Well-being, Legal and Governance, Asset Management, IT & D and Information Management and Data.

5.5. The force has engaged with Greater Manchester and West Yorkshire Police who have already transitioned to this governance model to help understand needs and requirements. We are currently working with South Yorkshire and North Yorkshire Police who both, through slightly different models will be trying to achieve the same end goal for the 7th May 2024.

5.6. The statutory instrument been laid and will go through scrutiny panels in the House of Lords and the House of Commons.

5.7. On the 14th February, the PCC submitted papers for an urgent judicial review hearing. Judicial review to take place on the 12th March 2024. This is an adjourned meeting, the judge will initially advise if the judicial review will be heard or not, if it is decided it will be, then the hearing will take place the same day and concluded in one hearing.

5.8. This is the same week it is anticipated that the legislation will be passed in parliament. Deadline for all of this activity is 21st March when campaigning for the local elections in May officially begins.

6. CRITICAL RATED CORPORATE RISK UPDATE

6.1. No corporate risk scores reflect a critical rating

7. INCREASED CORPORATE RISK SCORES

7.1. During the last quarter, no corporate risk scores have been increased.

8. REDUCED CORPORATE RISK SCORES

8.1.   During the last quarter, no corporate risk has seen a reduction in scoring.

9. CORPORATE RISKS UPDATE

Updated information has been provided for the risks listed below.

Note: The sensitive risk is reflected in a separate report.

MENTAL HEALTH DETENTIONS	HIGH

There is a risk that legally permissible detention times are expiring before transfer to healthcare can be completed and as a result:

- *WMP will be forced, frequently, to choose whether to Breach the law by exceeding the legal limitations established under the Mental Health Act (MHA) or,*
- *Comply with the law and release an individual who may pose a risk to themselves or others.*
- *After the 24hour detention period it is unclear what powers we can use for use of force. Risk of corporate and personal liability for the officers involved.*
- *The current legal opinion would suggest that either scenario leaves the force liable to legal challenge and impacting significantly on public confidence.*

9.1.   Continued detentions are still being authorised, there are concerns around the use of force and powers after the 24 hours have passed.

9.2.   However, this is a national issue that is being dealt with at ministerial and NPCC level to formulate a nationally policing and health service response.

9.3.   To help mitigate and treat this risk the Right Care Right Person programme will go some way to address certain aspects of the problem but that will only be the start of treating the current acute position.

9.4.   The shortage of Mental Health Placements has been raised at a national level and working groups have been set up to provide recommendations at a ministerial level on how to best manage those with Mental Health including considerations in relation to legislation changes. The hope is that this will produce clarity, changes in law and national guidance.

9.5.   We are working with partners to identify possible alternatives to detention under the Mental Health Act, to ensure alternative pathways are available with the hope that a person's needs will be met before they reach the point of crisis negating the need for detention in the first place and Right Care and Right Person will allow us to do this.

9.6.   We are working closely with Health Partners and local Authorities to change practices to enable patients to be legally transferred to health colleagues in a timelier fashion with the hope that the Police will only be with such patients for one hour. This is in line with the current Mental Health Act codes of practice and should reduce the involvement of the Police in detentions which exceed the legal framework.

9.7. We have changed our practices in the custody environment to maximise the amount of time we have available in law to arrange ongoing care or control by running two powers concurrently.

9.8. We have put in place a robust escalation process to hold our partners to account and to evidence from a police perspective due diligence.

9.9. Additionally, Joint Legal Services have approved an operational guidance document which addresses the conflict between Section 136 and PACE which has been shared with the department to ensure that officers have a good understanding of the legal position on the Mental Health Act. Work is progressing to identify partnership stakeholders with view to forming Section 136 working group.

9.10. Right Care Right Person (RCRP) has now been implemented in force, this should see fewer people being brought into custody under S136, additional training and inputs for officers for section 136 will take place accordingly.

9.11. With this in mind, the force will look to track data around numbers being brought into custody under S136, however it isn't clear at this stage whether RCRP will have an impact on those being brought into custody under PACE, to explore this further and what mitigation may be required Strategy, Delivery Assurance will be meeting with relevant FET leads to discuss in due course.

9.12. The risk was assessed by the DCC at the November Risk and Organisational Learning Board, assessing the risk as still high for the force, some substantive data around the number of people that are being detained vs and civil claims was requested to support a possible review and reduction in scoring in the future. The risk remains as monitored status.

9.13. Data for those exceeding legal timeframes currently averages to 10 per month, with no current civil claims being processed through our Joint Legal Services department.

OFFICER AND STAFF RIGHT TO WORK CHECKS	MEDIUM

WMP has historically not had a process that accurately records the documents evidencing the right to work status of employees who are non-British nationals, those with dual citizenship or whose birthplace was outside of the UK. This is standard practice, and work has begun to rectify this issue.

9.14. Following legal advice obtained by Workforce and Resourcing, a risk-based approach is being taken to address this risk.

9.15. Workforce and Resourcing are currently contacting departments where Right to Work (RTW) checks are missing. There are currently 80 (reduction in 10 since last reporting) missing this information.

9.16. Line management have now been given the responsibility to check and review the lists that have been sent out from the team. The expectation is that line managers will send through any evidence to the central team for review and action.

9.17. Scoring remains unchanged as assurance is required by workforce and resourcing that this process is working and sufficient evidence is being received into the team.

PLATO EMBEDDED LEARNING – MAJOR INCIDENT READINESS	LOW

Failure to deliver the national PLATO training and operational responder expectations with competing demand and rate of staff changes. Due to a lack of local ownership there is a risk that annual refreshers will not be scheduled for CPD days within departments.

9.18. The five multi-agency JOPS3 training sessions have now been completed, this covers all required roles within WMP.

9.19. A further session was run in late January 2024 to cover new FIM's and those outstanding. In line with JESIP training, there is a tried and tested package as well as the experienced trainers to draw upon should further training for new officers and staff requiring the training be needed during 2024 and beyond.

9.20. Compliance around the eLearning is being monitored through Force Performance Day chaired by the DCC.

9.21. ORU further monitoring eLearning uptake which will be shared with LPA SLTs at the LPA Civil Contingencies Resilience Group.

9.22. Process to be agreed for new Tactical Firearms Commanders and Force Contact Supervisors to receive training when they are new in post, once this is in place, the risk can be considered for closure.

FINANCIAL MANAGEMENT	MEDIUM

There is a risk that WMP's finances are not sustainable over the medium term and/or efficiency savings required may adversely impact the operational services.

9.23. The associated risks with the 2024/25 budget have now been mitigated. The 2024/25 budget is balanced, and budget reports have now been finalised and signed off by the PCCs office, the Chief Constable and Deputy Chief Constable.

9.24. 2024/25 marks the final year of the 3-year funding settlement. There is still a gap in the medium term for 2025/26 and the recommendation is that this risk remains open and is amended to reflect ongoing medium-term uncertainty regarding future budgets.

9.25. Future year settlements are still to be understood, and may be impacted by 2024 electoral activity. Based on current funding assumptions, it is estimated there will be a gap of approx. £10m in 2025/26, which may increase as we move through the medium term.

9.26. Budget planning and finance have taken into consideration the last point.

10. CORPORATE RISK MOVEMENTS AWAITING APPROVAL

There have been no corporate risks awaiting movement in the last quarter.

11. CLOSED AND DE-ESCALATED CORPORATE RISKS

Two corporate risks have been closed in the last quarter. One of these relates to a sensitive risk which has been submitted in a separate paper.

FORCE GYM PROVISIONS	MEDIUM
A review of the force gym facilities within locally based force buildings was carried out by the Force Health and Safety Advisers was completed between December 2022 and January 2023. It identified several issues regarding the management and provision of the workout gyms across the force estate.	

11.1.   A task and finish group were set up to look at the wider gym provision across the organisation and risk managed initially through a project but has since gone out to business as usual and currently being managed through a Portfolio FET Lead.

11.2.   To support the day to day existing gym provision occupational health and safety team in force had been requested to complete risk assessments which would identify the removal of any faulty equipment.

12. POLICE AND CRIME COMMISSIONER – RISK MANAGEMENT

Methodology

12.1   The Committee is aware the PCC's risk register is based on the risks associated with the functions of the PCC and the risks associated with the delivery of the police and crime plan, which are referred to as topical risks.

Risks – the Functions of the PCC

12.2   The table below details the risks to the West Midlands Police and Crime Commissioner relating to the statutory functions of the PCC.

PCC Function	WMPCC Risks
Secure an efficient and effective police force for their area	Arrangements in place do not secure an efficient and effective police force for the West Midlands
Appoint the Chief Constable, hold them to account for running the force, and if necessary dismiss them	The PCC does not hold West Midlands Police to account effectively
Set the police and crime objectives for their area through a police and crime plan	The priorities and actions of the Police and Crime Plan are not delivered
Set the force budget and determine the precept	The resources of the PCC are not sufficient to deliver the police and crime plan and for West Midlands Police to operate
Contribute to the national and international policing capabilities set out by the Home Secretary	West Midlands Police does not contribute to national and international policing capabilities
Bring together community safety and criminal justice partners, to make sure local priorities are joined up	Lack of effective partnerships

Failure to make appropriate arrangements for an effective transfer of the PCC functions to the Combined Authority Mayor for the West Midlands (**A separate RAID log is in place to managed this risk**)	Arrangements do not ensure business continuity of statutory functions

Topical Risks

12.3 The topical risks have been determined through monitoring the delivery of the police and crime plan. The delivery plan details all the actions required to deliver the PCC's police and crime plan. Senior Management Team within the OPCC regularly review the delivery plan and RAG rate each action. The areas of the plan currently classified as red are detailed below.

Area	Detail
Vulnerability and Public Protection improved outcomes in the criminal justice system, and quality of investigations	Significant challenges in WMP mean performance in this area is still below the national average. This is a priority for improvement across a number of vulnerability strands, including RASSO, Child Abuse, Domestic Abuse etc.
West Midlands Police - reduced theft of vehicles	Theft of motor vehicles has seen a significant increase compared to 2019/20 and continues to be at a higher rate than most similar forces.
Disproportionality in policing - workforce	Achieving a target of 1,000 officers extra from underrepresented groups by 2025 is being progressed but still below target. Also, progression of underrepresented groups in the workforce.
Disproportionality in policing - stop & search	Black and Asian people are still significantly more likely to be stopped than white people.
Stop and search - positive outcome	Performance target relating to stop and search.
Resources	Long term funding, introduction of green agenda, funding crime prevention activities.
New - Safeguarding	Failure to ensure appropriate safeguarding arrangements for our staff and volunteers and failure to provide due diligence on the safeguarding arrangements of our suppliers.

OPCC Risk Register

12.4 The risk register included in the attached appendix details the risks of the OPCC based on the above methodology. The scoring of risks is based on the Impact and Likelihood as set out in the table below.

VERY HIGH (V)	5	10	15	20	25
HIGH (H)	4	8	12	16	20
MEDIUM (M)	3	6	9	12	15
LOW (L)	2	4	6	8	10
NEGLIGIBLE	1	2	3	4	5
IMPACT / **LIKELIHOOD**	**VERY RARE**	**UNLIKELY**	**POSSIBLE**	**LIKELY**	**VERY LIKELY**

Impact (on left), **Likelihood**

12.5 It is important to note that the topical risks from the police and crime plan have not been scored.

Commentary on Risks

12.6   Each section of the police and crime plan is supported by a number of measures that will be monitored through the Commissioner's term in office. This will be through regular performance reporting to the Strategic, Policing and Crime Board and other governance arrangements. These include PCC and Chief Constable meetings where performance of the Force is discussed on a monthly basis. Where there are performance concerns, there are deep dives to understand the issues.

12.7   The performance report to the Strategic Policing and Crime Board in February 2024 is available through the links below.

    SPCB-27.02.24-Agenda-Item-4-Performance

    SPCB-27.02.24-Agenda-Item-4a-PCC-Performance-Scorecard

    SPCB-27.02.24-Agenda-Item-4b-PCC-Performance-Statement

The performance report provides an overview of performance against the National Crime and Policing Measures in a format used as West Midlands Police's (WMP) official statement on performance and activities undertaken. This statement is published along with a statement from the Police and Crime Commissioner, as well as a Police and Crime Plan Key Performance Indicator (KPI) scorecard for measures where data is available.

12.8   A reason for the mitigated scores in the PCC's risk register being relatively high is the current position of West Midlands Police in terms of performance measures that are in the police and crime plan. This is reflected in commentary on the topical risks.

12.9   The risk relating to the resources of the PCC not being sufficient to deliver the police and crime plan and for West Midlands Police to operate has increased during the reporting period. This is due to some uncertainty around future funding arrangements for the Violence Reduction Partnership announced during the Chancellor's spring statement. This is also due to concerns arising from work ongoing to determine any policing implications from the recently agreed cuts to Birmingham City Council budget.

12.10   A new thematic risk has been added in relation to safeguarding and the risk of a failure to ensure appropriate safeguarding arrangements are in place to protect OPCC staff and volunteers. This extends to the risk of a failure to provide due diligence on the safeguarding arrangements of our suppliers. Weaknesses in safeguarding arrangements have been identified within the OPCC which are currently being addressed to ensure appropriate mitigations are in place. This includes providing training to all staff, reviewing safeguarding policies and improving record keeping. The risk in relation to suppliers is being addressed by reviewing contract and grant funding terms and conditions and ensuring that we ask suppliers to self-declare that their arrangements meet our requirements and also making it a condition of receiving funding.

12.11   On 18 March 2024, a High Court judgement was issued which upheld the Police and Crime Commissioner's judicial review and challenge of the consultation process for the proposed transfer of Police and Crime powers to the Mayor. A further challenge by the Home Office is likely, and if it succeeds, it will enable the Home Secretary to sign the Statutory Instrument leading to a transfer of policing governance powers to the Mayor from the date of an election in May 2024. However as of the date of this report, the powers will not transfer in May 2024. Meetings and risk mitigation actions had continued to take place up until 18 March 2024 with the OPCC and WMCA collaborating actively in the planning for the transfer, and WMP being kept advised of any changes pertinent to them. The delay has not caused any new risks to arise, nor significantly changed the

status of any of those risks. Members will be kept up to date on the final outcome, as they have been throughout the process.

13. RECOMMENDATION

13.1 The Committee to note the contents of the report and appendices.

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